

SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549

AMENDMENT NO. 1  
TO  
FORM S-4  
REGISTRATION STATEMENT  
UNDER  
THE SECURITIES ACT OF 1933

OFFICE DEPOT, INC.  
(Exact name of Registrant as specified in its charter)

DELAWARE 5940 59-2663954  
State or other jurisdiction of (Primary Standard Industrial (I.R.S. Employer  
incorporation or organization) Classification Number) Identification Number)

David C. Fannin  
Executive Vice President  
General Counsel and Secretary  
Office Depot, Inc.  
2200 Old Germantown Road  
Delray Beach, Florida 33445  
(561) 438-4800

(Address, including zip code, and telephone number, including area code, of  
Registrant's principal executive offices)

COPIES TO:  
Scott N. Gierke, Esq.  
McDermott, Will & Emery  
227 West Monroe Street  
Chicago, Illinois 60606-5096

Approximate date of commencement of proposed sale to the public: As  
soon as practicable after this Registration Statement becomes effective.

If the securities being registered on this Form are being offered in  
connection with the formation of a holding company and there is compliance with  
General Instruction G, check the following box.

If this Form is filed to register additional securities for an offering  
pursuant to Rule 462(b) under the Securities Act of 1933, check the following  
box and list the Securities Act of 1933 registration statement number of the  
earlier effective registration statement for the same offering.

If this Form is a post-effective amendment filed pursuant to Rule  
462(d) under the Securities Act of 1933,  
check the following box and list the Securities Act of 1933 registration  
statement number of the earlier effective registration statement for the same  
offering.

THE REGISTRANT HEREBY AMENDS THIS REGISTRATION STATEMENT ON THE DATE OR DATES AS  
MAY BE NECESSARY TO DELAY ITS EFFECTIVE DATE UNTIL THE REGISTRANT SHALL FILE A  
FURTHER AMENDMENT THAT SPECIFICALLY STATES THAT THIS REGISTRATION STATEMENT  
SHALL THEREAFTER BECOME EFFECTIVE IN ACCORDANCE WITH SECTION 8(A) OF THE  
SECURITIES ACT OF 1933 OR UNTIL THE REGISTRATION STATEMENT SHALL BECOME  
EFFECTIVE ON THE DATE DETERMINED BY THE SECURITIES AND EXCHANGE COMMISSION IN  
ACCORDANCE WITH SAID SECTION 8(A).

PROSPECTUS

The information in this prospectus is not complete and may be changed. We may  
not sell these securities until the registration statement filed with the  
Securities and Exchange Commission relating to these securities is effective.  
This prospectus is not an offer to sell these securities and it is not an offer  
to buy these securities in any state where the offer or sale is not permitted.

SUBJECT TO COMPLETION, DATED SEPTEMBER 10, 2001

[OFFICE DEPOT LOGO]

OFFICE DEPOT, INC.

OFFER TO EXCHANGE

UP TO \$250,000,000 PRINCIPAL AMOUNT  
OF OUTSTANDING  
10% SENIOR SUBORDINATED NOTES DUE 2008  
FOR  
A LIKE PRINCIPAL AMOUNT OF  
REGISTERED 10% SENIOR SUBORDINATED NOTES DUE 2008

We are offering to exchange an aggregate principal amount of up to \$250,000,000 of our new 10% Senior Subordinated Notes due 2008 (the "new notes") for a like amount of our outstanding 10% Senior Subordinated Notes due 2008 (the "old notes"). We are offering to issue the new notes to satisfy our obligations contained in the registration rights agreement entered into when the old notes were sold in transactions permitted by Rule 144A and Regulation S under the Securities Act of 1933.

The terms of the new notes and the old notes are identical, except for transfer restrictions, registration rights, and liquidated damages that apply to the old notes.

The exchange offer expires at 5:00 p.m., New York City time, on [Date], 2001 unless we extend it.

The new notes will not trade on any established exchange.

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PLEASE SEE "RISK FACTORS" BEGINNING ON PAGE 10 FOR A DISCUSSION OF CERTAIN FACTORS YOU SHOULD CONSIDER IN CONNECTION WITH THE EXCHANGE OFFER.

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NEITHER THE SECURITIES AND EXCHANGE COMMISSION NOR ANY STATE SECURITIES COMMISSION HAS APPROVED OR DISAPPROVED OF THE NEW NOTES OR DETERMINED IF THIS PROSPECTUS IS TRUTHFUL OR COMPLETE. ANY REPRESENTATION TO THE CONTRARY IS A CRIMINAL OFFENSE.

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The date of this prospectus is [Date], 2001.

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WHERE YOU CAN FIND MORE INFORMATION

We file annual, quarterly and special reports, proxy statements and other information with the SEC. Our SEC filings are available to the public over the Internet at the SEC's web site at <http://www.sec.gov>. You may also read and copy, at prescribed rates, any document we file at the SEC's Public Reference Room at 450 Fifth Street, N.W., Washington, D.C. 20549, as well as the regional offices of the SEC located at 7 World Trade Center, New York, New York 10048 and Citicorp Center, 500 West Madison Street, Chicago, Illinois 60661. Please call the SEC at 1-800-SEC-0330 for further information on its Public Reference Room. Our SEC filings are also available at the offices of the New York Stock Exchange at 20 Broad Street, New York, NY 10005.

#### INCORPORATION OF DOCUMENTS BY REFERENCE

We "incorporate by reference" specified documents that we file with the SEC which means:

- o incorporated documents are considered part of this prospectus;
- o we are disclosing important information to you by referring you to these documents; and
- o information that we file with the SEC will automatically update and supersede information contained or incorporated by reference in this prospectus.

We incorporate by reference the documents listed below to the extent not superseded by the information contained in this prospectus and any documents that we file with the SEC under Sections 13(a), 13(c), 14 or 15(d) of the Securities Exchange Act of 1934 after the date of this prospectus and before the end of the exchange offer:

- o Annual Report on Form 10-K for the fiscal year ended December 30, 2000 (the "2000 Form 10-K");
- o Our Proxy Statement dated March 28, 2001;
- o Quarterly Reports on Form 10-Q for the quarters ended March 31, 2001 and June 30, 2001; and
- o Current Reports on Form 8-K dated January 3, 2001, January 10, 2001, May 1, 2001, May 8, 2001, May 30, 2001, June 18, 2001, June 21, 2001, July 10, 2001, July 19, 2001, August 23, 2001 and September 5, 2001.

You may request a copy of these filings at no cost, by writing or telephoning us at:

Office Depot, Inc.  
Attention: Vice President, Investor Relations & Public Relations  
2200 Old Germantown Road  
Delray Beach, Florida 33445  
(561) 438-4800

If you request any incorporated documents from us, we will mail them to you by first class mail, or by another equally prompt means. However, in order to obtain timely delivery of these documents, you must make your request no later than five business days before the expiration date of the exchange offer. Unless the context requires otherwise, all references in this document to "this prospectus" include all documents incorporated by reference into this prospectus.

#### FORWARD-LOOKING STATEMENTS

This prospectus contains both historical information and other information that you can use to infer future performance. We caution you that, with the exception of information that is clearly historical, all the information contained in this prospectus should be considered to be "forward-looking statements" as referred to in the Securities Act of 1933. Without limiting the generality of the preceding sentence, any time we use the words "estimate," "project," "intend," "expect," "believe," "anticipate," "continue," and similar expressions, we intend to express that the information addresses possible future events and is forward-looking in nature. We assume no obligation (and specifically disclaim any obligation) to update any forward-looking statements contained in this prospectus to reflect actual results, changes in assumptions or other factors affecting the forward-looking statements.

## PROSPECTUS SUMMARY

This summary highlights information contained elsewhere in this prospectus or incorporated by reference herein. It may not contain all the information that is important to you. We encourage you to read this entire prospectus and each of the incorporated documents carefully. In particular, you should read the section entitled "Risk Factors" and the financial statements and the notes relating to those statements incorporated by reference into this prospectus.

We operate on a 52- or 53-week fiscal year ending on the last Saturday in December. Our results for fiscal 2000 contained 53 weeks and all other years contained 52 weeks. Accordingly, unless otherwise specified, all references to a year, such as 2000, are to our fiscal year that ends during that year, and all references to the second quarter of 2001 and the second quarter of 2000, refer to the 13-week periods ended June 30, 2001 and June 24, 2000, respectively. The terms "Office Depot," "we," "our" and "us" refer to Office Depot, Inc. and its consolidated subsidiaries unless the context suggests otherwise. The term "you" refers to holders of our outstanding, unregistered 10% Senior Subordinated Notes Due 2008.

### OUR BUSINESS

We are the largest supplier of office products and services in the world, based on sales of \$11.4 billion in the twelve months ending June 30, 2001. We sell to consumers and businesses of all sizes through our three business segments: North American Retail Division, Business Services Group or "BSG" and International Division. These segments include multiple sales channels consisting of office supply stores, a dedicated contract sales force, Internet sites, and catalog and delivery operations.

#### NORTH AMERICAN RETAIL DIVISION

Our North American Retail Division sells office products, copy and print services and other business-related services under the Office Depot(R) and the Office Place(R) brands through our chain of high-volume retail office supply stores in the United States and Canada. We opened our first retail office supply store in Florida in October 1986. From our inception, we have concentrated on expanding our store base and increasing our sales in markets with high concentrations of small and medium-sized businesses. As of the end of 2000, our North American Retail Division operated 888 retail stores in 47 states, the District of Columbia and Canada. During the first quarter of 2001, we closed 70 under-performing retail stores and opened six new stores in existing markets. During the second quarter of 2001 we opened five new retail stores and we plan to add approximately 34 new retail stores during the remainder of 2001. Most of these stores will be located in areas we currently serve, with the balance in under-served markets. Our North American Retail Division generated \$6.2 billion in sales in the twelve months ended June 30, 2001.

#### BUSINESS SERVICES GROUP

In 1993 and 1994, we entered the contract office supply business by acquiring eight contract stationers with 18 domestic customer service centers and a professional sales force. These acquisitions also allowed us to broaden our catalog and retail delivery businesses. In August 1998, we expanded our direct mail business through our merger with Viking Office Products, Inc. Today, our Business Services Group sells office products and services to contract and commercial customers through our Office Depot(R) and Viking Office Products(R) direct mail catalogs and Internet sites, and by means of our dedicated contract sales force. Our customer service centers or "CSCs" are warehouse and delivery facilities, some of which also house sales offices, call centers and administrative offices. Our CSCs also perform warehousing and delivery services on behalf of all segments of our business. As of June 30, 2001, BSG operated 25 CSCs in the United States. BSG had \$3.8 billion in sales in the twelve months ended June 30, 2001.

Since January 1998, we have also offered our customers the convenience of shopping on-line through our publicly-accessible Internet site. The addition of this site has expanded our domestic electronic commerce or "E-commerce" capabilities beyond our Viking public Internet site and our Office Depot business-to-business contract Internet sites. We believe our E-commerce business will provide significant future growth opportunities for our Business Services

Group segment and our business as a whole, based on the growth rates we have experienced over the last three years.

#### INTERNATIONAL DIVISION

Our International Division sells office products and services to a wide range of customers, from large corporations to individual consumers, in 16 countries outside the United States and Canada. We conduct our operations through the following four channels: 132 retail stores in seven countries, 35 of which are wholly-owned; Office Depot(R) brand and Viking Office Products(R) brand direct mail catalogs in 14 countries; nine Internet sites in seven countries; and a dedicated contract sales force primarily focussed on the United Kingdom. We have expanded internationally through licensing and joint venture agreements, acquisitions and greenfield development. In August 1998, we merged with Viking Office Products, which had strong catalog businesses in key markets. Currently, our International Division has operations either owned directly or operated through joint ventures or licensing agreements, in Australia, Austria, Belgium, France, Germany, Hungary, Ireland, Israel, Italy, Japan, Luxembourg, Mexico, The Netherlands, Poland, Thailand, and the United Kingdom. Our International Division had \$1.5 billion in sales in the twelve months ended June 30, 2001.

#### RECENT OPERATING IMPROVEMENTS AND IMPROVED COST POSITION RESULTING FROM OUR 2000 COMPREHENSIVE BUSINESS REVIEW

During the fourth quarter of 2000, we concluded a thorough review of all aspects of our business (the "2000 Comprehensive Business Review"). This review resulted in numerous initiatives designed to enhance our overall profitability and drive organic growth in our stores by improving the overall customer experience, including the following: closure of under-performing stores, SKU reductions in stores and warehouses, increasing warehouse efficiency, increasing contract business profitability and revaluation of certain assets. Year to date, we have addressed all of the major issues and completed all of the key initiatives that resulted from the review, and are achieving improvements in our key operating metrics, including on-time delivery, inventory efficiency and overall customer satisfaction. We expect these and other metrics to show continuing improvement and to expand our overall margins.

#### OUR STRATEGY

We are committed to making Office Depot a more compelling place to shop across every channel our customers choose when buying their office supplies and services. To achieve our goal, our strategy is to continue building upon our strengths across the retail, catalog, contract and Internet channels by:

- o repositioning our North American Retail Division for rational growth in a maturing environment, and using cash flows from our retail operations to expand our Business Services Group and International Division;
- o developing a world-class warehouse and distribution network for all of our businesses to improve service levels and lower our cost position; and
- o further leveraging our integrated sales channels to provide a seamless and robust shopping experience

#### OUR EXECUTIVE OFFICES

Our executive offices are located at 2200 Old Germantown Road, Delray Beach, Florida 33445, and our telephone number is (561) 438-4800.

SUMMARY OF THE EXCHANGE OFFER

The Exchange Offer.....We are offering to exchange our new notes, which have been registered under the Securities Act of 1933, for a like principal amount of our outstanding, unregistered old notes. Old notes may only be tendered in integral multiples of \$1,000 principal amount at maturity.

As of the date of this prospectus, old notes representing an aggregate principal amount of \$250,000,000 are outstanding. For procedures for tendering, see "The Exchange Offer."

Resale of New Notes.....We believe you may offer for resale, sell or otherwise transfer any new notes that are issued to you pursuant to the exchange offer without compliance with the registration and prospectus delivery provisions of the Securities Act of 1933, provided that:

- o you are acquiring the new notes in the ordinary course of your business;
- o you have not engaged in, do not intend to engage in, and have no arrangement or understanding with any person to participate in the distribution of the new notes; and
- o you are not our affiliate as defined under Rule 405 of the Securities Act of 1933.

Each participating broker-dealer that receives new notes for its own account pursuant to the exchange offer in exchange for old notes that were acquired as a result of market-making or other trading activity must acknowledge that it will deliver a prospectus in connection with any resale of new notes. See "Plan of Distribution."

Any holder of old notes who:

- o is our affiliate;
- o does not acquire new notes in the ordinary course of its business;
- o tenders in the exchange offer with the intention to participate, or for the purpose of participating, in a distribution of new notes; or
- o is a broker-dealer that acquired the old notes directly from us,

must comply with the registration and prospectus delivery requirements of the Securities Act of 1933 in connection with the resale of new notes.

Consequences If You Do Not Exchange Your Old Notes.....

Old notes that are not tendered in the exchange offer or are not accepted for exchange will continue to bear legends restricting their transfer. You will not be able to offer or

sell the old notes unless:

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- o pursuant to an exemption from the requirements of the Securities Act of 1933;
- o the old notes are registered under the Securities Act of 1933; or
- o the transaction requires neither an exemption from nor registration under the Securities Act of 1933.

After the exchange offer is closed, we will no longer have an obligation to register the old notes, except for some limited exceptions. See "Risk Factors--Failure to Exchange Your Old Notes."

Expiration Date.....5:00 p.m., New York City time, on [Date], 2001, unless we extend the exchange offer.

Certain Conditions to the Exchange

Offer.....The exchange offer is subject to certain customary conditions that we may waive.

Procedures for Tendering Old Notes.....

We issued the old notes in the form of two global notes. The global notes were deposited with SunTrust Bank, as custodian for Cede & Co., nominee of The Depository Trust Company ("DTC"). Beneficial interests in the notes are shown on records that DTC maintains in book-entry form.

To tender old notes in the exchange offer, DTC must transfer your outstanding notes in accordance with DTC's standard procedures for transfer. In lieu of delivering a letter of transmittal to the exchange agent, a computer-generated message, in which the holder of the old notes acknowledges and agrees to be bound by the letter of transmittal, must be transmitted by DTC on behalf of a holder and received by the exchange agent before 5:00 p.m., New York City time, on the expiration date of the exchange offer.

Special Procedures for Beneficial

Holders.....If you beneficially own old notes that are registered in the name of a broker, dealer, commercial bank, trust company or other nominee and you wish to tender in the exchange offer, you should contact the registered holder promptly and instruct that person to tender on your behalf. If you wish to tender in the exchange offer on your own behalf, you must, prior to completing and executing the letter of transmittal and delivering your old notes, either arrange to have the old notes registered in your name or obtain a properly completed bond power from the registered holder. The transfer of registered ownership may take considerable time.

Withdrawal Rights.....You may withdraw your tender of old notes at any time before the exchange offer expires.

Accounting Treatment.....We will not recognize any gain or loss for accounting purposes upon the completion of the exchange offer. The expenses of the exchange offer that we pay will increase our deferred financing costs in accordance with generally accepted accounting principles. See "The Exchange Offer--Accounting Treatment."

Certain Tax Consequences.....The exchange pursuant to the exchange offer generally will not be a taxable event for U.S. Federal income tax purposes.

Use of Proceeds.....We will not receive any proceeds from the exchange or the issuance of new notes in connection with the exchange offer.

Exchange Agent.....SunTrust Bank is serving as exchange agent in connection with the exchange offer.

SUMMARY DESCRIPTION OF THE NEW NOTES

The new notes have the same financial terms and covenants as the old notes, which are as follows:

- Issuer.....Office Depot, Inc.
- Total Amount of Notes Offered.....\$250,000,000 aggregate principal amount of new 10% Senior Subordinated Notes due 2008.
- Maturity.....July 15, 2008.
- Interest.....January 15 and July 15, commencing on January 15, 2002.
- Ranking.....These notes are senior subordinated debt. They rank behind all of our current and future senior indebtedness, other than trade payables, except indebtedness that expressly provides that it is not senior to these notes. The notes will be effectively subordinated to all debt of our subsidiaries. After giving effect to the sale of the old notes, at June 30, 2001, we would have had no senior debt outstanding and our subsidiaries would have had \$58.7 million of outstanding debt in addition to other liabilities, including trade payables.
- Optional Redemption.....We may redeem the notes at any time at a redemption price equal to the greater of:
  - o 100% of their principal amount, or
  - o the sum of the present values of the remaining scheduled payments of principal and interest, discounted to maturity on a semi-annual basis (assuming a 360-day year consisting of twelve 30-day months) at the Treasury Yield plus 50 basis points,
 plus, in each case, accrued and unpaid interest.
- Offer to Repurchase.....If we sell assets under some circumstances, or experience specific kinds of changes of control, we must offer to repurchase the notes at the prices listed under "Description of Notes" under the heading "Repurchase at the Option of Holders."
- Basic Covenants.....Before the notes receive the ratings described under "Description of Notes" from both Standard & Poor's Ratings Group and Moody's Investor's Services Inc. and certain other conditions are satisfied which we call a "Fall-Away Event," covenants contained in the indenture under which the notes will be issued will, among other things, limit our ability and that of our restricted subsidiaries to:
  - o borrow money;
  - o pay dividends on, redeem or repurchase our capital stock;
  - o make investments;
  - o sell assets;

- o create restrictions on the payment of dividends or other amounts to us from our restricted subsidiaries; and
- o enter into transactions with affiliates.

After the Fall-Away Event, the above limitations will not apply. So long as any notes are outstanding, covenants contained in the indenture will, among other things, limit our ability and the ability of our restricted subsidiaries to:

- o create liens; and
- o consolidate, merge or sell all or substantially all of our assets.

So long as any notes are outstanding, the indenture will require us to provide reports to holders of notes. These covenants are subject to a number of important exceptions, limitations and qualifications, which are described under "Description of Notes."

SUMMARY HISTORICAL FINANCIAL DATA

The summary historical financial data as of and for each of the five years 1996 through 2000 were derived from our audited consolidated financial statements. The summary historical data as of and for the first half of 2000 and 2001 were derived from unaudited financial statements. The 1998, 1999 and 2000 audited financial statements and the unaudited second quarter 2000 and 2001 financial statements are included in documents incorporated by reference in this prospectus. This summary historical and pro forma data is qualified in its entirety by the more detailed information appearing in our consolidated historical financial statements and related notes and other financial information incorporated by reference in this prospectus. We have reclassified certain amounts in our prior year statements to conform them to presentation used in the current year.

	Fiscal Year(1)					First Half		For the Twelve Months Ended June 30, 2001 (6)
	1996	1997	1998	1999	2000	2000	2001	
(dollars in thousands)								
<b>STATEMENT OF EARNINGS DATA:</b>								
Sales.....	\$7,259,206	\$8,108,714	\$9,007,051	\$10,272,060	\$11,569,696	\$5,698,507	\$5,571,417	\$11,442,606
Cost of goods sold and occupancy costs.....	5,395,223	5,963,521	6,484,464	7,450,310	8,479,698	4,109,348	4,025,848	8,396,198
Gross profit.....	1,863,983	2,145,193	2,522,587	2,821,750	3,089,998	1,589,159	1,545,569	3,046,408
Store and warehouse operating and selling expenses.....	1,288,382	1,451,587	1,651,355	1,969,817	2,361,301	1,105,740	1,138,784	2,394,345
Pre-opening expenses.....	9,827	6,609	17,150	23,628	13,465	5,807	2,600	10,258
General and administrative expenses.....	222,714	272,022	330,194	381,611	501,700	221,402	228,905	509,203
Merger and restructuring costs...	-	16,094	119,129	(7,104)	(6,732)	4,381	1,013	(10,100)
Facility closure and relocation costs.....	-	-	-	40,425	110,038	-	(3,164)	106,874
Operating profit.....	343,060	398,881	404,759	413,373	110,226	251,829	177,431	35,828
Interest income.....	3,726	7,570	25,309	30,176	11,502	6,885	3,824	8,441
Interest expense.....	(26,378)	(21,680)	(22,356)	(26,148)	(33,901)	(14,266)	(18,796)	(38,431)
Miscellaneous income (expense), net.....	(8,325)	(13,180)	(18,985)	(3,514)	4,632	20,589	(6,426)	(22,383)
Earnings before income taxes..	312,083	371,591	388,727	413,887	92,459	265,037	156,033	(16,545)
Income taxes.....	115,865	136,730	155,531	156,249	43,127	98,064	57,730	2,793
Net earnings.....	\$ 196,218	\$ 234,861	\$ 233,196	\$ 257,638	\$ 49,332	\$ 166,973	\$ 98,303	\$ (19,338)
<b>OTHER DATA:</b>								
Cash flows provided by (used in):								
Operating activities.....	\$ 181,645	\$ 446,975	\$ 678,615	\$ 369,449	\$ 316,482	\$ 319,166	\$ 423,192	\$ 420,508
Investing activities:								
Capital expenditures.....	(234,489)	(165,213)	(233,089)	(392,305)	(267,728)	(126,370)	(71,546)	(212,904)
Other investing activities..	(7,950)	24,157)	(38,228)	(55,536)	28,363	(2,652)	(6,842)	24,173
Financing activities.....	61,690	(131,920)	61,747	(405,849)	(134,093)	(187,926)	(283,714)	(229,881)
EBITDA(2).....	433,853	505,177	526,378	580,942	320,568	368,597	268,749	220,720
Total debt to EBITDA(3).....	1.3x	0.9x	0.9x	1.0x	2.3x	1.0x	2.1x	2.1x
EBITDA to interest expenses(3)...	16.4x	23.3x	23.5x	22.2x	9.5x	21.9x	5.7x	5.7x
Adjusted EBITDA(4).....	\$ 433,853	\$ 521,271	\$ 645,507	\$ 686,124	\$ 578,340	\$ 372,978	\$ 266,598	\$ 471,960
Total debt to adjusted EBITDA(3)	1.3x	0.9x	0.7x	0.8x	1.3x	0.9x	1.0x	1.0x
Adjusted EBITDA to interest expense(3).....	16.4x	24.0x	28.9x	26.2x	17.1x	25.3x	12.3x	12.3x
<b>BALANCE SHEET DATA (AT PERIOD END):</b>								
Working capital.....	\$ 860,280	\$1,093,463	\$1,293,370	\$ 687,007	\$ 790,752	\$ 612,621	\$ 729,758	\$ 729,758
Net PP&E.....	785,058	846,676	979,229	1,145,628	1,119,306	1,178,182	1,092,862	1,092,862
Short-term debt.....	142,339	2,473	2,834	250,466	153,259	256,685	7,925	7,925
Long-term debt.....	416,757	447,020	470,711	321,099	598,499	341,628	459,741	459,741
Stockholders' equity.....	1,469,110	1,717,638	2,028,879	1,907,720	1,601,251	1,824,061	1,684,955	1,684,955
Percentage of total debt to capitalization.....	27.6%	20.7%	18.9%	23.1%	31.9%	24.7%	21.7%	21.7%
<b>PRO FORMA INFORMATION(5):</b>								
Cash .....								\$ 334,007
Short-term debt.....								7,925
Long-term debt.....								614,241
Percentage of total debt to capitalization.....								27.0%
Total debt to adjusted EBITDA.....								1.3x
Adjusted EBITDA to interest expense.....								8.1x

- (1) Our results for fiscal year 2000 contained 53 weeks; all other fiscal years contained 52 weeks.  
(2) EBITDA represents earnings before interest, taxes, depreciation and amortization. EBITDA is presented because it is a widely accepted financial indicator of a company's ability to incur and service debt. EBITDA does not represent net income or cash flows from operations as those terms are defined in generally accepted accounting principles or GAAP and does not necessarily indicate whether cash flows will be sufficient to fund cash needs.  
(3) Ratios for interim periods are based on last twelve month operating data.  
(4) Adjusted EBITDA represents EBITDA excluding the following charges and credits:

	Fiscal Year(1)					First Half		For the Twelve Months Ended June 30,
	1996	1997	1998	1999	2000(a)	2000	2001	2001(a) (6)
(dollars in thousands)								
Merger and restructuring charges								
(credits).....	\$ -	\$ 16,094	\$ 119,129	\$ (7,104)	\$ (6,732)	\$ 4,381	\$ 1,013	\$ (10,100)
Other one-time charges and credits								
(b)	-	-	-	112,286	264,504	-	(3,164)	261,340
	\$ -	\$ 16,094	\$ 119,129	\$105,182	\$ 257,772	\$ 4,381	\$ (2,151)	\$ 251,240
	=====	=====	=====	=====	=====	=====	=====	=====

(a) Excludes \$2.9 million charge that was recorded in depreciation expense; aggregate net charge in 2000 was \$260.6 million.

(b) For a discussion of these charges and credits see Management's Discussion and Analysis of Financial Condition and Results of Operations - Results of Operations - One-time Charges and Credits included in the 2000 Form 10-K incorporated by reference in this prospectus.

- (5) The pro forma information gives effect to this offering and the application of the net proceeds to repay \$95,500 of borrowings outstanding as of June 30, 2001.  
(6) Financial data for the twelve months ended June 30, 2001 are unaudited. Amounts, other than ratios, Balance Sheet Data and Pro Forma Information, were computed as Fiscal Year 2000 amounts less First Half 2000 amounts plus First Half 2001 amounts.

## RISK FACTORS

You should carefully consider the following risk factors and the other information set forth in this prospectus before deciding to participate in the exchange offer. You should also review the risk factors that are contained in our cautionary statement in our 2000 Form 10-K, which is incorporated herein by reference.

### RISKS RELATING TO THE EXCHANGE OFFER

#### THE LIQUIDITY OF UNEXCHANGED OLD NOTES WILL BE SUBSTANTIALLY LIMITED FOLLOWING THE EXCHANGE OFFER.

Although we believe there is currently a limited trading market for the old notes, no generally reliable public pricing information for the old notes is available. The trading market for unexchanged old notes could become even more limited or nonexistent due to the reduction in the amount of old notes outstanding after the exchange offer, which might adversely affect the liquidity, market price and price volatility of the old notes. If a market for unexchanged old notes exists or develops, the old notes may trade at a discount to the price at which the old notes would have traded if the amount of the old notes outstanding had not been reduced following the exchange offer, depending on prevailing interest rates, the market for similar securities, our operating results, and other factors. There can be no assurance that an active market in the unexchanged old notes exists, will continue to exist or will develop, and no assurance can be given as to the prices at which the unexchanged old notes may be traded.

#### THERE IS CURRENTLY NO MARKET FOR THE NEW NOTES--IF AN ACTIVE TRADING MARKET FOR THE NEW NOTES DOES NOT DEVELOP, THE LIQUIDITY AND VALUE OF THE NEW NOTES COULD BE HARMED.

The new notes are new issues of securities for which there is currently no trading market. We do not intend to apply for listing of the new notes on any securities exchange. Although the notes represented by the Global Notes are expected to be eligible to trade in the PORTAL market and to trade in DTC's Same-Day Funds Settlement System, there can be no assurance that an active market will develop upon completion of the exchange offer or, if developed, that the market will be sustained or that any market will be liquid.

#### THE NEW NOTES WILL BE JUNIOR TO OUR SENIOR DEBT.

The new notes will be subordinated in right of payment to all of our future senior debt. Upon any distribution to our creditors in a liquidation or dissolution, the holders of senior debt will be entitled to be paid in full before any payment may be made with respect to the new notes. In addition, the subordination provisions of the indenture will provide that payments with respect to the new notes will be blocked in the event of a payment default on senior debt and may be blocked for up to 179 days each year in the event of certain non-payment defaults on senior debt. In the event of our bankruptcy, liquidation or reorganization, holders of the new notes will participate ratably in our remaining assets with all holders of subordinated indebtedness that is deemed to be of the same class as the new notes and potentially with all other general creditors, based upon the respective amounts owed to each holder or creditor. In any of the foregoing events, there can be no assurance that there would be sufficient assets to pay amounts due on the new notes. As a result, holders of new notes may receive less, ratably, than the holders of senior debt. In addition, under the subordination provisions of the indenture, payments that would otherwise be made to holders of the new notes will instead be paid to holders of senior debt under certain circumstances. As a result of these provisions, other creditors (including trade creditors) that are not holders of senior debt may recover more, ratably, than the holders of the new notes. In addition, the new notes will be effectively subordinated to all outstanding obligations of any of our subsidiaries.

As of June 30, 2001, after application of the net proceeds from the sale of the old notes, we had no senior debt outstanding and our subsidiaries would have had \$58.7 million of outstanding debt in addition to other liabilities, including trade payables. In addition, we would be able to incur a significant amount of additional senior indebtedness under our existing credit facilities. The indenture will permit us and our subsidiaries to incur a substantial amount of additional indebtedness, including senior debt, in the future.

WE ENTERED INTO AN EXCHANGE AND REGISTRATION RIGHTS AGREEMENT WITH THE INITIAL PURCHASERS OF THE OLD NOTES THAT MAY REQUIRE US TO PAY SPECIAL INTEREST WITH RESPECT TO THE OLD NOTES IN CERTAIN CIRCUMSTANCES.

Under the Exchange and Registration Rights Agreement with the initial purchasers of the old notes, if (i) Office Depot fails to file an exchange offer registration statement within 90 days after July 2, 2001; or (ii) the exchange offer registration statement fails to become effective within 180 days after July 2, 2001; or (iii) Office Depot fails to complete the exchange offer within 45 days after the effectiveness of the exchange offer registration statement, or (iv) Office Depot becomes obligated to file a shelf registration statement with respect to the old notes, and does not thereafter file the shelf registration statement within 90 days after the obligation to file the shelf registration statement matures; or (v) the shelf registration statement has not been declared effective on or prior to 180 days after its filing; or (vi) after becoming effective, either the exchange offer registration statement or the shelf registration statement, as the case may be, becomes subject to a stop order issued pursuant to Section 8(d) of the Securities Act of 1933, as amended, without being succeeded immediately by an additional filed and effective registration statement (any of the foregoing events, a "Registration Default"), then during each period that a Registration Default has occurred and is continuing, Office Depot must pay special interest to the holders of old notes, in addition to any other interest due and payable to such holders, at a per annum rate of 0.25% for the first 90 days during which the Registration Default continues, at a per annum rate of 0.50% for the second 90 days during which the Registration Default continues, at a per annum rate of 0.75% for the third 90 days during which the Registration Default continues and at a per annum rate of 1.0% during any remaining period during which the Registration Default continues.

A SIGNIFICANT PORTION OF OUR OPERATIONS EXIST AT OUR SUBSIDIARY LEVEL AND OUR SUBSIDIARIES HAVE NO OBLIGATIONS UNDER THE NEW NOTES.

We derive much of our revenue from our subsidiaries. The indenture governing the notes permits us and our subsidiaries to incur a substantial amount of additional indebtedness, and does not require our subsidiaries to guarantee the notes. In the event of a bankruptcy, liquidation or reorganization of a subsidiary, holders of any of subsidiary's indebtedness will have a claim to the assets of the subsidiary that is prior to our interest in those assets. As of June 30, 2001, after giving effect to the sale of the old notes and the application of the net proceeds therefrom, the aggregate amount of indebtedness of our subsidiaries would have been approximately \$58.7 million, in addition to other liabilities, including trade payables. If any subsidiary indebtedness were to be accelerated, there can be no assurance that the assets of that subsidiary would be sufficient to repay the indebtedness or that our assets and the assets of our other subsidiaries would be sufficient to repay in full our indebtedness, including the new notes.

WE MAY NOT HAVE THE ABILITY TO RAISE THE FUNDS NECESSARY TO FINANCE ANY CHANGE OF CONTROL OFFER REQUIRED BY THE INDENTURE.

Upon a change of control, we will be required to offer to repurchase all outstanding new and old notes at 101% of the principal amount thereof plus accrued and unpaid interest to the date of repurchase. However, there can be no assurance that sufficient funds will be available at the time of any change of control to make any required repurchases of new or old notes tendered or that restrictions in our credit facilities will allow us to make the required repurchases. Notwithstanding these provisions, we could enter into certain transactions, including certain recapitalizations, that would not constitute a change of control but would increase the amount of debt outstanding at that time. See "Description of Notes -- Repurchase at the Option of Holders -- Change of Control."

FEDERAL AND STATE LAWS PERMIT A COURT TO VOID THE NOTES UNDER CERTAIN CIRCUMSTANCES.

Under applicable provisions of federal bankruptcy law or comparable provisions of state fraudulent transfer law, if, among other things, we, at the time we incurred the indebtedness evidenced by the new notes, (1) (a) were or are insolvent or rendered insolvent by reason of incurring the indebtedness or (b) were or are engaged in a business or transaction for which the assets remaining with us constituted unreasonably small capital or (c) intended or intend to incur, or believed or believe that we would incur, debts beyond our ability to pay such debts as they mature, and (2) we received or receive less than reasonably equivalent value or fair consideration for incurring the indebtedness, then the new notes could be voided, or claims in respect of the new notes could be subordinated to all of our other debts. In addition, the payment of interest and principal by us pursuant to the new notes could be voided and required to be returned to the person making payment, or to a fund for the benefit of our creditors.



The measures of insolvency for purposes of the foregoing considerations will vary depending upon the law applied in any proceeding with respect to the foregoing. Generally, however, we would be considered insolvent if:

- o the sum of our debts, including contingent liabilities, were greater than the saleable value of all of our assets at a fair valuation or if the present fair saleable value of our assets were less than the amount that would be required to pay our probable liability on our existing debts, including contingent liabilities, as they become absolute and mature; or
- o we could not pay our debts as they become due.

On the basis of historical financial information, recent operating history and other factors, we believe that, after giving effect to the indebtedness incurred in connection with the exchange offer, we will not be insolvent, will not have unreasonably small capital for the business in which we are engaged and will not incur debts beyond our ability to pay as the debts mature. There can be no assurance, however, as to what standard a court would apply in making a determination or that a court would agree with our conclusions in this regard.

#### RISKS RELATING TO OUR BUSINESS

THE CURRENT ECONOMIC DOWNTURN IN THE U.S. ECONOMY HAS AND IS LIKELY TO CONTINUE TO ADVERSELY IMPACT OUR BUSINESS AND OPERATING RESULTS.

In the past decade, the favorable United States economy has contributed to the expansion and growth of retailers like us. Since the third quarter of 2000, the U.S. economy has shown signs of a downturn, particularly in the technology sector. The retail industry, in particular, is displaying signs of a slowdown, with several specialty retailers, both in and outside our industry segment, reporting earnings warnings in the last few months. Technology manufacturers, some of whom supply us with products, have issued earnings warnings as a result of slow product sales. This general economic slowdown negatively impacted our results during the second half of 2000 and the first half of 2001 and is likely to continue to adversely impact our business and operating results.

WE FACE INTENSE COMPETITION AND WILL FACE MORE COMPETITION IN THE FUTURE.

We compete with a variety of retailers, dealers and distributors in a highly competitive marketplace that includes high-volume office supply chains, warehouse clubs, computer stores, contract stationers, Internet-based merchandisers and well-established mass merchant retailers. Significant competitive factors include, among others, the following:

- o Well-established mass merchant retailers that have the financial and distribution ability to compete very effectively with us should they choose to increase their presence in the office superstore retail category, Internet office supply or contract stationer business or should they substantially expand their product offerings in their existing retail outlets.
- o Many start-up operations that are heavily focused on Internet sales may be able to compete with us in the areas of price and selection. In addition, certain manufacturers of computer hardware, software and peripherals, including certain of our suppliers, have expanded their own direct marketing of products, particularly over the Internet.
- o Some of our competitors focus exclusively on the contract and/or commercial businesses and therefore may gain a competitive advantage in those areas.

In order to achieve and maintain expected profitability levels, we must continue to grow our business while maintaining the service levels and aggressive pricing necessary to retain existing customers in each of our business segments. Our failure to adequately address these challenges could put us at a competitive disadvantage relative to these competitors.

OUR QUARTERLY OPERATING RESULTS HAVE FLUCTUATED SIGNIFICANTLY IN THE PAST AND MAY CONTINUE TO DO SO IN THE FUTURE.

Fluctuations in our quarterly operating results have occurred in the past and may occur in the future. A variety of factors could contribute to this quarter-to-quarter variability, including:

- o new store openings that require an outlay of pre-opening expenses, generate lower initial profit margins and cannibalize existing stores;
- o timing and effectiveness of warehouse integration;
- o competitors' pricing;
- o changes in our product mix;
- o effects of seasonality; and
- o competitive store openings or other events.

In addition, our operating results may fall below securities analysts' expectations, which may cause the price of our securities to fall abruptly and significantly. Our operating results should not be relied upon as an indication of future performance.

THE LOSS OF KEY MEMBERS OF OUR SENIOR MANAGEMENT TEAM COULD ADVERSELY AFFECT OUR BUSINESS.

Our success depends largely on the efforts and abilities of our current senior management team. Their experience and industry contacts significantly benefit us. Our management team has undergone changes in the last year with the appointment of a new Chief Executive Officer and presidents to each of our three operating business segments. We are currently searching for a Chief Financial Officer. If we were to lose the benefit of their experience and contacts or if the changes in management do not generate the benefits we seek, our business could be adversely affected.

DOING BUSINESS OUTSIDE THE UNITED STATES INVOLVES NUMEROUS RISKS THAT COULD NEGATIVELY AFFECT OUR BUSINESS AND OPERATING RESULTS.

We operate in a number of international markets and intend to continue to enter into additional international markets as attractive opportunities arise. In addition to the risks described above, internationally we face risks such as:

- o foreign currency fluctuations;
- o unstable political, economic, financial and market conditions;
- o compromised operating control of some of our foreign operations that are not wholly owned;
- o system changes and harmonization of prices to accommodate the adoption of the euro; and
- o lack of adequate management resources.

All of these risks have in the past and could have in the future a material adverse effect on our business and operating results.

VARIOUS GOVERNMENTAL REGULATIONS AND ENVIRONMENTAL RISKS APPLICABLE TO OUR BUSINESS MAY REQUIRE US TO TAKE ACTIONS THAT WILL ADVERSELY AFFECT OUR RESULTS OF OPERATIONS.

Our business is subject to numerous federal, state, provincial, local and foreign laws and regulations, including regulations with respect to air emissions, wastewater discharges and the generation, handling, storage, transportation, treatment and disposal of waste materials. Although we believe we are in substantial compliance with all applicable laws and regulations, legal requirements are frequently changed and subject to interpretation, and we are unable to predict the ultimate cost of compliance with these requirements or their effect on our operations. We may be required to make significant expenditures to comply with governmental laws and regulations. We cannot be certain that existing laws or regulations, as currently interpreted or reinterpreted in the future, or future laws or regulations, will not have a material adverse effect on our results of operations and financial condition.

USE OF PROCEEDS

We will not receive any proceeds from the exchange offer.

CAPITALIZATION

The following table sets forth our consolidated capitalization as of June 30, 2001, as adjusted to give effect to the sale of old notes and the application of the estimated net proceeds therefrom. The information in this table does not give effect to any other events subsequent to June 30, 2001.

	As of June 30, 2001	
	Actual	As Adjusted
	-----	
	(unaudited)	
	(in thousands)	
	-----	-----
Current portion of long-term debt .....	\$ 7,925	\$ 7,925
Long-term debt, less current portion .....	229,718	134,218(1)
Zero coupon, convertible subordinated notes .....	230,023	230,023
Issuance of old notes .....	-----	250,000
Common stockholders' equity:		
Common stock, \$0.01 par value; 800,000,000 shares		
authorized, 380,686,294 issued at June 30, 2001(2).....	3,807	3,807
Additional paid-in capital .....	953,459	953,459
Unamortized value of long-term incentive stock grant .....	(2,770)	(2,770)
Accumulated other comprehensive loss .....	(82,377)	(82,377)
Retained earnings .....	1,614,994	1,614,994
Treasury stock, at cost; deferred compensation and other .....	(802,158)	(802,158)
Total common stockholders' equity .....	-----	-----
	1,684,955	1,684,955
	-----	-----
Total capitalization .....	\$ 2,152,621	\$ 2,307,121
	=====	=====

1 The actual amount repaid with the proceeds of the notes will depend upon the amount outstanding under our domestic credit facilities when we repay them.

2 Does not include 55,005,061 shares of our common stock that are reserved for issuance under our stock option plans, under which 21,408,503 options for shares were exercisable at June 30, 2001.

SELECTED CONSOLIDATED FINANCIAL DATA

The following table sets forth certain of our selected consolidated financial and operating data. The selected consolidated financial and operating data as of and for the fiscal years ended December 28, 1996, December 27, 1997, December 26, 1998, December 25, 1999, and December 30, 2000 have been derived from our audited financial statements. The selected consolidated financial and operating data as of and for the twenty-six weeks ended June 24, 2000 and June 30, 2001 have been derived from our unaudited consolidated financial statements. Our operating results for the interim periods are not necessarily indicative of the results that may be expected for 2001. This information should be read in conjunction with the detailed information and consolidated financial statements and accompanying notes incorporated by reference herein. See "Available Information." On August 26, 1998, we merged with Viking Office Products in a transaction accounted for as a pooling of interests. Accordingly, all periods prior to the merger have been restated to include Viking. We have reclassified certain amounts in our prior year statements to conform them to presentation used in the current year.

	FISCAL YEAR(1)					FIRST HALF	
	1996	1997	1998	1999	2000	2000	2001
(DOLLARS IN THOUSANDS EXCEPT PER SHARE AMOUNTS)							
<b>STATEMENT OF EARNINGS DATA:</b>							
Sales.....	\$7,259,206	\$8,108,714	\$9,007,051	\$10,272,060	\$11,569,696	\$5,698,507	\$5,571,417
Cost of goods sold and occupancy costs.....	5,395,223	5,963,521	6,484,464	7,450,310	8,479,698	4,109,348	4,025,848
Gross profit.....	1,863,983	2,145,193	2,522,587	2,821,750	3,089,998	1,589,159	1,545,569
Store and warehouse operating and selling expenses.....	1,288,382	1,451,587	1,651,355	1,969,817	2,361,301	1,105,740	1,138,784
Pre-opening expenses....	9,827	6,609	17,150	23,628	13,465	5,807	2,600
General and administrative expenses	222,714	272,022	330,194	381,611	501,700	221,402	228,905
Merger and restructuring costs.....	-	16,094	119,129	(7,104)	(6,732)	4,381	1,013
Facility closure and relocation costs.....	-	-	-	40,425	110,038	-	(3,164)
Operating profit.....	343,060	398,881	404,759	413,373	110,226	251,829	177,431
Interest income.....	3,726	7,570	25,309	30,176	11,502	6,885	3,824
Interest expense.....	(26,378)	(21,680)	(22,356)	(26,148)	(33,901)	(14,266)	(18,796)
Miscellaneous income (expense), net.....	(8,325)	(13,180)	(18,985)	(3,514)	4,632	20,589	(6,426)
Earnings before income taxes.....	312,083	371,591	388,727	413,887	92,459	265,037	156,033
Income taxes.....	115,865	136,730	155,531	156,249	43,127	98,064	57,730
Net earnings.....	\$ 196,218	\$ 234,861	\$ 233,196	\$ 257,638	\$ 49,332	\$ 166,973	\$ 98,303
<b>EARNINGS PER SHARE(2):</b>							
Basic.....	\$ 0.55	\$ 0.65	\$ 0.64	\$ 0.71	\$ 0.16	\$ 0.52	\$ 0.33
Diluted.....	0.53	0.62	0.61	0.69	0.16	0.50	0.33

	Fiscal Year(1)					First Half	
	1996	1997	1998	1999	2000	2000	2001

(dollars in thousands)

STATISTICAL DATA:

Facilities open at end of period:

United States and Canada:

Office supply stores..	561	602	702	825	888	855	829
Customer service centers	32	33	30	30	25	30	25
Call centers.....	6	8	8	7	7	7	8

International(3):

Office supply stores..	21	39	87	118	132	123	132
Customer service centers	12	16	17	17	17	17	19
Call centers.....	8	12	13	14	14	13	15

OTHER DATA:

Ratio of earnings to fixed charges(4)....	4.4x	5.0x	4.6x	4.1x	1.6x	4.5x	2.9x
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BALANCE SHEET DATA (AT PERIOD END):

Working capital.....	\$ 860,280	\$1,093,463	\$1,293,370	\$ 687,007	\$ 790,752	\$ 612,621	\$ 729,758
Total assets.....	3,186,630	3,498,891	4,025,283	4,276,183	4,196,334	4,025,665	3,729,046
Long-term debt, excluding current maturities....	416,757	447,020	470,711	321,099	598,499	341,628	459,741
Common stockholders' equity.....	1,469,110	1,717,638	2,028,879	1,907,720	1,601,251	1,824,061	1,684,955

SEGMENT DATA(5):

North American Retail Division

Sales.....	NA	\$4,734,626	\$5,150,854	\$5,927,666	\$6,517,022	\$3,211,753	\$2,895,466
Gross profit.....	NA	1,017,092	1,229,434	1,392,044	1,462,265	739,735	646,240
Store and warehouse operating profit.....	NA	386,584	536,761	508,455	452,595	259,853	159,587

Business Services Group

Sales.....	NA	2,489,984	2,807,573	3,057,187	3,632,068	1,754,642	1,894,758
Gross profit.....	NA	766,886	859,406	964,777	1,101,308	558,480	587,505
Store and warehouse operating profit.....	NA	193,582	187,815	250,642	205,791	130,660	134,365

International Division

Sales.....	NA	887,408	1,052,543	1,325,372	1,467,357	734,069	782,669
Gross profit.....	NA	362,394	435,244	538,456	577,046	291,675	312,480
Store and warehouse operating profit.....	NA	113,840	147,071	164,881	184,168	92,989	112,911

NA = not available

- (1) Our results for fiscal year 2000 contained 53 weeks; all other fiscal years contained 52 weeks. (2) Earnings per share previously reported for 1996 through 1998 have been restated to reflect the three-for-two stock split declared on February 24, 1999.
- (3) Includes facilities in our International Division that we wholly own or lease, as well as those that we operate through licensing and joint venture agreements.
- (4) The ratio of earnings to fixed charges is based on earnings before income taxes, fixed charges and undistributed earnings of joint ventures. Fixed charges include interest expense and an estimated interest portion of rents.
- (5) Certain one-time charges and credits were excluded from the segment results for the fiscal years because the effects of these charges and credits are not comparable on a year-over-year basis.

## THE EXCHANGE OFFER

### PURPOSE OF THE EXCHANGE OFFER

In connection with the sale of the old notes, we entered into a registration rights agreement with the initial purchasers of the old notes, under which we agreed to use our best efforts to file and have declared effective an exchange offer registration statement under the Securities Act of 1933, and to complete the exchange offer as described in this prospectus. As used in this section, the word "notes" when used without specific reference to either new notes or old notes, refers to both old notes and new notes.

We are making the exchange offer in reliance on the position of the SEC as expressed in certain no-action letters, although we have not sought our own no-action letter. Based upon the interpretations by the SEC, we believe that a holder of new notes (except a holder who is our "affiliate" within the meaning of Rule 405 of the Securities Act of 1933) who exchanges old notes for new notes in the exchange offer, generally may offer the new notes for resale, sell the new notes and otherwise transfer the new notes without further registration under the Securities Act of 1933 and without delivery of a prospectus that satisfies the requirements of Section 10 of the Securities Act of 1933. This does not apply, however, to a holder who is our "affiliate" within the meaning of Rule 405 of the Securities Act of 1933. We also believe that a holder may offer, sell or transfer the new notes only if the holder acquires the new notes in the ordinary course of its business and is not participating, does not intend to participate and has no arrangement or understanding with any person to participate in a distribution of the new notes.

Holders of the old notes using the exchange offer to participate in a distribution of new notes may not rely on the no-action letters referenced above. This includes broker-dealers that acquired old notes directly from us, but not as a result of market-making activities or other trading activities. Consequently, those holders must comply with the registration and prospectus delivery requirements of the Securities Act of 1933 in the absence of an exemption from those requirements.

Each broker-dealer that receives new notes for its own account in exchange for old notes, as a result of market-making activities or other trading activities, must acknowledge that it will deliver a prospectus in connection with any resale of the new notes. This prospectus, as it may be amended or supplemented from time to time, may be used by broker-dealers in connection with the resale of new notes received in exchange for old notes where the old notes were acquired by the broker-dealers as a result of market-making activities or other trading activities. The letter of transmittal states that by acknowledging and delivering a prospectus, a broker-dealer will not be considered to admit that it is an "underwriter" within the meaning of the Securities Act of 1933. We have agreed that for a period of 180 days after the expiration date, we will make this prospectus available to broker-dealers for use in connection with any resale. See the section entitled "Plan of Distribution."

Except as described above, this prospectus may not be used for an offer to resell, resale or other transfer of new notes.

The exchange offer is not being made to, nor will we accept tenders for exchange from, holders of old notes in any jurisdiction in which the exchange offer or the acceptance of it would not be in compliance with the securities or blue sky laws of that jurisdiction.

### TERMS OF THE EXCHANGE

Upon the terms and subject to the conditions of the exchange offer, we will accept any and all old notes validly tendered prior to 5:00 p.m., New York City time, on the expiration date. The date of acceptance for exchange of the old notes, and completion of the exchange offer, is the exchange date, which will be the first business day following the expiration date (unless extended as described in this prospectus). We will issue, on or promptly after the exchange date, an aggregate principal amount of up to \$250,000,000 new notes for a like principal amount of outstanding old notes tendered and accepted in connection with the exchange offer. The new notes issued in connection with the exchange offer will be delivered on the earliest practicable date following the exchange date. Holders may tender some or all of their old notes in connection with the exchange offer, but only in \$1,000 increments of principal amount at maturity. The exchange offer is not conditioned upon holders tendering a minimum principal amount of old notes.

The terms of the new notes are identical in all material respects to the terms of the old notes, except that the new notes have been registered under the Securities Act of 1933 and are issued free from any covenant regarding registration, including the payment of additional interest upon a failure to file or have declared effective an exchange offer registration statement or to complete the exchange offer by certain dates. The new notes will evidence the same debt as the old notes and will be issued pursuant to the same indenture. As of the date of this prospectus, \$250,000,000 in aggregate principal amount of the old notes is outstanding.

In connection with the issuance of the old notes, we arranged for the old notes originally purchased by qualified institutional buyers and those sold in reliance on Regulation S under the Securities Act of 1933 to be issued and transferable in book-entry form through the facilities of The Depository Trust Company, acting as depository. Except as described under "Description of Notes--Book-Entry, Delivery and Form," the new notes will be issued in the form of a global note registered in the name of DTC or its nominee and each beneficial owner's interest in it will be transferable in book-entry form through DTC. See "Description of Notes--Book-Entry, Delivery and Form."

Holders of old notes do not have any appraisal or dissenters' rights in connection with the exchange offer. Old notes that are not tendered for exchange or are tendered but not accepted in connection with the exchange offer will remain outstanding and be entitled to the benefits of the indenture under which they were issued, but will not be entitled to any registration rights under the registration rights agreement.

We shall be considered to have accepted validly tendered old notes if and when we have given oral or written notice to the exchange agent. The exchange agent will act as agent for the tendering holders for the purposes of receiving the new notes from us.

If any tendered old notes are not accepted for exchange because of an invalid tender, the occurrence of certain other events described in this prospectus or otherwise, we will return the old notes, without expense, to the tendering holder as quickly as possible after the expiration date.

Holders who tender old notes will not be required to pay brokerage commissions or fees or, subject to the instructions in the letter of transmittal, transfer taxes on the exchange of old notes in connection with the exchange offer. We will pay all charges and expenses, other than certain applicable taxes described below, in connection with the exchange offer.

#### EXPIRATION DATE; EXTENSIONS; AMENDMENTS

The expiration date for the exchange offer is 5:00 p.m., New York City time, on [Date], 2001, unless extended by us in our sole discretion (but in no event to a date later than [Date], 2001), in which case the term "expiration date" shall mean the latest date and time to which the exchange offer is extended.

We reserve the right, in our sole discretion:

- o to delay accepting any old notes;
- o to extend or terminate the exchange offer if, in our reasonable judgment, any of the conditions described below shall not have been satisfied, by giving oral or written notice of the delay, extension or termination to the exchange agent; and/or
- o to amend or waive any term or condition of the exchange offer in any manner.

If we amend the exchange offer in a manner that we consider material, we will disclose the amendment by means of a prospectus supplement, and we will extend the exchange offer for a period of five to ten business days. If we determine to make a public announcement of any delay, extension, amendment or termination of the exchange offer, we will do so by making a timely release through an appropriate news agency.

#### INTEREST ON THE NEW NOTES

Interest on the new notes will accrue at the rate of 10% per annum from the most recent date to which interest on the notes has been paid or, if no



interest has been paid, from the date of the indenture governing the notes. We will pay interest on the new notes semiannually in arrears on January 15 and July 15, commencing on January 15, 2002.

#### CONDITIONS TO THE EXCHANGE OFFER

We will not be required to accept old notes for exchange and may terminate the exchange offer as provided in this prospectus before the acceptance of the old notes, if:

- o any action or proceeding is instituted or threatened in any court or by or before any governmental agency relating to the exchange offer which, in our reasonable judgment, might materially impair our ability to proceed with the exchange offer or materially impair the contemplated benefits of the exchange offer to us, or any material adverse development has occurred in any existing action or proceeding relating to us or any of our subsidiaries;
- o any change, or any development involving a prospective change, in our business or financial affairs or those of any of our subsidiaries has occurred which, in our reasonable judgment, might materially impair our ability to proceed with the exchange offer or materially impair the contemplated benefits of the exchange offer to us;
- o any law, statute, rule or regulation is proposed, adopted or enacted, which in our reasonable judgment, might materially impair our ability to proceed with the exchange offer or materially impair the contemplated benefits of the exchange offer to us; or
- o any governmental approval has not been obtained, which approval we, in our reasonable discretion, consider necessary for the completion of the exchange offer as contemplated by this prospectus.

The conditions listed above are for our sole benefit and may be asserted by us regardless of the circumstances giving rise to any of these conditions. We may waive these conditions in our reasonable discretion in whole or in part at any time and from time to time. The failure by us at any time to exercise any of the above rights shall not be considered a waiver of the right, and the right shall be considered an ongoing right that may be asserted at any time and from time to time. If we determine in our reasonable discretion that any of the conditions to the exchange offer are not satisfied, we may:

- o refuse to accept any old notes and return all tendered old notes to the tendering holders;
- o extend the exchange offer and retain all old notes tendered before the expiration of the exchange offer, subject, however, to the rights of holders to withdraw their previously tendered old notes (See "-Withdrawal of Tenders" below); or
- o waive unsatisfied conditions relating to the exchange offer and accept all properly tendered old notes that have not been withdrawn.

#### PROCEDURES FOR TENDERING

Any financial institution that is a participant in DTC's Book-Entry Transfer Facility system may make book-entry delivery of the old notes by causing DTC to transfer the old notes into the exchange agent's account. In lieu of delivering a letter of transmittal to the exchange agent, the holder may cause a computer-generated message to be transmitted to DTC and the exchange agent on the holder's behalf, in which the holder of old notes (i) makes the representations contained in the letter of transmittal, (ii) agrees to be bound by the terms of the letter of transmittal, and (iii) acknowledges and agrees that Office Depot may enforce the letter of transmittal against the holder. The computer-generated message must be transmitted to DTC on behalf of the holder and received by the exchange agent prior to 5:00 p.m., New York City time, on the expiration date. Delivery of documents to DTC in accordance with its procedures does not constitute delivery to the exchange agent.

Unless a tender is being made in book-entry form, to tender in the exchange offer, a holder must:

- o complete, sign and date the letter of transmittal; and
- o mail or otherwise deliver the letter of transmittal, the old notes and any other required documents to the exchange agent prior to 5:00 p.m., New York City time, on the expiration date. Do not send any letters of transmittal to us.

The tender by a holder of old notes will constitute an agreement between us and the holder in accordance with the terms and subject to the conditions set forth in this prospectus and in the letter of transmittal.

The method of delivery of old notes and the letter of transmittal and all other required documents to the exchange agent is at the election and risk of the holders. Instead of delivery by mail, we recommend that holders use an overnight or hand delivery service. In all cases, holders should allow sufficient time to assure delivery to the exchange agent before the expiration date. Holders may request their respective brokers, dealers, commercial banks, trust companies or nominees to effect tenders on their behalf.

Any beneficial owner whose old notes are registered in the name of a broker, dealer, commercial bank, trust company or other nominee and who wishes to tender should contact the registered holder promptly and instruct the registered holder to tender on behalf of the beneficial owner. If a beneficial owner wishes to tender on that owner's own behalf, the owner must, prior to completing and executing the letter of transmittal and delivering the owner's old notes, either make appropriate arrangements to register ownership of the old notes in the owner's name or obtain a properly completed bond power from the registered holder. Please note that the transfer of registered ownership may take considerable time.

If the letter of transmittal is signed by a person other than the registered holder of any old notes, the old notes must be endorsed by the registered holder or accompanied by a properly completed bond power, in each case signed or endorsed in blank by the registered holder and guaranteed by a member firm of a registered national securities exchange or of the National Association of Securities Dealers, Inc., or a commercial bank or trust company having an office or correspondent in the United States.

If the letter of transmittal or any old notes or bond powers are signed or endorsed by trustees, executors, administrators, guardians, attorney-in-fact, officers of corporations or others acting in a fiduciary or representative capacity, those persons should so indicate when signing and, unless waived by us, submit evidence satisfactory to us of their authority to act in that capacity with the letter of transmittal.

#### DETERMINATION OF VALIDITY

We will determine all questions as to the validity, form, eligibility (including time of receipt), acceptance and withdrawal of tendered old notes in our sole discretion. We reserve the absolute right to reject any and all old notes not properly tendered or any old notes whose acceptance by us would, in the opinion of our U.S. counsel, be unlawful. We also reserve the right to waive any defects, irregularities or conditions of tender as to any particular old notes either before or after the expiration date. Our interpretation of the terms and conditions of the exchange offer (including the instructions in the letter of transmittal) will be final and binding on all parties. Unless waived, any defects or irregularities in connection with tenders of old notes must be cured within a time period we will determine. Although we intend to request the exchange agent to notify holders of defects or irregularities relating to tenders of old notes, neither we, the exchange agent nor any other person will have any duty or incur any liability for failure to give such notification. Tenders of old notes will not be considered to have been made until any defects or irregularities have been cured or waived. Any old notes received by the exchange agent that are not properly tendered and as to which the defects or irregularities have not been cured or waived will be returned by the exchange agent to the tendering holders, unless otherwise provided in the letter of transmittal, as soon as practicable following the expiration date.

By tendering, each holder represents to us, among other things, that:

- o the holder has full power and authority to tender, exchange, sell, assign and transfer old notes;

- o we will acquire good, marketable and unencumbered title to the tendered old notes, free and clear of all liens, restrictions, charges and other encumbrances;
- o the old notes tendered for exchange are not subject to any adverse claims or proxies;
- o the new notes acquired in connection with the exchange offer are being obtained in the ordinary course of business of the person receiving the new notes, whether or not the person is the holder;
- o neither the holder nor any other person has an arrangement or understanding with any person to participate in the distribution of the new notes; and
- o neither the holder nor any such other person is our "affiliate" (as defined in Rule 405 under the Securities Act of 1933).

Additionally, if the holder is a broker-dealer that will receive new notes for its own account in exchange for old notes, the holder acknowledges that it acquired old notes as the result of market-making or other trading activities and covenants that the holder will deliver a prospectus in connection with any resale of the new notes. See the section entitled "Plan of Distribution."

#### GUARANTEED DELIVERY PROCEDURES

A holder who wishes to tender old notes and (i) whose old notes are not immediately available, or (ii) who cannot deliver the old notes, the letter of transmittal or any other required documents to the exchange agent prior to the expiration date; or (iii) who cannot complete the procedures for book-entry transfer before the expiration date, may effect a tender if the tender is made through an Eligible Guarantor Institution (as that term is defined in Rule 17Ad-15 under the Securities Exchange Act of 1934). Under Rule 17Ad-15, an Eligible Guarantor Institution is:

- o any Bank (as defined in section 3(a) of the Federal Deposit Insurance Act);
- o any broker, dealer, municipal securities dealer, municipal securities broker, government securities dealer, or government securities broker (as those terms are defined under the Securities Exchange Act of 1934);
- o any Credit Union (as that term is defined in Section 19(b)(1)(A) of the Federal Reserve Act);
- o any National securities exchange, registered securities association or clearing agency, as those terms are used under the Securities Exchange Act of 1934; or
- o any Savings Association (as that term is defined in section 3(b) of the Federal Deposit Insurance Act).

The Eligible Guarantor Institution must deliver to the exchange agent, prior to the expiration date:

- o a properly completed and duly executed notice of guaranteed delivery by facsimile transmission, mail or hand delivery;
- o the name and address of the holder; and
- o the certificate number(s) of the old notes and the principal amount at maturity of old notes tendered, stating that the tender is being made and guaranteeing that, within three New York Stock Exchange trading days after the expiration date, the letter of transmittal and the certificate(s) representing the old notes (or a confirmation of book-entry transfer), and any other documents required by the letter of transmittal will be deposited by the Eligible Guarantor Institution with the exchange agent.

The exchange agent must thereafter receive, within three New York Stock Exchange trading days after the expiration date, a properly completed and

executed letter of transmittal or facsimile, as well as the certificate(s) representing all tendered old notes in proper form for transfer or a confirmation of book-entry transfer, and all other documents required by the letter of transmittal.

#### WITHDRAWAL OF TENDERS

Except as otherwise provided herein, tenders of old notes may be withdrawn at any time prior to 5:00 p.m., New York City time, on the expiration date. To withdraw a tender of old notes in connection with the exchange offer, a written facsimile transmission notice of withdrawal must be received by the exchange agent at its address set forth herein prior to 5:00 p.m., New York City time, on the expiration date. Any notice of withdrawal must:

- o specify the name of the person who deposited the old notes to be withdrawn;
- o identify the old notes to be withdrawn (including the certificate number or numbers and principal amount at maturity of the old notes);
- o be signed by the depositor in the same manner as the original signature on the letter of transmittal by which the old notes were tendered (including any required signature guarantees) or be accompanied by documents or transfer sufficient to have the trustee register the transfer of the old notes into the name of the person withdrawing the tender; and
- o specify the name in which any old notes are to be registered, if different from that of the depositor.

If old notes have been tendered pursuant to the procedure for book-entry transfer, any notice of withdrawal must specify the name and number of the account at the book-entry transfer facility to be credited with the withdrawn old notes or otherwise comply with the book-entry transfer facility's procedures. We will determine all questions as to the validity, form and eligibility (including time of receipt) of any withdrawal notices. Any old notes withdrawn will be considered not to have been validly tendered for purposes of the exchange offer, and no new notes will be issued unless the old notes withdrawn are validly re-tendered prior to the expiration date. Any old notes that have been tendered but which are not accepted for exchange or which are withdrawn will be returned to the holder without cost as soon as practicable after withdrawal, rejection of tender or termination of the exchange offer. Properly withdrawn old notes may be re-tendered by following one of the procedures described above under the caption "Procedures for Tendering" at any time prior to the expiration date.

#### EXCHANGE AGENT

SunTrust Bank has been appointed as exchange agent in connection with the exchange offer. Questions and requests for assistance, requests for additional copies of this prospectus or of the letter of transmittal should be directed to the exchange agent, at its offices at 777 Brickell Avenue, Miami, Florida 33131. The exchange agent's telephone number is (305) 579-7009 and facsimile number is (305) 579-7017.

#### FEES AND EXPENSES

We will not make any payment to brokers, dealers or others soliciting acceptances of the exchange offer. We will pay certain other expenses to be incurred in connection with the exchange offer, including the fees and expenses of the exchange agent, accounting and certain legal fees. Holders who tender their old notes for exchange will not be obligated to pay transfer taxes. If, however:

- o new notes are to be delivered to, or issued in the name of, any person other than the registered holder of the old notes tendered; or
- o old notes are registered in the name of any person other than the person signing the letter of transmittal; or
- o a transfer tax is imposed for any reason other than the exchange of old notes in connection with the exchange offer;

then the amount of any transfer taxes (whether imposed on the registered holder or any other persons) will be payable by the tendering holder. If satisfactory evidence of payment of the taxes or exemption from them is not submitted with the letter of transmittal, the amount of the transfer taxes will be billed directly to the tendering holder.

#### ACCOUNTING TREATMENT

The new notes will be recorded at the same carrying value as the old notes as reflected in our accounting records on the date of the exchange. Accordingly, we will not recognize any gain or loss for accounting purposes upon the completion of the exchange offer. The expenses of the exchange offer that we pay will increase our deferred financing costs in accordance with generally accepted accounting principles.

#### CONSEQUENCES OF FAILURE TO PROPERLY TENDER OLD NOTES IN THE EXCHANGE OFFER

We will issue new notes in exchange for the old notes pursuant to the exchange offer only after timely receipt by the exchange agent of the old notes, a properly completed and duly executed letter of transmittal and all other required documents. Therefore, holders of the old notes desiring to tender their old notes in exchange for new notes should allow sufficient time to ensure timely delivery. We are under no duty to give notification of defects or irregularities of tenders of old notes for exchange. Old notes that are not tendered or that are tendered but not accepted by us will, following completion of the exchange offer, continue to be subject to the existing restrictions upon transfer thereof under the Securities Act of 1933, and, upon completion of the exchange offer, certain registered rights under the registration rights agreement will terminate.

If the exchange offer is completed, we will no longer be required to register any old notes that remain outstanding. Remaining old notes will continue to be subject to the following restrictions on transfer:

- o the remaining old notes may be resold only if registered pursuant to the Securities Act of 1933, if any exemption from registration is available, or if neither registration nor exemption is required by law, and
- o the remaining old notes will bear a legend restricting transfer in the absence of registration or an exemption.

We do not currently anticipate that we will register the remaining old notes under the Securities Act of 1933. If a substantial number of old notes are exchanged in connection with the exchange offer, any trading market for the remaining old notes could be adversely affected.

In addition, although we have no present plan to acquire any old notes that are not tendered in the exchange offer, we reserve the right in our sole discretion to:

- o purchase or make offers for any old notes that remain outstanding subsequent to the expiration date; and
- o to the extent permitted by applicable law, purchase old notes in the open market, in privately negotiated transactions or otherwise.

The terms of any such purchases or offers may differ from the terms of the exchange offer.

#### DECISION TO PARTICIPATE IN THE EXCHANGE OFFER

Participation in the exchange offer is voluntary, and holders of old notes should carefully consider whether or not to participate. We urge holders of old notes to consult with their financial and tax advisors in making their own decisions on which action to take.

## DESCRIPTION OF NOTES

You can find the definitions of certain terms used in this description under the subheading "Certain Definitions" at the end of this section. In this section, "Office Depot" refers only to Office Depot, Inc. and not to any of its subsidiaries.

Office Depot will issue the new notes under the same indenture between itself and SunTrust Bank, as trustee, that governs the old notes. See "Notice to Investors." The terms of the new and old notes include those stated in the indenture and those made part of the indenture by reference to the Trust Indenture Act of 1939. As used in this section, the word "notes" when used without specific reference to either new notes or old notes, refers to both old notes and new notes.

The following description is a summary of the material provisions of the indenture and the registration rights agreement. It does not restate those agreements in their entirety. We urge you to read the indenture and the registration rights agreement because they, and not this description, define your rights as holders of the new and/or old notes. Copies of the indenture and the registration rights agreement are available as set forth below under "-- Additional Information." Certain defined terms used in this description but not defined below under "-- Certain Definitions" have the meanings assigned to them in the indenture.

The registered Holder of a note will be treated as the owner of it for all purposes. Only registered Holders will have rights under the indenture.

### BRIEF DESCRIPTION OF THE NOTES

The notes:

- o are general unsecured obligations of Office Depot;
- o are subordinated in right of payment to all existing and future Senior Debt of Office Depot; and
- o are pari passu in right of payment with any future senior subordinated Indebtedness of Office Depot.

Giving effect to application of the net proceeds from the sale of old notes, as of June 30, 2001, Office Depot had no Senior Debt outstanding. As indicated above and as discussed in detail below under the caption "-- Subordination," payments on the notes will be subordinated to the payment of Senior Debt. The indenture permits us to incur additional Senior Debt without limitation as to amount.

As of the date of the indenture, all of our subsidiaries were "Restricted Subsidiaries." However, under the circumstances described below under the subheading "-- Certain Covenants - Designation of Restricted and Unrestricted Subsidiaries," we are permitted to designate certain of our subsidiaries as "Unrestricted Subsidiaries." Our Unrestricted Subsidiaries are not subject to many of the restrictive covenants in the indenture.

### PRINCIPAL, MATURITY AND INTEREST

Office Depot will issue new notes having a maximum aggregate principal amount of \$250 million pursuant to the exchange offer. Office Depot may issue additional notes from time to time after this exchange offer. Any offering of additional notes is subject to the covenant described below under the caption "-- Certain Covenants -- Undertaking of Indebtedness and Issuance of Preferred Stock." New and old notes together with any additional notes subsequently issued under the indenture will be treated as a single class for all purposes under the indenture, including, without limitation, waivers, amendments, redemptions and offers to purchase. Office Depot will issue new notes in denominations of \$1,000 and integral multiples of \$1,000. The notes will mature on July 15, 2008.

Interest on the notes will accrue at the rate of 10% per annum and will be payable semi-annually in arrears on January 15 and July 15, commencing on January 15, 2002. Office Depot will make each interest payment to the Holders of record on the immediately preceding January 1 and July 1.

Interest on the notes will accrue from the date of original issuance or, if interest has already been paid, from the date it was most recently paid. Interest will be computed on the basis of a 360-day year comprised of twelve 30-day months.

#### METHODS OF RECEIVING PAYMENTS ON THE NOTES

If a Holder has given wire transfer instructions to Office Depot, Office Depot will pay all principal, interest and premium and Special Interest, if any, on that Holder's notes in accordance with those instructions. All other payments on notes will be made at the office or agency of the paying agent and registrar within the City and State of New York unless Office Depot elects to make interest payments by check mailed to the Holders at their address set forth in the register of Holders.

#### PAYING AGENT AND REGISTRAR FOR THE NOTES

The trustee will initially act as paying agent and registrar. Office Depot may change the paying agent or registrar without prior notice to the Holders of the notes, and Office Depot or any of its Subsidiaries may act as paying agent or registrar.

#### TRANSFER AND EXCHANGE

A Holder may transfer or exchange notes in accordance with the indenture. The registrar and the trustee may require a Holder to furnish appropriate endorsements and transfer documents in connection with a transfer of notes. Holders will be required to pay all taxes due on transfer. Office Depot is not required to transfer or exchange any note selected for redemption. Also, Office Depot is not required to transfer or exchange any note for a period of 15 days before a selection of notes to be redeemed.

#### SUBORDINATION

The payment of principal, interest and premium and Special Interest, if any, on the notes will be subordinated to the prior payment in full of all Senior Debt of Office Depot, including Senior Debt incurred after the date of the indenture.

The holders of Senior Debt will be entitled to receive payment in full of all Obligations due in respect of Senior Debt (including interest after the commencement of any bankruptcy proceeding at the rate specified in the applicable Senior Debt) before the Holders of notes will be entitled to receive any payment with respect to the notes (except that Holders of notes may receive and retain Permitted Junior Securities and payments made from the trust described under "-- Legal Defeasance and Covenant Defeasance"), in the event of any distribution to creditors of Office Depot:

- (1) in a liquidation or dissolution of Office Depot;
- (2) in a bankruptcy, reorganization, insolvency, receivership or similar proceeding relating to Office Depot or its property;
- (3) in an assignment for the benefit of creditors; or
- (4) in any marshaling of Office Depot's assets and liabilities.

Office Depot also may not make any payment in respect of the notes (except in Permitted Junior Securities or from the trust described under "-- Legal Defeasance and Covenant Defeasance") if:

- (1) a payment default on Designated Senior Debt occurs and is continuing beyond any applicable grace period; or

- (2) any other default occurs and is continuing on any series of Designated Senior Debt that permits holders of that series of Designated Senior Debt to accelerate its maturity and the trustee receives a notice of such default (a "Payment Blockage Notice") from Office Depot or the holders of any Designated Senior Debt.

Payments on the notes may and will be resumed:

- (1) in the case of a payment default, upon the date on which the default is cured or waived; and
- (2) in the case of a nonpayment default, upon the earlier of the date on which the nonpayment default is cured or waived or 179 days after the date on which the applicable Payment Blockage Notice is received, unless the maturity of any Designated Senior Debt has been accelerated.

No new Payment Blockage Notice may be delivered unless and until:

- (1) 360 days have elapsed since the delivery of the immediately prior Payment Blockage Notice; and
- (2) all scheduled payments of principal, interest and premium and Special Interest, if any, on the notes that have come due have been paid in full in cash.

No nonpayment default that existed or was continuing on the date of delivery of any Payment Blockage Notice to the trustee will be, or be made, the basis for a subsequent Payment Blockage Notice.

If the trustee or any Holder of the notes receives a payment in respect of the notes (except in Permitted Junior Securities or from the trust described under "-- Legal Defeasance and Covenant Defeasance") when:

- (1) the payment is prohibited by these subordination provisions; and
- (2) the trustee or the Holder has actual knowledge that the payment is prohibited;

the trustee or the Holder, as the case may be, will hold the payment in trust for the benefit of the holders of Senior Debt. Upon the proper written request of the holders of Senior Debt, the trustee or the Holder, as the case may be, will deliver the amounts in trust to the holders of Senior Debt or their proper representative.

Office Depot must promptly notify holders of Senior Debt if payment of the notes is accelerated because of an Event of Default.

As a result of the subordination provisions described above, in the event of a bankruptcy, liquidation or reorganization of Office Depot, Holders of notes may recover less ratably than creditors of Office Depot who are holders of Senior Debt. See "Risk Factors - The new notes will be junior to our senior debt."

#### OPTIONAL REDEMPTION

The notes will not be redeemable at the option of Office Depot except as set forth in the following paragraph.

The notes may be redeemed, in whole or in part, at any time at the option of Office Depot upon not less than 30 nor more than 60 days prior notice mailed by first-class mail to each Holder's registered address, at a redemption price equal to the greater of (i) 100% of the principal amount thereof or (ii) as determined by an Independent Investment Banker, the sum of the present values of the Remaining Scheduled Payments discounted to the redemption date on a semiannual basis (assuming a 360-day year consisting of twelve 30-day months) at the Adjusted Treasury Rate, plus, in each case, accrued and unpaid interest and Special Interest, if any, to the date of redemption.



Unless Office Depot defaults in payment of the redemption price, on and after the redemption date, interest will cease to accrue on the notes or portion thereof called for redemption.

#### MANDATORY REDEMPTION

Office Depot is not required to make mandatory redemption or sinking fund payments with respect to the notes.

#### REPURCHASE AT THE OPTION OF HOLDERS

##### CHANGE OF CONTROL

If a Change of Control occurs, each Holder of notes will have the right to require Office Depot to repurchase all or any part (equal to \$1,000 or an integral multiple of \$1,000) of that Holder's notes pursuant to a Change of Control Offer on the terms set forth in the indenture. In the Change of Control Offer, Office Depot will offer a Change of Control Payment in cash equal to 101% of the aggregate principal amount of notes repurchased plus accrued and unpaid interest and Special Interest, if any, on the notes repurchased, to the date of purchase. Within ninety days following any Change of Control, Office Depot will mail a notice to each Holder describing the transaction or transactions that constitute the Change of Control and offering to repurchase notes on the Change of Control Payment Date specified in the notice, which date will be no earlier than 30 days and no later than 60 days from the date such notice is mailed, pursuant to the procedures required by the indenture and described in such notice. Office Depot will comply with the requirements of Rule 14e-1 under the Securities Exchange Act of 1934 and any other securities laws and regulations thereunder to the extent those laws and regulations are applicable in connection with the repurchase of the notes as a result of a Change of Control. To the extent that the provisions of any securities laws or regulations conflict with the Change of Control provisions of the indenture, Office Depot will comply with the applicable securities laws and regulations and will not be deemed to have breached its obligations under the Change of Control provisions of the indenture by virtue of such conflict.

On the Change of Control Payment Date, Office Depot will, to the extent lawful:

- (1) accept for payment all notes or portions of notes properly tendered pursuant to the Change of Control Offer;
- (2) deposit with the paying agent an amount equal to the Change of Control Payment in respect of all notes or portions of notes properly tendered; and
- (3) deliver or cause to be delivered to the trustee the notes properly accepted together with an officers' certificate stating the aggregate principal amount of notes or portions of notes being purchased by Office Depot.

The paying agent will promptly mail to each Holder of notes properly tendered the Change of Control Payment for the notes, and the trustee will promptly authenticate and mail (or cause to be transferred by book entry) to each Holder a new note equal in principal amount to any unpurchased portion of the notes surrendered, if any; provided that each new note will be in a principal amount of \$1,000 or an integral multiple of \$1,000.

Prior to complying with any of the provisions of this "Change of Control" covenant, but in any event within 90 days following a Change of Control, Office Depot will either repay all outstanding Senior Debt or obtain the requisite consents, if any, under all agreements governing outstanding Senior Debt to permit the repurchase of notes required by this covenant. Office Depot will publicly announce the results of the Change of Control Offer on or as soon as practicable after the Change of Control Payment Date.

The provisions described above that require Office Depot to make a Change of Control Offer following a Change of Control will be applicable whether or not any other provisions of the indenture are applicable. Except as described above with respect to a Change of Control, the indenture does not contain provisions that permit the Holders of the notes to require that Office Depot repurchase or redeem the notes in the event of a takeover, recapitalization or similar transaction.

Office Depot will not be required to make a Change of Control Offer upon a Change of Control if a third party makes the Change of Control Offer in the manner, at the times and otherwise in compliance with the requirements set forth in the indenture applicable to a Change of Control Offer made by Office Depot and purchases all notes properly tendered and not withdrawn under the Change of Control Offer.

The agreements governing Office Depot's Senior Debt currently prohibit Office Depot from purchasing any notes, and also provide that certain change of control or asset sale events with respect to Office Depot would constitute a default under those agreements. Any future credit agreements or other agreements relating to Senior Debt to which Office Depot becomes a party may contain similar restrictions and provisions. In the event a Change of Control or Asset Sale occurs at a time when Office Depot is prohibited from purchasing notes, Office Depot could seek the consent of its senior lenders to the purchase of notes or could attempt to refinance the borrowings that contain the prohibition. If Office Depot does not obtain consent or repay the borrowings, Office Depot will remain prohibited from purchasing notes. In that case, Office Depot's failure to purchase tendered notes would constitute an Event of Default under the indenture which could, in turn, constitute a default under the Senior Debt. In those circumstances, the subordination provisions in the indenture would likely restrict payments to the Holders of notes.

The definition of Change of Control includes a phrase relating to the direct or indirect sale, lease, transfer, conveyance or other disposition of "all or substantially all" of the properties or assets of Office Depot and its Subsidiaries taken as a whole. Although there is a limited body of case law interpreting the phrase "substantially all," there is no precise established definition of the phrase under applicable law. Accordingly, the ability of a Holder of notes to require Office Depot to repurchase the Holder's notes as a result of a sale, lease, transfer, conveyance or other disposition of less than all of the assets of Office Depot and its Subsidiaries taken as a whole to another Person or group may be uncertain.

#### Asset Sales

Office Depot will not, and will not permit any of its Restricted Subsidiaries to, consummate an Asset Sale unless:

- (1) Office Depot (or the Restricted Subsidiary, as the case may be) receives consideration at the time of the Asset Sale at least equal to the fair market value of the assets or Equity Interests issued or sold or otherwise disposed of;
- (2) the fair market value is determined by Office Depot's Board of Directors and evidenced by a resolution of the Board of Directors set forth in an officers' certificate delivered to the trustee; and
- (3) at least 75% of the consideration received in the Asset Sale by Office Depot or the Restricted Subsidiary is in the form of cash. For purposes of this provision, each of the following will be deemed to be cash:
  - (a) any liabilities, as shown on Office Depot's or the Restricted Subsidiary's most recent balance sheet, of Office Depot or any Restricted Subsidiary (other than contingent liabilities and liabilities that are by their terms subordinated to the notes) that are assumed by the transferee of any assets and the transferee expressly releases Office Depot or the Restricted Subsidiary from further liability;
  - (b) any securities, notes or other obligations received by Office Depot or any Restricted Subsidiary from the transferee that are delivered within 20 days of the sale, subject to ordinary settlement periods, converted by Office Depot or the Restricted Subsidiary into cash, to the extent of the cash received in that conversion; and
  - (c) any payment of Senior Debt secured by the assets sold in the Asset Sale.

Within 360 days after the receipt of any Net Proceeds from an Asset Sale, Office Depot may apply those Net Proceeds at its option:

- (1) to repay Senior Debt;
- (2) to acquire all or substantially all of the assets of, or a majority of the Voting Stock of, another Permitted Business;
- (3) to make a capital expenditure; or
- (4) to acquire other long-term assets that are used or useful in a Permitted Business.

Pending the final application of any Net Proceeds, Office Depot may temporarily reduce revolving credit borrowings or otherwise invest the Net Proceeds in any manner that is not prohibited by the indenture.

Any Net Proceeds from Asset Sales that are not applied or invested as provided in the preceding paragraph will constitute "Excess Proceeds." When the aggregate amount of Excess Proceeds exceeds \$25 million, Office Depot will make an Asset Sale Offer to all Holders of notes and all holders of other Indebtedness that is pari passu with the notes containing provisions similar to those set forth in the indenture with respect to offers to purchase or redeem with the proceeds of sales of assets to purchase the maximum principal amount of notes and such other pari passu Indebtedness that may be purchased out of the Excess Proceeds. The offer price in any Asset Sale Offer will be equal to 100% of principal amount plus accrued and unpaid interest and Special Interest, if any, to the date of purchase, and will be payable in cash. If any Excess Proceeds remain after consummation of an Asset Sale Offer, Office Depot may use those Excess Proceeds for any purpose not otherwise prohibited by the indenture. If the aggregate principal amount of notes and other pari passu Indebtedness tendered into the Asset Sale Offer exceeds the amount of Excess Proceeds, the trustee will select the notes and other pari passu Indebtedness to be purchased on a pro rata basis. Upon completion of each Asset Sale Offer, the amount of Excess Proceeds will be reset at zero.

Office Depot will comply with the requirements of Rule 14e-1 under the Securities Exchange Act of 1934 and any other securities laws and regulations thereunder to the extent those laws and regulations are applicable in connection with each repurchase of notes pursuant to an Asset Sale Offer. To the extent that the provisions of any securities laws or regulations conflict with the Asset Sale provisions of the indenture, Office Depot will comply with the applicable securities laws and regulations and will not be deemed to have breached its obligations under the Asset Sale provisions of the indenture by virtue of the conflict.

#### SELECTION AND NOTICE

If less than all of the notes are to be redeemed at any time, the trustee will select notes for redemption as follows:

- (1) if the notes are listed on any national securities exchange, in compliance with the requirements of the principal national securities exchange on which the notes are listed; or
- (2) if the notes are not listed on any national securities exchange, on a pro rata basis, by lot or by any method the trustee deems fair and appropriate.

No notes of \$1,000 or less may be redeemed in part. Notices of redemption will be mailed by first class mail at least 30 but not more than 60 days before the redemption date to each Holder of notes to be redeemed at its registered address, except that redemption notices may be mailed more than 60 days prior to a redemption date if the notice is issued in connection with a defeasance of the notes or a satisfaction and discharge of the indenture. Notices of redemption may not be conditional.

If any note is to be redeemed in part only, the notice of redemption that relates to that note will state the portion of the principal amount of the note that is to be redeemed. A new note in principal amount equal to the unredeemed portion of the original note will be issued in the name of the Holder of notes upon cancellation of the original note. Notes called for redemption become due on the date fixed for redemption. On and after the redemption date, interest ceases to accrue on notes or portions of them called for redemption.

CERTAIN COVENANTS

CHANGES IN COVENANTS WHEN NOTES RATED INVESTMENT GRADE

Following the first date upon which the notes are rated Baa3 or better by Moody's Investors Service, Inc. ("Moody's") and BBB- or better by Standard & Poor's Ratings Group ("S&P") (or, in either case, if such person ceases to rate the notes for reasons outside of the control of Office Depot, the equivalent investment grade credit rating from any other "nationally recognized statistical rating organization" (within the meaning of Rule 15c3-1(c)(2)(vi)(F) under the Securities Exchange Act of 1934) selected by Office Depot as a replacement agency) and neither Moody's nor S&P attaches any "negative outlook" or "negative credit watch" to the rating of the notes (the "Rating Event Date") (and provided no Event of Default or event that with notice or the passage of time would constitute an Event of Default shall exist on the Rating Event Date), the covenants specifically listed under "-- Repurchase at the Option of Holders -- Asset Sales," "-- Repurchase at the Option of Holders -- Change of Control," "-- Restricted Payments," "-- Undertaking of Indebtedness and Issuance of Preferred Stock," "-- Dividend and Other Payment Restrictions Affecting Subsidiaries," "-- Designation of Restricted and Unrestricted Subsidiaries," "-- Transactions with Affiliates," and clause (4)(b) of the covenant listed under "-- Merger, Consolidation or Sale of Assets" in this prospectus will no longer be applicable to the notes.

There can be no assurance that a Rating Event Date will occur or, if one occurs, that the notes will continue to maintain an investment grade rating without a negative outlook.

The indenture contains, among others, the following covenants:

RESTRICTED PAYMENTS

Office Depot will not, and will not permit any of its Restricted Subsidiaries to, directly or indirectly:

- (1) declare or pay any dividend or make any other payment or distribution on account of Office Depot's or any of its Restricted Subsidiaries' Equity Interests (including, without limitation, any payment in connection with any merger or consolidation involving Office Depot or any of its Restricted Subsidiaries) or to the direct or indirect holders of Office Depot's or any of its Restricted Subsidiaries' Equity Interests in their capacity as such (other than dividends or distributions payable in Equity Interests (other than Disqualified Stock) of Office Depot or to Office Depot or a Restricted Subsidiary of Office Depot);
- (2) purchase, redeem or otherwise acquire or retire for value (including, without limitation, in connection with any merger or consolidation involving Office Depot) any Equity Interests of Office Depot or any direct or indirect parent of Office Depot;
- (3) make any payment on or with respect to, or purchase, redeem, defease or otherwise acquire or retire for value any Indebtedness that is subordinated to the notes, except a payment of interest or principal at the Stated Maturity thereof; or
- (4) make any Restricted Investment (all such payments and other actions set forth in these clauses (1) through (4) above being collectively referred to as "Restricted Payments"),

unless, at the time of and after giving effect to the Restricted Payment:

- (1) no Default or Event of Default has occurred and is continuing or would occur as a consequence of the Restricted Payment; and
- (2) Office Depot would, at the time of the Restricted Payment and after giving pro forma effect thereto as if the Restricted Payment had been made at the beginning of the applicable four-quarter period, have been permitted to incur at least \$1.00 of additional Indebtedness pursuant to the Fixed Charge Coverage Ratio test set forth in the first paragraph of the covenant described below under the caption "-- Undertaking of Indebtedness and Issuance of Preferred Stock;" and

- (3) the Restricted Payment, together with the aggregate amount of all other Restricted Payments made by Office Depot and its Restricted Subsidiaries after the date of the indenture (excluding Restricted Payments permitted by clauses (2), (3) and (4) of the next succeeding paragraph), is less than the sum, without duplication, of:
- (a) 50% of the Consolidated Net Income of Office Depot for the period (taken as one accounting period) from the beginning of the first fiscal quarter commencing after the date of the indenture to the end of Office Depot's most recently ended fiscal quarter for which internal financial statements are available at the time of the Restricted Payment (or, if the Consolidated Net Income for that period is a deficit, less 100% of the deficit), plus
  - (b) 100% of the aggregate net cash proceeds received by Office Depot since the date of the indenture as a contribution to its common equity capital or from the issue or sale of Equity Interests of Office Depot (other than Disqualified Stock) or from the issue or sale of convertible or exchangeable Disqualified Stock or convertible or exchangeable debt securities of Office Depot that have been converted into or exchanged for such Equity Interests (other than Equity Interests (or Disqualified Stock or debt securities) sold to a Subsidiary of Office Depot), plus
  - (c) to the extent any Restricted Investment that was made after the date of the indenture is sold for cash or otherwise liquidated or repaid for cash, the lesser of (i) the cash return of capital with respect to the Restricted Investment (less the cost of disposition, if any) and (ii) the initial amount of the Restricted Investment.

So long as no Default has occurred and is continuing or would be caused thereby, the preceding provisions will not prohibit any of the following:

- (1) the payment of any dividend within 60 days after the date of declaration of the dividend, if at the date of declaration the dividend payment would have complied with the provisions of the indenture;
- (2) the redemption, repurchase, retirement, defeasance or other acquisition of any subordinated Indebtedness of Office Depot or of any Equity Interests of Office Depot in exchange for, or out of the net cash proceeds of the substantially concurrent sale (other than to a Subsidiary of Office Depot) of, Equity Interests of Office Depot (other than Disqualified Stock); provided that the amount of any net cash proceeds that are used for any such redemption, repurchase, retirement, defeasance or other acquisition will be excluded from clause (3)(b) of the preceding paragraph;
- (3) the defeasance, redemption, repurchase or other acquisition of subordinated Indebtedness of Office Depot with the net cash proceeds from an undertaking of Permitted Refinancing Indebtedness;
- (4) the payment of any dividend by a Restricted Subsidiary of Office Depot to the holders of its Equity Interests on a pro rata basis;
- (5) the repurchase, redemption or other acquisition or retirement for value of any Equity Interests of Office Depot or any Restricted Subsidiary of Office Depot held by any member of Office Depot's (or any of its Restricted Subsidiaries') management pursuant to any management equity subscription agreement, stock option agreement or similar agreement; provided that the aggregate price paid for all repurchased, redeemed, acquired or retired Equity Interests may not exceed \$15.0 million in any twelve-month period;
- (6) Repayment of LYONS; or

- (7) other Restricted Payments in an amount not to exceed \$50.0 million.

The amount of all Restricted Payments (other than cash) will be the fair market value on the date of the Restricted Payment of the assets) or securities proposed to be transferred or issued by Office Depot or such Restricted Subsidiary, as the case may be, pursuant to the Restricted Payment. The fair market value of any assets or securities that are required to be valued by this covenant will be determined by the Board of Directors whose resolution with respect thereto will be delivered to the trustee. The Board of Directors' determination must be based upon an opinion or appraisal issued by an accounting, appraisal or investment banking firm of national standing if the fair market value exceeds \$25.0 million. Not later than the date of making any Restricted Payment, Office Depot will deliver to the trustee an officers' certificate stating that the Restricted Payment is permitted and setting forth the basis upon which the calculations required by this "Restricted Payments" covenant were computed, together with a copy of any fairness opinion or appraisal required by the indenture.

#### UNDERTAKING OF INDEBTEDNESS AND ISSUANCE OF PREFERRED STOCK

Office Depot will not, and will not permit any of its Subsidiaries to, directly or indirectly, create, incur, issue, assume, guarantee or otherwise become directly or indirectly liable, contingently or otherwise, with respect to (collectively, "incur") any Indebtedness (including Acquired Debt), and Office Depot will not issue any Disqualified Stock and will not permit any of its Subsidiaries to issue any shares of preferred stock; provided, however, that Office Depot may incur Indebtedness (including Acquired Debt) or issue Disqualified Stock, if the Fixed Charge Coverage Ratio for Office Depot's most recently ended four full fiscal quarters for which internal financial statements are available immediately preceding the date on which such additional Indebtedness is incurred or such Disqualified Stock is issued would have been at least 2.0 to 1, determined on a pro forma basis (including a pro forma application of the net proceeds therefrom), as if the additional Indebtedness had been incurred or the Disqualified Stock had been issued, as the case may be, at the beginning of such four-quarter period.

The first paragraph of this covenant will not prohibit any of the following items of Indebtedness (collectively, "Permitted Debt"):

- (1) the undertaking by Office Depot of additional Indebtedness and letters of credit under Credit Facilities in an aggregate principal amount at any one time outstanding under this clause (1) (with letters of credit being deemed to have a principal amount equal to the maximum potential liability of Office Depot and its Restricted Subsidiaries thereunder) not to exceed \$600.0 million;
- (2) the undertaking by Office Depot and its Restricted Subsidiaries of the Existing Indebtedness;
- (3) the undertaking by Office Depot of Indebtedness represented by the notes to be issued on the date of the indenture and the new notes to be issued pursuant to the registration rights agreement;
- (4) the undertaking by Office Depot or any of its Restricted Subsidiaries of Indebtedness represented by Capital Lease Obligations, mortgage financings or purchase money obligations, in each case, incurred for the purpose of financing all or any part of the purchase price or cost of construction or improvement of property, plant or equipment used in the business of Office Depot or the Restricted Subsidiary, in an aggregate principal amount, including all Permitted Refinancing Indebtedness incurred to refund, refinance or replace any Indebtedness incurred pursuant to this clause (4), not to exceed \$100.0 million at any time outstanding;
- (5) the undertaking by Office Depot or any of its Restricted Subsidiaries of Permitted Refinancing Indebtedness in exchange for, or the net proceeds of which are used to refund, refinance or replace Indebtedness (other than intercompany Indebtedness) that was permitted by the indenture to be incurred under the first paragraph of this covenant or clauses (2), (3), (4), (5), (9) or (12) of this paragraph;

- (6) the undertaking by Office Depot or any of its Restricted Subsidiaries of intercompany Indebtedness between or among Office Depot and any of its Restricted Subsidiaries; provided, however, that:
  - (a) if Office Depot is the obligor on the Indebtedness, the Indebtedness must be expressly subordinated to the prior payment in full in cash of all Obligations with respect to the notes and
  - (b) (i) any subsequent issuance or transfer of Equity Interests that results in any Indebtedness being held by a Person other than Office Depot or a Restricted Subsidiary of Office Depot and (ii) any sale or other transfer of any the Indebtedness to a Person that is not either Office Depot or a Restricted Subsidiary of Office Depot; will be deemed, in each case, to constitute an undertaking of Indebtedness by Office Depot or the Restricted Subsidiary, as the case may be, that was not permitted by this clause (6);
- (7) the undertaking by Office Depot or any of its Restricted Subsidiaries of Hedging Obligations that are incurred for the purpose of fixing or hedging interest rate risk with respect to any floating rate Indebtedness that is permitted by the terms of the indenture to be outstanding or Hedging Obligations with respect to foreign currency translations;
- (8) the undertaking by Office Depot's Unrestricted Subsidiaries of Non-Recourse Debt; provided, however, that if any such Indebtedness ceases to be Non-Recourse Debt of an Unrestricted Subsidiary, the event will be deemed to constitute an undertaking of Indebtedness by a Restricted Subsidiary of Office Depot that was not permitted by this clause (8);
- (9) the undertaking by Office Depot's Subsidiaries of Indebtedness of up to 10.4 billion yen under the Yen Credit Facility and the Guarantee of that Indebtedness by Office Depot;
- (10) the guarantee by Office Depot of Indebtedness of a Restricted Subsidiary of Office Depot that was permitted to be incurred by another provision of this covenant;
- (11) the undertaking by a Receivables Subsidiary of Indebtedness in a Qualified Receivables Transaction that is without recourse to Office Depot or to any other Subsidiary of Office Depot or their assets (other than the Receivables Subsidiary and its assets and, as to Office Depot or any Subsidiary of Office Depot, other than pursuant to representations, warranties, covenants and indemnities customary for such transactions) and is not guaranteed by any Person; and
- (12) the undertaking by Office Depot or any of its Restricted Subsidiaries of additional Indebtedness in an aggregate principal amount (or accreted value, as applicable) at any time outstanding, including all Permitted Refinancing Indebtedness incurred to refund, refinance or replace any Indebtedness incurred pursuant to this clause (12), not to exceed \$175.0 million.

The accrual of interest, the accretion or amortization of original issue discount, the payment of interest on any Indebtedness in the form of additional Indebtedness with the same terms, and the payment of dividends on Disqualified Stock in the form of additional shares of the same class of Disqualified Stock will not be deemed to be an undertaking of Indebtedness or an issuance of Disqualified Stock for purposes of this covenant; provided that, in each case, the amount thereof is included in the Fixed Charges of Office Depot as accrued.

For purposes of determining compliance with this "Undertaking of Indebtedness and Issuance of Preferred Stock" covenant, if an item of proposed Indebtedness meets the criteria of more than one of the categories of Permitted Debt described in clauses (1) through (12) above, or is entitled to be incurred pursuant to the first paragraph of this covenant, Office Depot will be permitted to classify the item of Indebtedness on the date of its undertaking, or later reclassify all or a portion of the item of Indebtedness, in any manner that complies with this covenant. Indebtedness under Credit Facilities outstanding on the date on which notes are first issued and authenticated under the indenture

will be deemed to have been incurred on that date in reliance on the exception provided by clause (1) of the definition of Permitted Debt.

#### ANTI-LAYERING

Office Depot will not incur, create, issue, assume, guarantee or otherwise become liable for any Indebtedness that is subordinate or junior in right of payment to any Senior Debt of Office Depot and senior in any respect in right of payment to the notes.

#### LIENS

Office Depot will not, and will not permit any of its Subsidiaries to, directly or indirectly, create, incur, assume or suffer to exist any Lien of any kind securing Indebtedness or trade payables on any asset now owned or hereafter acquired, except Permitted Liens.

#### DIVIDEND AND OTHER PAYMENT RESTRICTIONS AFFECTING SUBSIDIARIES

Office Depot will not, and will not permit any of its Restricted Subsidiaries to, directly or indirectly, create or permit to exist or become effective any consensual encumbrance or restriction on the ability of any Restricted Subsidiary to:

- (1) pay dividends or make any other distributions on its Capital Stock to Office Depot or any of its Restricted Subsidiaries, or with respect to any other interest or participation in, or measured by, its profits, or pay any indebtedness owed to Office Depot or any of its Restricted Subsidiaries;
- (2) make loans or advances to Office Depot or any of its Restricted Subsidiaries; or
- (3) transfer any of its properties or assets to Office Depot or any of its Restricted Subsidiaries.

However, the preceding restrictions will not apply to encumbrances or restrictions existing under or by reason of:

- (1) agreements governing Existing Indebtedness and Credit Facilities as in effect on the date of the indenture and any amendments, modifications, restatements, renewals, increases, supplements, refundings, replacements or refinancings of those agreements, provided that the amendments, modifications, restatements, renewals, increases, supplements, refundings, replacement or refinancings are no more restrictive, taken as a whole, with respect to the dividend and other payment restrictions, than those contained in those agreements on the date of the indenture;
- (2) the indenture and the notes;
- (3) applicable law;
- (4) any instrument governing Indebtedness or Capital Stock of a Person acquired by Office Depot or any of its Restricted Subsidiaries as in effect at the time of the acquisition (except to the extent the Indebtedness or Capital Stock was incurred in connection with or in contemplation of the acquisition), which encumbrance or restriction is not applicable to any Person, or the properties or assets of any Person, other than the Person, or the property or assets of the Person, so acquired, provided that, in the case of Indebtedness, the Indebtedness was permitted by the terms of the indenture to be incurred;
- (5) customary non-assignment provisions in leases entered into in the ordinary course of business and consistent with past practices;



- (6) purchase money obligations for property acquired in the ordinary course of business that impose restrictions on that property of the nature described in clause (3) of the preceding paragraph;
- (7) any agreement for the sale or other disposition of a Restricted Subsidiary that restricts distributions by that Restricted Subsidiary pending its sale or other disposition;
- (8) Permitted Refinancing Indebtedness, provided that the restrictions contained in the agreements governing the Permitted Refinancing Indebtedness are no more restrictive, taken as a whole, than those contained in the agreements governing the Indebtedness being refinanced;
- (9) Liens securing Indebtedness otherwise permitted to be incurred under the provisions of the covenant described above under the caption "-- Liens" that limit the right of the debtor to dispose of the assets subject to Liens;
- (10) provisions with respect to the disposition or distribution of assets or property in joint venture agreements, assets sale agreements, stock sale agreements and other similar agreements entered into in the ordinary course of business;
- (11) Indebtedness or other contractual requirements of a Receivables Subsidiary in connection with a Qualified Receivables Transaction, provided that the restrictions apply only to the Receivables Subsidiary or the receivables which are subject to the Qualified Receivables Transaction; and
- (12) restrictions on cash or other deposits or net worth imposed by customers under contracts entered into in the ordinary course of business.

MERGER, CONSOLIDATION OR SALE OF ASSETS

Office Depot may not, directly or indirectly: (i) consolidate or merge with or into another Person (whether or not Office Depot is the surviving corporation); or (ii) sell, assign, transfer, convey or otherwise dispose of all or substantially all of the properties or assets of Office Depot and its Restricted Subsidiaries taken as a whole, in one or more related transactions, to another Person, unless:

- (1) either: (a) Office Depot is the surviving corporation; or (b) the Person formed by or surviving any such consolidation or merger (if other than Office Depot) or to which the sale, assignment, transfer, conveyance or other disposition has been made is a corporation organized or existing under the laws of the United States, any state of the United States or the District of Columbia;
- (2) the Person formed by or surviving any such consolidation or merger (if other than Office Depot) or the Person to which the sale, assignment, transfer, conveyance or other disposition has been made assumes all the obligations of Office Depot under the notes, the indenture and the registration rights agreement pursuant to agreements reasonably satisfactory to the trustee;
- (3) immediately after the transaction, no Default or Event of Default exists; and
- (4) Office Depot or the Person formed by or surviving any such consolidation or merger (if other than Office Depot), or to which the sale, assignment, transfer, conveyance or other disposition has been made:
  - (a) will have Consolidated Net Worth immediately after the transaction equal to or greater than the Consolidated Net Worth of Office Depot immediately preceding the transaction; and
  - (b) will, on the date of the transaction after giving pro forma effect thereto and any related financing transactions as if the same had occurred at the beginning of the applicable four-quarter period, be permitted to incur at least \$1.00 of additional Indebtedness pursuant to the Fixed Charge Coverage

Ratio test set forth in the first paragraph of the covenant described above under the caption "-- Undertaking of Indebtedness and Issuance of Preferred Stock."

In addition, Office Depot may not, directly or indirectly, lease all or substantially all of its properties or assets, in one or more related transactions, to any other Person. This "Merger, Consolidation or Sale of Assets" covenant will not apply to a sale, assignment, transfer, conveyance or other disposition of assets between or among Office Depot and any of its Restricted Subsidiaries.

#### DESIGNATION OF RESTRICTED AND UNRESTRICTED SUBSIDIARIES

The Board of Directors may designate any Restricted Subsidiary to be an Unrestricted Subsidiary if that designation would not cause a Default. If a Restricted Subsidiary is designated as an Unrestricted Subsidiary, the aggregate fair market value of all outstanding Investments owned by Office Depot and its Restricted Subsidiaries in the Subsidiary properly designated will be deemed to be an Investment made as of the time of the designation and will reduce the amount available for Restricted Payments under the first paragraph of the covenant described above under the caption "-- Restricted Payments" or Permitted Investments, as determined by Office Depot. That designation will only be permitted if the Investment would be permitted at that time and if the Restricted Subsidiary otherwise meets the definition of an Unrestricted Subsidiary. The Board of Directors may redesignate any Unrestricted Subsidiary to be a Restricted Subsidiary if the redesignation would not cause a Default.

#### TRANSACTIONS WITH AFFILIATES

Office Depot will not, and will not permit any of its Restricted Subsidiaries to, directly or indirectly, enter into or permit to occur any transaction or series of related transactions (including, without limitation, the purchase, sale, lease or exchange of any property or the rendering of any service) with, or for the benefit of, any of its Affiliates (an "Affiliate Transaction"), other than Affiliate Transactions on terms that are not materially less favorable than those that might reasonably have been obtained in a comparable transaction at that time on an arm's-length basis from a Person that is not an Affiliate of Office Depot or the Restricted Subsidiary; provided, that for an Affiliate Transaction with an aggregate value of \$25.0 million or more, at Office Depot's option, either:

- (1) a majority of the disinterested members of the Board of Directors of Office Depot shall determine in good faith that the Affiliate Transaction is on terms that are not materially less favorable than those that might reasonably have been obtained in a comparable transaction at that time on an arm's-length basis from a Person that is not an Affiliate of Office Depot; or
- (2) the Board of Directors of Office Depot or any Restricted Subsidiary to the Affiliate Transaction shall obtain an opinion from a nationally recognized investment banking, appraisal or accounting firm that the Affiliate Transaction is on terms that are not materially less favorable than those that might reasonably have been obtained in a comparable transaction at that time on an arm's-length basis from a Person that is not an Affiliate of Office Depot.

The following items will not be deemed to be Affiliate Transactions and, therefore, will not be subject to the provisions of the prior paragraph:

- (1) any employment agreement entered into by Office Depot or any of its Restricted Subsidiaries in the ordinary course of business and consistent with the past practice of Office Depot or the Restricted Subsidiary;
- (2) transactions between or among Office Depot and/or its Restricted Subsidiaries;
- (3) transactions with a Person that is an Affiliate of Office Depot solely because Office Depot owns an Equity Interest in, or controls, the Person;
- (4) payment of reasonable directors fees to Persons who are not otherwise Affiliates of Office Depot;

- (5) sales of Equity Interests (other than Disqualified Stock) to Affiliates of Office Depot;
- (6) transactions between or among Office Depot and/or its Restricted Subsidiaries or transactions between a Receivables Subsidiary and any Person in which the Receivables Subsidiary has an Investment; or
- (7) Restricted Payments that are permitted by the provisions of the indenture described above under the caption "-- Restricted Payments."

#### PAYMENTS FOR CONSENT

Office Depot will not, and will not permit any of its Subsidiaries to, directly or indirectly, pay or cause to be paid any consideration to or for the benefit of any Holder of notes for or as an inducement to any consent, waiver or amendment of any of the terms or provisions of the indenture or the notes unless the consideration is offered to be paid and is paid to all Holders of the notes that consent, waive or agree to amend in the time frame set forth in the solicitation documents relating to the consent, waiver or agreement.

#### REPORTS

Whether or not required by the SEC, so long as any notes are outstanding, Office Depot will furnish to the Holders of notes, within the time periods specified in the SEC's rules and regulations:

- (1) all quarterly and annual financial information that would be required to be contained in a filing with the SEC on Forms 10-Q and 10-K if Office Depot were required to file those Forms, including a "Management's Discussion and Analysis of Financial Condition and Results of Operations" and, with respect to the annual information only, a report on the annual financial statements by Office Depot's certified independent accountants; and
- (2) all current reports that would be required to be filed with the SEC on Form 8-K if Office Depot were required to file those reports.

In addition, following the consummation of the exchange offer contemplated by the registration rights agreement, whether or not required by the SEC, Office Depot will file a copy of all of the information and reports referred to in clauses (1) and (2) above with the SEC for public availability within the time periods specified in the SEC's rules and regulations (unless the SEC will not accept such a filing) and make the information available to securities analysts and prospective investors upon request. In addition, Office Depot has agreed that, for so long as any notes remain outstanding, it will furnish to the Holders and to securities analysts and prospective investors, upon their request, the information required to be delivered pursuant to Rule 144A(d)(4) under the Securities Act of 1933.

If Office Depot has designated any of its Subsidiaries as Unrestricted Subsidiaries, then the quarterly and annual financial information required by the preceding paragraph will include a reasonably detailed presentation, either on the face of the financial statements or in the footnotes thereto, and in Management's Discussion and Analysis of Financial Condition and Results of Operations, of the financial condition and results of operations of Office Depot and its Restricted Subsidiaries separate from the financial condition and results of operations of the Unrestricted Subsidiaries of Office Depot.

#### EVENTS OF DEFAULT AND REMEDIES

Each of the following is an Event of Default:

- (1) default for 30 days in the payment when due of interest on, or Special Interest with respect to, the notes whether or not prohibited by the subordination provisions of the indenture;

- (2) default in payment when due of the principal of, or premium, if any, on the notes whether or not prohibited by the subordination provisions of the indenture;
- (3) failure by Office Depot or any of its Subsidiaries to comply with the provisions described under the captions "-- Repurchase at the Option of Holders -- Change of Control," "-- Repurchase at the Option of Holders -- Asset Sales," "-- Certain Covenants -- Restricted Payments," "-- Certain Covenants -- Undertaking of Indebtedness and Issuance of Preferred Stock" or "-- Certain Covenants -- Merger, Consolidation or Sale of Assets;"
- (4) failure by Office Depot or any of its Subsidiaries for 60 days after notice to comply with any of the other agreements in the indenture;
- (5) default under any mortgage, indenture or instrument under which there may be issued or by which there may be secured or evidenced any Indebtedness for money borrowed by Office Depot or any of its Subsidiaries (or the payment of which is guaranteed by Office Depot or any of its Subsidiaries) whether the Indebtedness or guarantee now exists, or is created after the date of the indenture, if that default:
  - (a) is caused by a failure to pay principal of, or interest or premium, if any, on the Indebtedness prior to the expiration of the grace period provided in such Indebtedness on the date of the default (a "Payment Default"); or
  - (b) results in the acceleration of the Indebtedness prior to its express maturity,
 and, in each case, the principal amount of any Indebtedness, together with the principal amount of any other Indebtedness under which there has been a Payment Default or the maturity of which has been so accelerated, aggregates \$35.0 million or more;
- (6) failure by Office Depot or any of its Subsidiaries to pay final judgments aggregating in excess of \$35.0 million, which judgments are not paid, discharged or stayed pending appeal (or otherwise stayed) for a period of 60 days; or
- (7) certain events of bankruptcy or insolvency described in the indenture with respect to Office Depot, any of its Significant Subsidiaries, or any group of Subsidiaries that, taken together, would constitute a Significant Subsidiary.

In the case of an Event of Default arising from certain events of bankruptcy or insolvency, with respect to Office Depot, any Subsidiary that is a Significant Subsidiary or any group of Subsidiaries that, taken together, would constitute a Significant Subsidiary, all outstanding notes will become due and payable immediately without further action or notice. If any other Event of Default occurs and is continuing, the trustee or the Holders of at least 25% in principal amount of the then outstanding notes may declare all the notes to be due and payable immediately.

Holders of the notes may not enforce the indenture or the notes except as provided in the indenture. Subject to certain limitations, Holders of a majority in principal amount of the then outstanding notes may direct the trustee in its exercise of any trust or power. The trustee may withhold from Holders of the notes notice of any continuing Default or Event of Default if it determines that withholding notes is in their interest, except a Default or Event of Default relating to the payment of principal or interest or Special Interest.

The Holders of a majority in aggregate principal amount of the notes then outstanding by notice to the trustee may on behalf of the Holders of all of the notes waive any existing Default or Event of Default and its consequences under the indenture except a continuing Default or Event of Default in the payment of interest or Special Interest on, or the principal of, the notes.

In the case of any Event of Default occurring by reason of any willful action or inaction taken or not taken by or on behalf of Office Depot with the intention of avoiding payment of the premium that Office Depot would have had to pay if Office Depot then had elected to redeem the notes pursuant to the optional redemption provisions of the indenture, an equivalent premium will also

become and be immediately due and payable to the extent permitted by law upon the acceleration of the notes.

Office Depot is required to deliver to the trustee annually a statement regarding compliance with the indenture. Upon becoming aware of any Default or Event of Default, Office Depot is required to deliver to the trustee a statement specifying the Default or Event of Default.

#### NO PERSONAL LIABILITY OF DIRECTORS, OFFICERS, EMPLOYEES AND STOCKHOLDERS

No director, officer, employee, incorporator or stockholder of Office Depot, as such, will have any liability for any obligations of Office Depot under the notes or the indenture, or for any claim based on, in respect of, or by reason of, the obligations or their creation. Each Holder of notes by accepting a note waives and releases all such liability. The waiver and release are part of the consideration for issuance of the notes. The waiver may not be effective to waive liabilities under the federal securities laws.

#### LEGAL DEFEASANCE AND COVENANT DEFEASANCE

Office Depot may, at its option and at any time, elect to have all of its obligations discharged with respect to the outstanding notes ("Legal Defeasance") except for:

- (1) the rights of Holders of outstanding notes to receive payments in respect of the principal of, or interest or premium and Special Interest, if any, on the notes when the payments are due from the trust referred to below;
- (2) Office Depot's obligations with respect to the notes concerning issuing temporary notes, registration of notes, mutilated, destroyed, lost or stolen notes and the maintenance of an office or agency for payment and money for security payments held in trust;
- (3) the rights, powers, trusts, duties and immunities of the trustee, and Office Depot's obligations in connection therewith; and
- (4) the Legal Defeasance provisions of the indenture.

In addition, Office Depot may, at its option and at any time, elect to have the obligations of Office Depot released with respect to certain covenants that are described in the indenture ("Covenant Defeasance") and thereafter any omission to comply with those covenants will not constitute a Default or Event of Default with respect to the notes. In the event Covenant Defeasance occurs, certain events (not including non-payment, bankruptcy, receivership, rehabilitation and insolvency events) described under "-- Events of Default and Remedies" will no longer constitute an Event of Default with respect to the notes.

In order to exercise either Legal Defeasance or Covenant Defeasance:

- (1) Office Depot must irrevocably deposit with the trustee, in trust, for the benefit of the Holders of the notes, cash in U.S. dollars, non-callable Government Securities, or a combination of cash in U.S. dollars and non-callable Government Securities, in amounts as will be sufficient, in the opinion of a nationally recognized firm of independent public accountants, to pay the principal of, or interest and premium, if any, on the outstanding notes on the stated maturity or on the applicable redemption date, as the case may be, and Office Depot must specify whether the notes are being defeased to maturity or to a particular redemption date;
- (2) in the case of Legal Defeasance, Office Depot has delivered to the trustee an opinion of counsel reasonably acceptable to the trustee confirming that (a) Office Depot has received from, or there has been published by, the Internal Revenue Service a ruling or (b) since the date of the indenture, there has been a change in the applicable federal income tax law, in either case to the effect that, and based thereon the opinion of counsel will confirm that, the Holders of the outstanding notes will not recognize income, gain or loss for federal income tax purposes as a result of Legal Defeasance and will

be subject to federal income tax on the same amounts, in the same manner and at the same times as would have been the case if the Legal Defeasance had not occurred;

- (3) in the case of Covenant Defeasance, Office Depot has delivered to the trustee an opinion of counsel reasonably acceptable to the trustee confirming that the Holders of the outstanding notes will not recognize income, gain or loss for federal income tax purposes as a result of such Covenant Defeasance and will be subject to federal income tax on the same amounts, in the same manner and at the same times as would have been the case if the Covenant Defeasance had not occurred;
- (4) no Default or Event of Default has occurred and is continuing on the date of the deposit (other than a Default or Event of Default resulting from the borrowing of funds to be applied to the deposit);
- (5) the Legal Defeasance or Covenant Defeasance will not result in a breach or violation of, or constitute a default under any material agreement or instrument (other than the indenture) to which Office Depot or any of its Subsidiaries is a party or by which Office Depot or any of its Subsidiaries is bound;
- (6) Office Depot must deliver to the trustee an officers' certificate stating that the deposit was not made by Office Depot with the intent of preferring the Holders of notes over the other creditors of Office Depot with the intent of defeating, hindering, delaying or defrauding creditors of Office Depot or others; and
- (7) Office Depot must deliver to the trustee an officers' certificate and an opinion of counsel, each stating that all conditions precedent relating to the Legal Defeasance or the Covenant Defeasance have been complied with.

#### AMENDMENT, SUPPLEMENT AND WAIVER

Except as provided in the next two succeeding paragraphs, the indenture or the notes may be amended or supplemented with the consent of the Holders of at least a majority in principal amount of the notes then outstanding (including, without limitation, consents obtained in connection with a purchase of, or tender offer or exchange offer for, notes), and any existing default or compliance with any provision of the indenture or the notes may be waived with the consent of the Holders of a majority in principal amount of the then outstanding notes (including, without limitation, consents obtained in connection with a purchase of, or tender offer or exchange offer for, notes).

Without the consent of each Holder affected, an amendment or waiver may not (with respect to any notes held by a non-consenting Holder):

- (1) reduce the principal amount of notes whose Holders must consent to an amendment, supplement or waiver;
- (2) reduce the principal of or change the fixed maturity of any note or alter the provisions with respect to the redemption of the notes (other than provisions relating to the covenants described above under the caption "-- Repurchase at the Option of Holders");
- (3) reduce the rate of or change the time for payment of interest on any note;
- (4) waive a Default or Event of Default in the payment of principal of, or interest or premium, or Special Interest, if any, on the notes (except a rescission of acceleration of the notes by the Holders of at least a majority in aggregate principal amount of the notes and a waiver of the payment default that resulted from the acceleration);
- (5) make any note payable in money other than that stated in the notes;

- (6) make any change in the provisions of the indenture relating to waivers of past Defaults or the rights of Holders of notes to receive payments of principal of, or interest or premium or Special Interest, if any, on the notes;
- (7) waive a redemption payment with respect to any note (other than a payment required by one of the covenants described above under the caption "-- Repurchase at the Option of Holders"); or
- (8) make any change in the preceding amendment and waiver provisions.

In addition, any amendment to, or waiver of, the provisions of the indenture relating to subordination that adversely affects the rights of the Holders of the notes will require the consent of the Holders of at least 75% in aggregate principal amount of notes then outstanding.

Notwithstanding the preceding, without the consent of any Holder of notes, Office Depot and the trustee may amend or supplement the indenture or the notes:

- (1) to cure any ambiguity, defect or inconsistency;
- (2) to provide for uncertificated notes in addition to or in place of certificated notes;
- (3) to provide for the assumption of Office Depot's obligations to Holders of notes in the case of a merger or consolidation or sale of all or substantially all of Office Depot's assets;
- (4) to make any change that would provide any additional rights or benefits to the Holders of notes or that does not adversely affect the legal rights under the indenture of any Holder; or
- (5) to comply with requirements of the SEC in order to effect or maintain the qualification of the indenture under the Trust Indenture Act.

#### SATISFACTION AND DISCHARGE

The indenture will be discharged and will cease to be of further effect as to all notes issued thereunder, when:

- (1) either:
  - (a) all notes that have been authenticated, except lost, stolen or destroyed notes that have been replaced or paid and notes for whose payment money has been deposited in trust and thereafter repaid to Office Depot, have been delivered to the trustee for cancellation; or
  - (b) all notes that have not been delivered to the trustee for cancellation have become due and payable by reason of the mailing of a notice of redemption or otherwise or will become due and payable within one year and Office Depot has irrevocably deposited or caused to be deposited with the trustee as trust funds in trust solely for the benefit of the Holders, cash in U.S. dollars, non-callable Government Securities, or a combination of cash in U.S. dollars and non-callable Government Securities, in amounts as will be sufficient without consideration of any reinvestment of interest, to pay and discharge the entire indebtedness on the notes not delivered to the trustee for cancellation for principal, premium and Special Interest, if any, and accrued interest to the date of maturity or redemption;
- (2) no Default or Event of Default has occurred and is continuing on the date of the deposit or will occur as a result of the deposit and the deposit will not result in a breach or violation of, or constitute a default under, any other

instrument to which Office Depot is a party or by which Office Depot is bound;

- (3) Office Depot has paid or caused to be paid all sums payable by it under the indenture; and
- (4) Office Depot has delivered irrevocable instructions to the trustee under the indenture to apply the deposited money toward the payment of the notes at maturity or the redemption date, as the case may be.

In addition, Office Depot must deliver an officers' certificate and an opinion of counsel to the trustee stating that all conditions precedent to satisfaction and discharge have been satisfied.

#### CONCERNING THE TRUSTEE

If the trustee becomes a creditor of Office Depot, the indenture limits its right to obtain payment of claims in certain cases, or to realize on certain property received in respect of any claim as security or otherwise. The trustee will be permitted to engage in other transactions; however, if it acquires any conflicting interest it must eliminate the conflict within 90 days, apply to the SEC for permission to continue or resign.

The Holders of a majority in principal amount of the then outstanding notes will have the right to direct the time, method and place of conducting any proceeding for exercising any remedy available to the trustee, subject to certain exceptions. The indenture provides that in case an Event of Default occurs and is continuing, the trustee will be required, in the exercise of its power, to use the degree of care of a prudent man in the conduct of his own affairs. Subject to those provisions, the trustee will be under no obligation to exercise any of its rights or powers under the indenture at the request of any Holder of notes, unless such Holder has offered to the trustee security and indemnity satisfactory to it against any loss, liability or expense.

#### ADDITIONAL INFORMATION

Anyone who receives this prospectus may obtain a copy of the indenture and registration rights agreement without charge by writing to Office Depot, Inc., Attention: Vice President, Investor Relations and Public Relations.

#### BOOK-ENTRY, DELIVERY AND FORM

The new notes initially will be represented by one or more notes in registered, global form without interest coupons (collectively, the "Global Notes"). The Global Notes will be deposited upon issuance with the trustee as custodian for The Depository Trust Company ("DTC"), in New York, New York, and registered in the name of DTC or its nominee, in each case for credit to an account of a direct or indirect participant in DTC as described below.

Except as set forth below, the Global Notes may be transferred, in whole and not in part, only to another nominee of DTC or to a successor of DTC or its nominee. Beneficial interests in the Global Notes may not be exchanged for notes in certificated form except in the limited circumstances described below. See "-- Exchange of Book-Entry Notes for Certificated Notes." Except in the limited circumstances described below, owners of beneficial interests in the Global Notes will not be entitled to receive physical delivery of notes in certificated form.

Transfers of beneficial interests in the Global Notes will be subject to the applicable rules and procedures of DTC and its Direct or Indirect Participants, which may change from time to time.

#### DEPOSITORY PROCEDURES

The following description of the operations and procedures of DTC is provided solely as a matter of convenience. These operations and procedures are solely within the control of DTC and are subject to changes by DTC. Office Depot takes no responsibility for these operations and procedures and urges investors to contact DTC directly to discuss these matters.



DTC has advised Office Depot that DTC is a limited-purpose trust company created to hold securities for its participating organizations (collectively, the "Participants") and to facilitate the clearance and settlement of transactions in those securities between Participants through electronic book-entry changes in accounts of its Participants. The Participants include securities brokers and dealers (including the initial purchasers), banks, trust companies, clearing corporations and certain other organizations. Access to DTC's system is also available to other entities such as banks, brokers, dealers and trust companies that clear through or maintain a custodial relationship with a Participant, either directly or indirectly (collectively, the "Indirect Participants"). Persons who are not Participants may beneficially own securities held by or on behalf of DTC only through the Participants or the Indirect Participants. The ownership interests in, and transfers of ownership interests in, each security held by or on behalf of DTC are recorded on the records of the Participants and Indirect Participants.

DTC has also advised Office Depot that, pursuant to procedures established by it:

- (1) upon deposit of the Global Notes, DTC will credit the accounts of Participants designated by the initial purchasers with portions of the principal amount of the Global Notes; and
- (2) ownership of these interests in the Global Notes will be shown on, and the transfer of ownership of these interests will be effected only through, records maintained by DTC (with respect to the Participants) or by the Participants and the Indirect Participants (with respect to other owners of beneficial interest in the Global Notes).

All interests in a Global Note may be subject to the procedures and requirements of DTC. The laws of some states require that certain Persons take physical delivery in definitive form of securities that they own. Consequently, the ability to transfer beneficial interests in a Global Note to those Persons will be limited to that extent. Because DTC can act only on behalf of Participants, which in turn act on behalf of Indirect Participants, the ability of a Person having beneficial interests in a Global Note to pledge those interests to Persons that do not participate in the DTC system, or otherwise take actions in respect of those interests, may be affected by the lack of a physical certificate evidencing the interests.

EXCEPT AS DESCRIBED BELOW, OWNERS OF INTERESTS IN THE GLOBAL NOTES WILL NOT HAVE NOTES REGISTERED IN THEIR NAMES, WILL NOT RECEIVE PHYSICAL DELIVERY OF NOTES IN CERTIFICATED FORM AND WILL NOT BE CONSIDERED THE REGISTERED OWNERS OR "HOLDERS" THEREOF UNDER THE INDENTURE FOR ANY PURPOSE.

Payments in respect of the principal of, and interest and premium and Special Interest, if any, on a Global Note registered in the name of DTC or its nominee will be payable to DTC in its capacity as the registered Holder under the indenture. Under the terms of the indenture, Office Depot and the trustee will treat the Persons in whose names the notes, including the Global Notes, are registered as the owners of the notes for the purpose of receiving payments and for all other purposes. Consequently, neither Office Depot, the trustee nor any agent of Office Depot or the trustee has or will have any responsibility or liability for:

- (1) any aspect of DTC's records or any Participant's or Indirect Participant's records relating to or payments made on account of beneficial ownership interests in the Global Notes or for maintaining, supervising or reviewing any of DTC's records or any Participant's or Indirect Participant's records relating to the beneficial ownership interests in the Global Notes; or
- (2) any other matter relating to the actions and practices of DTC or any of its Participants or Indirect Participants.

DTC has advised Office Depot that its current practice, upon receipt of any payment in respect of securities such as the notes (including principal and interest), is to credit the accounts of the relevant Participants with the payment on the payment date unless DTC has reason to believe it will not receive payment on such payment date. Each relevant Participant is credited with an amount proportionate to its beneficial ownership of an interest in the principal amount of the relevant security as shown on the records of DTC. Payments by the Participants and the Indirect Participants to the beneficial owners of notes will be governed by standing instructions and customary practices and will be the responsibility of the Participants or the Indirect Participants and will not be the responsibility of DTC, the trustee or Office Depot. Neither Office Depot

nor the trustee will be liable for any delay by DTC or any of its Participants in identifying the beneficial owners of the notes, and Office Depot and the trustee may conclusively rely on and will be protected in relying on instructions from DTC or its nominee for all purposes.

Subject to the transfer restrictions set forth under "Notice to Investors," transfers between Participants in DTC will be effected in accordance with DTC's procedures, and will be settled in same-day funds.

DTC has advised Office Depot that it will take any action permitted to be taken by a Holder of notes only at the direction of one or more Participants to whose account DTC has credited the interests in the Global Notes and only in respect of such portion of the aggregate principal amount of the notes as to which such Participant or Participants has or have given such direction. However, if there is an Event of Default under the notes, DTC reserves the right to exchange the Global Notes for legended notes in certificated form, and to distribute such notes to its Participants.

DTC is under no obligation to perform or to continue to perform the foregoing procedures to facilitate transfers of interests and may discontinue the procedures at any time. Neither Office Depot nor the trustee nor any of their respective agents will have any responsibility for the performance by DTC or its participants or indirect participants of its obligations under the rules and procedures governing DTC's operations.

#### EXCHANGE OF GLOBAL NOTES FOR CERTIFICATED NOTES

A Global Note is exchangeable for definitive notes in registered certificated form ("Certificated Notes") if:

- (1) DTC (a) notifies Office Depot that it is unwilling or unable to continue as depository for the Global Notes and Office Depot fails to appoint a successor depository or (b) has ceased to be a clearing agency registered under the Securities Exchange Act of 1934;
- (2) Office Depot, at its option, notifies the trustee in writing that it elects to cause the issuance of the Certificated Notes; or
- (3) there has occurred and is continuing a Default or Event of Default with respect to the notes.

In addition, beneficial interests in a Global Note may be exchanged for Certificated Notes upon prior written notice given to the trustee by or on behalf of DTC in accordance with the indenture. In all cases, Certificated Notes delivered in exchange for any Global Note or beneficial interests in Global Notes will be registered in the names, and issued in any approved denominations, requested by or on behalf of the depository (in accordance with its customary procedures) and will bear the applicable restrictive legend referred to in "Notice to Investors," unless that legend is not required by applicable law.

#### EXCHANGE OF CERTIFICATED NOTES FOR GLOBAL NOTES

Certificated Notes may not be exchanged for beneficial interests in any Global Note unless the transferor first delivers to the trustee a written certificate (in the form provided in the indenture) to the effect that such transfer will comply with the appropriate transfer restrictions applicable to such notes. See "Notice to Investors."

#### SAME DAY SETTLEMENT AND PAYMENT

Office Depot will make payments in respect of the notes represented by the Global Notes (including principal, premium, if any, interest and Special Interest, if any) by wire transfer of immediately available funds to the accounts specified by the Global Note Holder. Office Depot will make all payments of principal, interest and premium and Special Interest, if any, with respect to Certificated Notes by wire transfer of immediately available funds to the accounts specified by the Holders of the Certificated Notes or, if no account is specified, by mailing a check to each such Holder's registered address. The notes represented by the Global Notes are expected to be eligible to trade in the PORTAL market and to trade in DTC's Same-Day Funds Settlement System, and any permitted secondary market trading activity in the notes will, therefore, be required by DTC to be settled in immediately available funds.

Office Depot expects that secondary trading in any Certificated Notes will also be settled in immediately available funds.

#### REGISTRATION RIGHTS; SPECIAL INTEREST

The following description is a summary of the material provisions of the registration rights agreement. It does not restate that agreement in its entirety. We urge you to read the registration rights agreement in its entirety because it, and not this description, defines the registration rights of Holders of old notes.

Office Depot and the initial purchasers of old notes entered into a registration rights agreement upon the closing of the offering of the old notes. Pursuant to the registration rights agreement, Office Depot agreed to file with the SEC an Exchange Offer Registration Statement on the appropriate form under the Securities Act of 1933 with respect to the new notes. Upon the effectiveness of the Exchange Offer Registration Statement, Office Depot will offer to exchange the old notes for new notes pursuant to the Exchange Offer provided the Holders of old notes are able to make certain representations to us.

If:

- (1) Office Depot is not:
  - (a) required to file the Exchange Offer Registration Statement; or
  - (b) permitted to consummate the Exchange Offer because the Exchange Offer is not permitted by applicable law or SEC policy; or
- (2) any Holder of Transfer Restricted Securities (as hereinafter defined) notifies Office Depot prior to the 20th day following consummation of the Exchange Offer that:
  - (a) it is prohibited by law or SEC policy from participating in the Exchange Offer; or
  - (b) that it may not resell the new notes acquired by it in the Exchange Offer to the public without delivering a prospectus and the prospectus contained in the Exchange Offer Registration Statement is not appropriate or available for resales; or
  - (c) that it is a broker-dealer and owns notes acquired directly from Office Depot or an affiliate of Office Depot,

Office Depot will file with the SEC a Shelf Registration Statement to cover resales of the notes by the Holders of the notes who satisfy certain conditions relating to the provision of information in connection with the Shelf Registration Statement.

Office Depot will use its best efforts to cause the applicable registration statement to be declared effective as promptly as possible by the SEC.

For purposes of the preceding, "Transfer Restricted Securities" means each note until:

- (1) the date on which the note has been exchanged by a Person other than a broker-dealer for a new note in the Exchange Offer;
- (2) following the exchange by a broker-dealer in the Exchange Offer of an old note for a new note, the date on which the new note is sold to a purchaser who receives from the broker-dealer on or prior to the date of sale a copy of the prospectus contained in the Exchange Offer Registration Statement;

- (3) the date on which the note has been effectively registered under the Securities Act of 1933 and disposed of in accordance with the Shelf Registration Statement; or
- (4) the date on which the note is distributed to the public pursuant to Rule 144 under the Securities Act of 1933.

The registration rights agreement provides that:

- (1) Office Depot will file an Exchange Offer Registration Statement with the SEC on or prior to 90 days after the closing of the offering of old notes;
- (2) Office Depot will use its best efforts to have the Exchange Offer Registration Statement declared effective by the SEC on or prior to 180 days after the closing of the offering of old notes;
- (3) unless the Exchange Offer would not be permitted by applicable law or SEC policy, Office Depot will
  - (a) commence the Exchange Offer; and
  - (b) use best efforts to issue on or prior to 45 business days, or longer, if required by the federal securities laws, after the date on which the Exchange Offer Registration Statement was declared effective by the SEC, new notes in exchange for all old notes tendered prior thereto in the Exchange Offer; and
- (4) if obligated to file the Shelf Registration Statement, Office Depot will use its best efforts to file the Shelf Registration Statement with the SEC on or prior to 90 days after the filing obligation arises and to cause the Shelf Registration to be declared effective by the SEC on or prior to 180 days after the obligation arises.

If:

- (1) Office Depot fails to file any of the registration statements required by the registration rights agreement on or before the date specified for the filing; or
- (2) any of the registration statements is not declared effective by the SEC on or prior to the date specified for effectiveness (the "Effectiveness Target Date"); or
- (3) Office Depot fails to consummate the Exchange Offer within 45 business days of the Effectiveness Target Date with respect to the Exchange Offer Registration Statement; or
- (4) the Shelf Registration Statement or the Exchange Offer Registration Statement is declared effective but thereafter ceases to be effective or usable in connection with resales of Transfer Restricted Securities during the periods specified in the registration rights agreement (each event referred to in clauses (1) through (4) above, a "Registration Default"),

then Office Depot will pay additional interest ("Special Interest") to each Holder of notes, with respect to the first 90-day period immediately following the occurrence of the first Registration Default in an amount equal to \$.05 per week per \$1,000 principal amount of notes held by the Holder.

The amount of the Special Interest will increase by an additional \$.05 per week per \$1,000 principal amount of notes with respect to each subsequent 90-day period until all Registration Defaults have been cured, up to a maximum amount of Special Interest for all Registration Defaults of \$.50 per week per \$1,000 principal amount of notes.

All accrued Special Interest will be paid by Office Depot on each Damages Payment Date to the Global Note Holder by wire transfer of immediately available funds or by federal funds check and to Holders of Certificated Notes by wire transfer to the accounts specified by them or by mailing checks to their registered addresses if no accounts have been specified.

Following the cure of all Registration Defaults, the accrual of Special Interest will cease.

Holders of notes will be required to make certain representations to Office Depot (as described in the registration rights agreement) in order to participate in the Exchange Offer and will be required to deliver certain information to be used in connection with the Shelf Registration Statement and to provide comments on the Shelf Registration Statement within the time periods set forth in the registration rights agreement in order to have their notes included in the Shelf Registration Statement and benefit from the provisions regarding Special Interest set forth above. By acquiring Transfer Restricted Securities, a Holder will be deemed to have agreed to indemnify Office Depot against certain losses arising out of information furnished by the Holder in writing for inclusion in any Shelf Registration Statement. Holders of notes will also be required to suspend their use of the prospectus included in the Shelf Registration Statement under certain circumstances upon receipt of written notice to that effect from Office Depot.

#### CERTAIN DEFINITIONS

Set forth below are certain defined terms used in the indenture. Reference is made to the indenture for a full disclosure of all the terms, as well as any other capitalized terms used herein for which no definition is provided.

"Acquired Debt" means, with respect to any specified Person:

- (1) Indebtedness of any other Person existing at the time the other Person is merged with or into or became a Subsidiary of the specified Person, whether or not the Indebtedness is incurred in connection with, or in contemplation of, the other Person merging with or into, or becoming a Subsidiary of, the specified Person; and
- (2) Indebtedness secured by a Lien encumbering any asset acquired by the specified Person.

"Adjusted Treasury Rate" means with respect to any redemption date, the rate per annum equal to the semiannual equivalent yield to maturity of the Comparable Treasury Issue, assuming a price for the Comparable Treasury Issue (expressed as a percentage of its principal amount) equal to the Comparable Treasury Price for the redemption date, plus 50 basis points.

"Affiliate" of any specified Person means any other Person directly or indirectly controlling or controlled by or under direct or indirect common control with the specified Person. For purposes of this definition, "control," as used with respect to any Person, means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of the Person, whether through the ownership of voting securities, by agreement or otherwise; provided that beneficial ownership of 10% or more of the Voting Stock of a Person will be deemed to be control. For purposes of this definition, the terms "controlling," "controlled by" and "under common control with" have correlative meanings. No Person (other than Office Depot or any Subsidiary of Office Depot) in whom a Receivables Subsidiary makes an Investment in connection with a Qualified Receivables Transaction will be deemed to be an Affiliate of Office Depot or any of its Subsidiaries solely by reason of the Investment.

"Asset Sale" means:

- (1) the sale, lease, conveyance or other disposition of any assets or rights, other than sales of inventory in the ordinary course of business; provided that the sale, conveyance or other disposition of all or substantially all of the assets of Office Depot and its Subsidiaries taken as a whole will be governed by the provisions of the indenture described above under the caption "-- Repurchase at the Option of Holders -- Change of Control" and/or the provisions described above under

the caption "-- Certain Covenants -- Merger, Consolidation or Sale of Assets" and not by the provisions of the Asset Sale covenant; and

- (2) the issuance of Equity Interests in any of Office Depot's Restricted Subsidiaries or the sale of Equity Interests in any of its Subsidiaries.

Notwithstanding the preceding, none of the following items will be deemed to be Asset Sales:

- (1) any single transaction or series of related transactions that involves assets having a fair market value of less than \$10.0 million;
- (2) a transfer of assets between or among Office Depot and its Subsidiaries;
- (3) an issuance of Equity Interests by a Subsidiary to Office Depot or to another Subsidiary;
- (4) the sale or lease of equipment, inventory, accounts receivable or other assets in the ordinary course of business;
- (5) the sale or other disposition of cash or Cash Equivalents;
- (6) sales of accounts receivable and related assets of the type specified in the definition of "Qualified Receivables Transaction" to a Receivables Subsidiary for the fair market value thereof, including cash in an amount at least equal to 75% of the book value thereof as determined in accordance with GAAP, it being understood that, for the purposes of this clause (6), notes received in exchange for the transfer of accounts receivable and related assets will be deemed cash if the Receivables Subsidiary or other payor is required to repay said notes as soon as practicable from available cash collections less amounts required to be established as reserves pursuant to contractual agreements with entities that are not Affiliates of Office Depot entered into as part of a Qualified Receivables Transaction;
- (7) transfers of accounts receivable and related assets of the type specified in the definition of "Qualified Receivables Transaction" (or a fractional undivided interest therein) by a Receivables Subsidiary in a Qualified Receivables Transaction;
- (8) sale of assets deemed to occur in sale/lease back transactions in an amount not to exceed \$175 million; or
- (9) a Restricted Payment or Permitted Investment that is permitted by the covenant described above under the caption "-- Certain Covenants -- Restricted Payments."

"Beneficial Owner" has the meaning assigned to that term in Rule 13d-3 and Rule 13d-5 under the Securities Exchange Act of 1934, except that in calculating the beneficial ownership of any particular "person" (as that term is used in Section 13(d)(3) of the Securities Exchange Act of 1934), the "person" will be deemed to have beneficial ownership of all securities that the "person" has the right to acquire by conversion or exercise of other securities, whether the right is currently exercisable or is exercisable only upon the occurrence of a subsequent condition. The terms "Beneficially Owns" and "Beneficially Owned" have a corresponding meaning.

"Board of Directors" means:

- (1) with respect to a corporation, the board of directors of the corporation;
- (2) with respect to a partnership, the Board of Directors of the general partner of the partnership; and
- (3) with respect to any other Person, the board or committee of the Person serving a similar function.

"Capital Lease Obligation" means, at the time any determination is to be made, the amount of the liability in respect of a capital lease that would at that time be required to be capitalized on a balance sheet in accordance with GAAP.

"Capital Stock" means:

- (1) in the case of a corporation, corporate stock;
- (2) in the case of an association or business entity, any and all shares, interests, participations, rights or other equivalents (however designated) of corporate stock;
- (3) in the case of a partnership or limited liability company, partnership or membership interests (whether general or limited); and
- (4) any other interest or participation that confers on a Person the right to receive a share of the profits and losses of, or distributions of assets of, the issuing Person.

"Cash Equivalents" means:

- (1) United States dollars;
- (2) securities issued or directly and fully guaranteed or insured by the United States government or any agency or instrumentality of the United States government (provided that the full faith and credit of the United States is pledged in support of those securities) having maturities of not more than six months from the date of acquisition;
- (3) certificates of deposit and eurodollar time deposits with maturities of six months or less from the date of acquisition, bankers' acceptances with maturities not exceeding six months and overnight bank deposits, in each case, with any domestic commercial bank having capital and surplus in excess of \$500.0 million and a Thomson Bank Watch Rating of "B" or better;
- (4) repurchase obligations with a term of not more than seven days for underlying securities of the types described in clauses (2) and (3) above entered into with any financial institution meeting the qualifications specified in clause (3) above;
- (5) commercial paper having the highest rating obtainable from Moody's or S&P and in each case maturing within six months after the date of acquisition; and
- (6) money market funds at least 90% of the assets of which constitute Cash Equivalents of the kinds described in clauses (1) through (5) of this definition.

"Change of Control" means the occurrence of any of the following:

- (1) the direct or indirect sale, transfer, conveyance or other disposition (other than by way of merger or consolidation), in one or a series of related transactions, of all or substantially all of the properties or assets of Office Depot and its Restricted Subsidiaries taken as a whole to any "person" (as that term is used in Section 13(d)(3) of the Securities Exchange Act of 1934);
- (2) the adoption of a plan relating to the liquidation or dissolution of Office Depot;
- (3) the consummation of any transaction (including, without limitation, any merger or consolidation) the result of which is that any "person" (as defined above), becomes the Beneficial Owner, directly or indirectly, of more than 50% of the Voting Stock of Office Depot, measured by voting power rather than number of shares; or

- (4) the first day on which a majority of the members of the Board of Directors of Office Depot are not Continuing Directors.

"Comparable Treasury Issue" means the United States Treasury Security selected by an Independent Investment Banker as having a maturity comparable to the remaining term of the notes that would be utilized, at the time of selection and in accordance with customary financial practice, in pricing new issues of corporate debt securities of comparable maturity to the remaining term of the notes.

"Comparable Treasury Price" means, with respect to any redemption date, (i) the average of the bid and asked prices for the Comparable Treasury Issue (expressed in each case as a percentage of its principal amount) on the third Business Day preceding the redemption date, as set forth in the daily statistical release (or any successor release) published by the Federal Reserve Bank of New York and designated "Composite 3:30 p.m. Quotations for U.S. Government Securities" or (ii) if the release (or any successor release) is not published or does not contain the prices on such Business Day, (A) the Reference Treasury Dealer Quotations for the redemption date, after excluding the highest and lowest of the Reference Treasury Dealer Quotations, or (B) if the trustee obtains fewer than three such Reference Treasury Dealer Quotations, the average of all such Quotations.

"Consolidated Cash Flow" means, with respect to any specified Person for any period, the Consolidated Net Income of the Person for that period plus:

- (1) an amount equal to any extraordinary loss plus any net loss realized by the Person or any of its Restricted Subsidiaries in connection with an Asset Sale, to the extent the losses were deducted in computing the Consolidated Net Income; plus
- (2) provision for taxes based on income or profits of the Person and its Restricted Subsidiaries for the period, to the extent that the provision for taxes was deducted in computing such Consolidated Net Income; plus
- (3) consolidated interest expense of the Person and its Restricted Subsidiaries for the period, whether paid or accrued and whether or not capitalized (including, without limitation, amortization of debt issuance costs and original issue discount, non-cash interest payments, the interest component of any deferred payment obligations, the interest component of all payments associated with Capital Lease Obligations, commissions, discounts and other fees and charges incurred in respect of letter of credit or bankers' acceptance financings, and net of the effect of all payments made or received pursuant to Hedging Obligations), to the extent that any expense was deducted in computing the Consolidated Net Income; plus
- (4) depreciation, amortization (including amortization of goodwill and other intangibles but excluding amortization of prepaid cash expenses that were paid in a prior period) and other non-cash expenses (excluding any non-cash expense to the extent that it represents an accrual of or reserve for cash expenses in any future period or amortization of a prepaid cash expense that was paid in a prior period) of the Person and its Restricted Subsidiaries for the period to the extent that the depreciation, amortization and other non-cash expenses were deducted in computing the Consolidated Net Income; minus
- (5) non-cash items increasing the Consolidated Net Income for the period, other than the accrual of revenue in the ordinary course of business,

in each case, on a consolidated basis and determined in accordance with GAAP.

"Consolidated Net Income" means, with respect to any specified Person for any period, the aggregate of the Net Income of the Person and its Subsidiaries for the period, on a consolidated basis, determined in accordance with GAAP; provided that:



- (1) the Net Income (but not loss) of any Person that is not a Subsidiary or that is accounted for by the equity method of accounting will be included only to the extent of the amount of dividends or distributions paid in cash to the specified Person or a Restricted Subsidiary of the Person;
- (2) the Net Income of any Restricted Subsidiary will be excluded to the extent that the declaration or payment of dividends or similar distributions by that Restricted Subsidiary of that Net Income is not at the date of determination permitted without any prior governmental approval (that has not been obtained) or, directly or indirectly, by operation of the terms of its charter or any agreement, instrument, judgment, decree, order, statute, rule or governmental regulation applicable to that Restricted Subsidiary or its stockholders;
- (3) the Net Income of any Person acquired in a pooling of interests transaction for any period prior to the date of the acquisition will be excluded;
- (4) the cumulative effect of a change in accounting principles will be excluded;
- (5) charges taken by Office Depot in connection with the restructuring of its operations in an amount not to exceed \$260.7 million will be excluded; and
- (6) the Net Income (but not loss) of any Unrestricted Subsidiary will be excluded (except to the extent distributed to Office Depot or one of its Restricted Subsidiaries).

"Consolidated Net Worth" means, with respect to any specified Person as of any date, the sum of:

- (1) the consolidated equity of the common stockholders of the Person and its consolidated Subsidiaries as of the date; plus
- (2) the respective amounts reported on the Person's balance sheet as of such date with respect to any series of preferred stock (other than Disqualified Stock) that by its terms is not entitled to the payment of dividends unless such dividends may be declared and paid only out of net earnings in respect of the year of such declaration and payment, but only to the extent of any cash received by such Person upon issuance of such preferred stock.

"Continuing Directors" means, as of any date of determination, any member of the Board of Directors of Office Depot who:

- (1) was a member of the Board of Directors on the date of the indenture; or
- (2) was nominated for election or elected to the Board of Directors with the approval of a majority of the Continuing Directors who were members of the Board at the time of the nomination or election.

"Credit Facilities" means, one or more debt facilities or commercial paper facilities, in each case with banks or other institutional lenders providing for revolving credit loans, term loans, receivables financing (including through the sale of receivables to such lenders or to special purpose entities formed to borrow from the lenders against the receivables) or letters of credit, in each case, as amended, restated, modified, renewed, refunded, replaced or refinanced in whole or in part from time to time.

"Default" means any event that is, or with the passage of time or the giving of notice or both would be, an Event of Default.

"Designated Senior Debt" means:

- (1) any Indebtedness outstanding under the Existing Credit Facilities; and

- (2) after payment in full of all Obligations under the Existing Credit Facilities, any other Senior Debt permitted under the indenture the principal amount of which is \$25.0 million or more and that has been designated by Office Depot as "Designated Senior Debt."

"Disqualified Stock" means any Capital Stock that, by its terms (or by the terms of any security into which it is convertible, or for which it is exchangeable, in each case at the option of the holder of the Capital Stock), or upon the happening of any event, matures or is mandatorily redeemable, pursuant to a sinking fund obligation or otherwise, or redeemable at the option of the holder of the Capital Stock, in whole or in part, on or prior to the date that is 91 days after the date on which the notes mature. Notwithstanding the preceding sentence, any Capital Stock that would constitute Disqualified Stock solely because the holders of the Capital Stock have the right to require Office Depot to repurchase the Capital Stock upon the occurrence of a change of control or an asset sale will not constitute Disqualified Stock if the terms of the Capital Stock provide that Office Depot may not repurchase or redeem any Capital Stock pursuant to the provisions unless the repurchase or redemption complies with the covenant described above under the caption "-- Certain Covenants -- Restricted Payments."

"Equity Interests" means Capital Stock and all warrants, options or other rights to acquire Capital Stock (but excluding any debt security that is convertible into, or exchangeable for, Capital Stock) and beneficial interests and trusts created by a Receivables Subsidiary.

"Existing Credit Facilities" means (1) the \$255 million, 364-Day Revolving Credit Agreement dated May 10, 2001 among Office Depot, Inc., Bank One, N.A., BNP Paribas, Citibank, N.A., First Union National Bank, Fleet National Bank, The Royal Bank of Scotland, SunTrust Bank and Wells Fargo Bank, N.A.; and (2) the \$300 million, five-year, Revolving Credit and Line of Credit Agreement dated February 20, 1998 among Office Depot, Inc., SunTrust Bank and other lenders.

"Existing Indebtedness" means the aggregate principal amount of Indebtedness of Office Depot and its Restricted Subsidiaries (other than Indebtedness under Credit Facilities) in existence on the date of the indenture, until the amounts are repaid.

"Fixed Charges" means, with respect to any specified Person for any period, the sum, without duplication, of:

- (1) the consolidated interest expense of such Person and its Restricted Subsidiaries for the period, whether paid or accrued, including, without limitation, amortization of debt issuance costs and original issue discount, non-cash interest payments, the interest component of any deferred payment obligations, the interest component of all payments associated with Capital Lease Obligations, commissions, discounts and other fees and charges incurred in respect of letter of credit or bankers' acceptance financings, and net of the effect of all payments made or received pursuant to Hedging Obligations; plus
- (2) the consolidated interest of the Person and its Restricted Subsidiaries that was capitalized during the period; plus
- (3) any interest expense on Indebtedness of another Person that is Guaranteed by the Person or one of its Restricted Subsidiaries or secured by a Lien on assets of the Person or one of its Restricted Subsidiaries, whether or not the Guarantee or Lien is called upon; plus
- (4) the product of (a) all dividends, whether paid or accrued and whether or not in cash, on any series of preferred stock of the Person or any of its Restricted Subsidiaries, other than dividends on Equity Interests payable solely in Equity Interests of Office Depot (other than Disqualified Stock) or to Office Depot or a Restricted Subsidiary of Office Depot, times (b) a fraction, the numerator of which is one and the denominator of which is one minus the then current combined federal, state and local statutory tax rate of such Person, expressed as a decimal, in each case, on a consolidated basis and in accordance with GAAP.

"Fixed Charge Coverage Ratio" means with respect to any specified Person and its Restricted Subsidiaries for any period, the ratio of the Consolidated Cash Flow of the Person for that period to the Fixed Charges of the Person for that period. In the event that the specified Person or any of its Restricted Subsidiaries incurs, assumes, Guarantees, repays, repurchases or redeems any Indebtedness (other than ordinary working capital borrowings) or issues, repurchases or redeems preferred stock subsequent to the commencement of the period for which the Fixed Charge Coverage Ratio is being calculated and on or prior to the date on which the event for which the calculation of the Fixed Charge Coverage Ratio is made (the "Calculation Date"), then the Fixed Charge Coverage Ratio will be calculated giving pro forma effect to the undertaking, assumption, Guarantee, repayment, repurchase or redemption of Indebtedness, or such issuance, repurchase or redemption of preferred stock, and the use of the proceeds therefrom as if the same had occurred at the beginning of the applicable four-quarter reference period.

In addition, for purposes of calculating the Fixed Charge Coverage Ratio:

- (1) acquisitions that have been made by the specified Person or any of its Restricted Subsidiaries, including through mergers or consolidations and including any related financing transactions, during the four-quarter reference period or subsequent to the reference period and on or prior to the Calculation Date will be given pro forma effect as if they had occurred on the first day of the four-quarter reference period and Consolidated Cash Flow for the reference period will be calculated on a pro forma basis in accordance with Regulation S-X under the Securities Act of 1933, but without giving effect to clause (3) of the proviso set forth in the definition of Consolidated Net Income;
- (2) the Consolidated Cash Flow attributable to discontinued operations, as determined in accordance with GAAP, and operations or businesses disposed of prior to the Calculation Date, will be excluded; and
- (3) the Fixed Charges attributable to discontinued operations, as determined in accordance with GAAP, and operations or businesses disposed of prior to the Calculation Date, will be excluded, but only to the extent that the obligations giving rise to such Fixed Charges will not be obligations of the specified Person or any of its Subsidiaries following the Calculation Date.

"GAAP" means generally accepted accounting principles set forth in the opinions and pronouncements of the Accounting Principles Board of the American Institute of Certified Public Accountants and statements and pronouncements of the Financial Accounting Standards Board or in other statements by any other entity that has been approved by a significant segment of the accounting profession, which are in effect on the date of the indenture.

"Guarantee" means a guarantee other than by endorsement of negotiable instruments for collection in the ordinary course of business, direct or indirect, in any manner including, without limitation, by way of a pledge of assets or through letters of credit or reimbursement agreements in respect thereof, of all or any part of any Indebtedness.

"Hedging Obligations" means, with respect to any specified Person, the obligations of the Person under:

- (1) interest rate swap agreements, interest rate cap agreements and interest rate collar agreements; and
- (2) other agreements or arrangements designed to protect the Person against fluctuations in interest rates, foreign currency translation and commodity prices.

"Indebtedness" means, with respect to any specified Person, any indebtedness of the Person, whether or not contingent:

- (1) in respect of borrowed money;

- (2) evidenced by bonds, notes, debentures or similar instruments or letters of credit (or reimbursement agreements in respect thereof);
- (3) in respect of banker's acceptances;
- (4) representing Capital Lease Obligations;
- (5) representing the balance deferred and unpaid of the purchase price of any property, except any the balance that constitutes an accrued expense or trade payable; or
- (6) representing any Hedging Obligations,

if and to the extent any of the preceding items (other than letters of credit and Hedging Obligations) would appear as a liability upon a balance sheet of the specified Person prepared in accordance with GAAP. In addition, the term "Indebtedness" includes all Indebtedness of others secured by a Lien on any asset of the specified Person (whether or not the Indebtedness is assumed by the specified Person) and, to the extent not otherwise included, the Guarantee by the specified Person of any indebtedness of any other Person.

The amount of any Indebtedness outstanding as of any date will be:

- (1) the accreted value of the Indebtedness, in the case of any Indebtedness issued with original issue discount; and
- (2) the principal amount of the Indebtedness, together with any interest on the Indebtedness that is more than 30 days past due, in the case of any other Indebtedness.

"Independent Investment Banker" means the Reference Treasury Dealers appointed by the trustee after consultation with Office Depot.

"Investments" means, with respect to any Person, all direct or indirect investments by the Person in other Persons (including Affiliates) in the forms of loans (including Guarantees or other obligations), advances or capital contributions (excluding commission, travel and similar advances to officers and employees made in the ordinary course of business), purchases or other acquisitions for consideration of Indebtedness, Equity Interests or other securities, together with all items that are or would be classified as investments on a balance sheet prepared in accordance with GAAP. If Office Depot or any Subsidiary of Office Depot sells or otherwise disposes of any Equity Interests of any direct or indirect Subsidiary of Office Depot such that, after giving effect to any such sale or disposition, such Person is no longer a Subsidiary of Office Depot, Office Depot will be deemed to have made an Investment on the date of any such sale or disposition equal to the fair market value of the Equity Interests of such Subsidiary not sold or disposed of in an amount determined as provided in the final paragraph of the covenant described above under the caption "-- Certain Covenants -- Restricted Payments." The acquisition by Office Depot or any Subsidiary of Office Depot of a Person that holds an Investment in a third Person will be deemed to be an Investment by Office Depot or such Subsidiary in such third Person in an amount equal to the fair market value of the Investment held by the acquired Person in such third Person in an amount determined as provided in the final paragraph of the covenant described above under the caption "-- Certain Covenants-Restricted Payments."

"Lien" means, with respect to any asset, any mortgage, lien, pledge, charge, security interest or encumbrance of any kind in respect of the asset, whether or not filed, recorded or otherwise perfected under applicable law, including any conditional sale or other title retention agreement, any lease in the nature thereof, any option or other agreement to sell or give a security interest in and, except in connection with any Qualified Receivables Transaction, any filing of or agreement to give any financing statement under the Uniform Commercial Code (or equivalent statutes) of any jurisdiction.

"LYON" means the Liquid Yield Option Notes due 2007 issued by Office Depot in 1992.

"Net Income" means, with respect to any specified Person, the net income (loss) of the Person, determined in accordance with GAAP and before any reduction in respect of preferred stock dividends, excluding, however:

- (1) any gain (but not loss), together with any related provision for taxes on such gain (but not loss), realized in connection with: (a) any Asset Sale; or (b) the disposition of any securities by the Person or any of its Restricted Subsidiaries or the extinguishment of any Indebtedness of the Person or any of its Restricted Subsidiaries; and
- (2) any extraordinary gain (but not loss), together with any related provision for taxes on such extraordinary gain (but not loss).

"Net Proceeds" means the aggregate cash proceeds received by Office Depot or any of its Restricted Subsidiaries in respect of any Asset Sale (including, without limitation, any cash received upon the sale or other disposition of any non-cash consideration received in any Asset Sale), net of the direct costs relating to the Asset Sale, including, without limitation, legal, accounting and investment banking fees, and sales commissions, and any relocation expenses incurred as a result of the Asset Sale, taxes paid or payable as a result of the Asset Sale, in each case, after taking into account any available tax credits or deductions and any tax sharing arrangements, and amounts required to be applied to the repayment of Indebtedness, other than Indebtedness under a Credit Facility, secured by a Lien on the asset or assets that were the subject of such Asset Sale and any reserve for adjustment in respect of the sale price of such asset or assets established in accordance with GAAP.

"Non-Recourse Debt" means Indebtedness:

- (1) as to which neither Office Depot nor any of its Restricted Subsidiaries (a) provides credit support of any kind (including any undertaking, agreement or instrument that would constitute Indebtedness), (b) is directly or indirectly liable as a guarantor or otherwise, or (c) constitutes the lender;
- (2) no default with respect to which (including any rights that the holders of the Indebtedness may have to take enforcement action against an Unrestricted Subsidiary) would permit upon notice, lapse of time or both any holder of any other Indebtedness of Office Depot or any of its Restricted Subsidiaries to declare a default on such other Indebtedness or cause the payment of the Indebtedness to be accelerated or payable prior to its stated maturity; and
- (3) as to which the lenders have been notified in writing that they will not have any recourse to the stock or assets of Office Depot or any of its Restricted Subsidiaries.

"Obligations" means any principal, interest, penalties, fees, indemnifications, reimbursements, damages and other liabilities payable under the documentation governing any Indebtedness.

"Permitted Business" means any business that derives a majority of its revenues from the business engaged in by Office Depot and its Restricted Subsidiaries on the date of original issuance of the notes and/or activities that are reasonably similar, ancillary or related to, or a reasonable extension, development or expansion of, the businesses in which Office Depot and its Restricted Subsidiaries are engaged on the date of original issuance of the notes.

"Permitted Investments" means:

- (1) any Investment in Office Depot or in a Restricted Subsidiary of Office Depot;
- (2) any Investment in Cash Equivalents;
- (3) any Investment by Office Depot or any Restricted Subsidiary of Office Depot in a Person, if as a result of the Investment:

- (a) the Person becomes a Restricted Subsidiary of Office Depot; or
- (b) the Person is merged, consolidated or amalgamated with or into, or transfers or conveys substantially all of its assets to, or is liquidated into, Office Depot or a Restricted Subsidiary of Office Depot;
- (4) any Investment made as a result of the receipt of non-cash consideration from an Asset Sale that was made pursuant to and in compliance with the covenant described above under the caption "-- Repurchase at the Option of Holders -- Asset Sales;"
- (5) any acquisition of assets to the extent in exchange for the issuance of Equity Interests (other than Disqualified Stock) of Office Depot;
- (6) any Investments received in compromise of obligations of the persons incurred in the ordinary course of trade creditors or customers that were incurred in the ordinary course of business, including pursuant to any plan of reorganization or similar arrangement upon the bankruptcy or insolvency of any trade creditor or customer;
- (7) Hedging Obligations;
- (8) the acquisition by a Receivables Subsidiary in connection with a Qualified Receivables Transaction of Equity Interests of a trust or other Person established by the Receivables Subsidiary to effect the Qualified Receivables Transaction; and any other Investment by Office Depot or a Subsidiary of Office Depot in a Receivables Subsidiary or any Investment by a Receivables Subsidiary in any other Person in connection with a Qualified Receivables Transaction provided, that the other Investment is in the form of a note or other instrument that the Receivables Subsidiary or other Person is required to repay as soon as practicable from available cash collections less amounts required to be established as reserves pursuant to contractual agreements with entities that are not Affiliates of Office Depot entered into as part of a Qualified Receivables Transaction; and
- (9) other Investments in any Person having an aggregate fair market value (measured on the date each such Investment was made and without giving effect to subsequent changes in value), when taken together with all other Investments made pursuant to this clause (9) that are at the time outstanding not to exceed \$50.0 million.

"Permitted Junior Securities" means:

- (1) Equity Interests in Office Depot; or
- (2) debt securities that are subordinated to all Senior Debt and any debt securities issued in exchange for Senior Debt to substantially the same extent as, or to a greater extent than, the notes are subordinated to Senior Debt under the indenture.

"Permitted Liens" means any of the following:

- (1) Liens in favor of Office Depot;
- (2) Liens on property of a Person existing at the time such Person is merged with or into or consolidated with Office Depot or any Restricted Subsidiary of Office Depot; provided that the Liens were in existence prior to the contemplation of the merger or consolidation and do not extend to any assets other than those of the Person merged into or consolidated with Office Depot or the Restricted Subsidiary;

- (3) Liens on property existing at the time of acquisition of the property by Office Depot or any Restricted Subsidiary of Office Depot, provided that such Liens were in existence prior to the contemplation of such acquisition;
- (4) Liens to secure the performance of statutory obligations, surety or appeal bonds, performance bonds or other obligations of a like nature incurred in the ordinary course of business;
- (5) Liens to secure Indebtedness (including Capital Lease Obligations) permitted by clause (4) of the second paragraph of the covenant entitled "-- Certain Covenants-Undertaking of Indebtedness and Issuance of Preferred Stock" covering only the assets acquired with such Indebtedness;
- (8) Liens existing on the date of the indenture;
- (7) Liens on all Senior Debt;
- (8) Liens for taxes, assessments or governmental charges or claims that are not yet delinquent or that are being contested in good faith by appropriate proceedings promptly instituted and diligently concluded, provided that any reserve or other appropriate provision as is required in conformity with GAAP has been made therefor;
- (9) Liens on assets of Office Depot or a Receivables Subsidiary incurred in connection with a Qualified Receivables Transaction;
- (10) Liens on assets of Unrestricted Subsidiaries that secure Non-Recourse Debt of Unrestricted Subsidiaries; and
- (11) Liens incurred in the ordinary course of business of Office Depot or any Restricted Subsidiary of Office Depot with respect to obligations that do not exceed \$25.0 million at any one time outstanding.

"Permitted Refinancing Indebtedness" means any Indebtedness of Office Depot or any of its Restricted Subsidiaries issued in exchange for, or the net proceeds of which are used to extend, refinance, renew, replace, defease or refund other Indebtedness of Office Depot or any of its Restricted Subsidiaries (other than intercompany Indebtedness); provided that:

- (1) the principal amount (or accreted value, if applicable) of the Permitted Refinancing Indebtedness does not exceed the principal amount (or accreted value, if applicable) of the Indebtedness extended, refinanced, renewed, replaced, defeased or refunded (plus all accrued interest on the Indebtedness and the amount of all expenses and premiums incurred in connection therewith) (the "Original Principal Amount"); provided, however, if the Indebtedness exceeds the Original Principal Amount, the Permitted Refinancing Indebtedness shall be limited to the Original Principal Amount;
- (2) the Permitted Refinancing Indebtedness has a final maturity date later than the final maturity date of, and has a Weighted Average Life to Maturity equal to or greater than the Weighted Average Life to Maturity of, the Indebtedness being extended, refinanced, renewed, replaced, defeased or refunded;
- (3) if the Indebtedness being extended, refinanced, renewed, replaced, defeased or refunded is subordinated in right of payment to the notes, the Permitted Refinancing Indebtedness has a final maturity date later than the final maturity date of, and is subordinated in right of payment to, the notes on terms at least as favorable to the Holders of notes as those contained in the documentation governing the Indebtedness being extended, refinanced, renewed, replaced, defeased or refunded; and

- (4) such Indebtedness is incurred either by Office Depot or by the Restricted Subsidiary who is the obligor on the Indebtedness being extended, refinanced, renewed, replaced, defeased or refunded.

"Person" means any individual, corporation, partnership, joint venture, association, joint-stock company, trust, unincorporated organization, limited liability company or government or other entity.

"Qualified Receivables Transaction" means any transaction or series of transactions entered into by Office Depot or any of its Subsidiaries pursuant to which Office Depot or any of its Subsidiaries sells, conveys or otherwise transfers to (i) a Receivables Subsidiary (in the case of a transfer by Office Depot or any of its Subsidiaries) and (ii) any other Person (in the case of a transfer by a Receivables Subsidiary), or grants a security interest in, any accounts receivable (whether now existing or arising in the future) of Office Depot or any of its Subsidiaries, and any assets related thereto including, without limitation, all collateral securing such accounts receivable, all contracts and all guarantees or other obligations in respect of such accounts receivable, proceeds of such accounts receivable and other assets which are customarily transferred or in respect of which security interests are customarily granted in connection with asset securitization transactions involving accounts receivable.

"Receivables Subsidiary" means a Subsidiary of Office Depot which engages in no activities other than in connection with the financing of accounts receivable and which is designated by the Board of Directors of Office Depot (as provided below) as a Receivables Subsidiary (a) no portion of the Indebtedness or any other Obligations (contingent or otherwise) of which (i) is guaranteed by Office Depot or any Subsidiary of Office Depot (excluding guarantees of Obligations (other than the principal of, and interest on, Indebtedness) pursuant to representations, warranties, covenants and indemnities entered into in the ordinary course of business in connection with a Qualified Receivables Transaction), (ii) is recourse to or obligates Office Depot or any Subsidiary of Office Depot in any way other than pursuant to representations, warranties, covenants and indemnities entered into in the ordinary course of business in connection with a Qualified Receivables Transaction or (iii) subjects any property or asset of Office Depot or any Subsidiary of Office Depot (other than accounts receivable and related assets as provided in the definition of "Qualified Receivables Transaction"), directly or indirectly, contingently or otherwise, to the satisfaction thereof, other than pursuant to representations, warranties, covenants and indemnities entered into in the ordinary course of business in connection with a Qualified Receivables Transaction, (b) with which neither Office Depot nor any Subsidiary of Office Depot has any material contract, agreement, arrangement or understanding other than on terms customary for securitization of receivables and (c) with which neither Office Depot nor any Subsidiary of Office Depot has any obligation to maintain or preserve the Subsidiary's financial condition or cause such Subsidiary to achieve certain levels of operating results. Any designation by the Board of Directors of Office Depot will be evidenced to the Trustee by filing with the Trustee a certified copy of the resolution of the Board of Directors of Office Depot giving effect to such designation and an Officers' Certificate certifying that such designation complied with the foregoing conditions.

"Reference Treasury Dealer" means Goldman, Sachs & Co. and its successors; provided, however, that if Goldman, Sachs & Co. shall cease to be a primary U.S. Government securities dealer in New York city (a "Primary Treasury Dealer"), Office Depot shall substitute therefor another Primary Treasury Dealer.

"Reference Treasury Dealer Quotations" means, with respect to each Reference Treasury Dealer and any redemption date, the average as determined by the trustee, of the bid and asked prices of the Comparable Treasury Issue (expressed in each case as a percentage of its principal amount) quoted in writing to the trustee by such Reference Treasury Dealer at 5:00 p.m. on the third Business Day preceding such redemption date.

"Remaining Scheduled Payments" means, with respect to each note to be redeemed, the remaining scheduled payments of the principal thereof and interest thereon that would be due after the related redemption date but for the redemption; provided, however, that, if the redemption date is not an interest payment date with respect to the note, the amount of the next succeeding scheduled interest payment thereon will be reduced by the amount of interest accrued thereon to such redemption date.

"Restricted Investment" means an Investment other than a Permitted Investment.

"Restricted Subsidiary" of a Person means any Subsidiary of the referent Person that is not an Unrestricted Subsidiary.



"Senior Debt" means:

- (1) all Indebtedness of Office Depot outstanding under Credit Facilities and all Hedging Obligations with respect thereto;
- (2) any other Indebtedness of Office Depot permitted to be incurred under the terms of the indenture, unless the instrument under which such Indebtedness is incurred expressly provides that it is on a parity with or subordinated in right of payment to the notes; and
- (3) all Obligations with respect to the items listed in the preceding clauses (1) and (2).

Notwithstanding anything to the contrary in the preceding, Senior Debt will not include:

- (1) any liability for federal, state, local or other taxes owed or owing by Office Depot;
- (2) any intercompany Indebtedness of Office Depot or any of its Subsidiaries to Office Depot or any of its Affiliates;
- (3) any trade payables; or
- (4) the portion of any Indebtedness that is incurred in violation of the indenture.

"Significant Subsidiary" means any Subsidiary that would be a "significant subsidiary" as defined in Article 1, Rule 1-02 of Regulation S-X, promulgated pursuant to the Securities Act of 1933, as that Regulation is in effect on the date hereof.

"Stated Maturity" means, with respect to any installment of interest or principal on any series of Indebtedness, the date on which the payment of interest or principal was scheduled to be paid in the original documentation governing the Indebtedness, and will not include any contingent obligations to repay, redeem or repurchase any interest or principal prior to the date originally scheduled for the payment thereof.

"Subsidiary" means, with respect to any specified Person:

- (1) any corporation, association or other business entity of which more than 50% of the total voting power of shares of Capital Stock entitled (without regard to the occurrence of any contingency) to vote in the election of directors, managers or trustees of the corporation, association or other business entity is at the time owned or controlled, directly or indirectly, by that Person or one or more of the other Subsidiaries of that Person (or a combination thereof); and
- (2) any partnership (a) the sole general partner or the managing general partner of which is the Person or a Subsidiary of the Person or (b) the only general partners of which are that Person or one or more Subsidiaries of that Person (or any combination thereof).

"Unrestricted Subsidiary" means any Subsidiary of Office Depot that is designated by the Board of Directors as an Unrestricted Subsidiary pursuant to a Board Resolution, but only to the extent the Subsidiary:

- (1) has no Indebtedness other than Non-Recourse Debt;
- (2) is not party to any agreement, contract, arrangement or understanding with Office Depot or any Restricted Subsidiary of Office Depot unless the terms of any such agreement, contract, arrangement or understanding are no less favorable to Office Depot or such Restricted Subsidiary than those that might be obtained at the time from Persons who are not Affiliates of Office Depot;
- (3) is a Person with respect to which neither Office Depot nor any of its Restricted Subsidiaries has any direct or indirect obligation (a) to subscribe for additional Equity Interests or (b) to maintain or preserve the Person's financial condition

or to cause the Person to achieve any specified levels of operating results;

- (4) is guaranteeing or otherwise providing credit support for any Indebtedness of Office Depot or any of its Restricted Subsidiaries; and
- (5) has at least one director on its Board of Directors that is not a director or executive officer of Office Depot or any of its Restricted Subsidiaries and has at least one executive officer that is not a director or executive officer of Office Depot or any of its Restricted Subsidiaries.

Any designation of a Subsidiary of Office Depot as an Unrestricted Subsidiary will be evidenced to the trustee by filing with the trustee a certified copy of the Board Resolution giving effect to such designation and an officers' certificate certifying that such designation complied with the preceding conditions and was permitted by the covenant described above under the caption "-- Certain Covenants -- Restricted Payments." If, at any time, any Unrestricted Subsidiary would fail to meet the preceding requirements as an Unrestricted Subsidiary, it will thereafter cease to be an Unrestricted Subsidiary for purposes of the indenture and any Indebtedness of the Subsidiary will be deemed to be incurred by a Restricted Subsidiary of Office Depot as of the date and, if the Indebtedness is not permitted to be incurred as of the date under the covenant described under the caption "-- Certain Covenants -- Undertaking of Indebtedness and Issuance of Preferred Stock," Office Depot will be in default of the covenant. The Board of Directors of Office Depot may at any time designate any Unrestricted Subsidiary to be a Restricted Subsidiary; provided that the designation will be deemed to be an undertaking of Indebtedness by a Restricted Subsidiary of Office Depot of any outstanding Indebtedness of the Unrestricted Subsidiary and the designation will only be permitted if (1) the Indebtedness is permitted under the covenant described under the caption "-- Certain Covenants -- Undertaking of Indebtedness and Issuance of Preferred Stock," calculated on a pro forma basis as if the designation had occurred at the beginning of the four-quarter reference period and (2) no Default or Event of Default would be in existence following the designation.

"Voting Stock" of any Person as of any date means the Capital Stock of the Person that is at the time entitled to vote in the election of the Board of Directors of such Person.

"Weighted Average Life to Maturity" means, when applied to any Indebtedness at any date, the number of years obtained by dividing:

- (1) the sum of the products obtained by multiplying (a) the amount of each then remaining installment, sinking fund, serial maturity or other required payments of principal, including payment at final maturity, in respect of the Indebtedness, by (b) the number of years (calculated to the nearest one-twelfth) that will elapse between such date and the making of such payment; by
- (2) the then outstanding principal amount of such Indebtedness.

"Yen Credit Facility" means that certain credit facility dated July 1, 1994, by and among Office Depot Japan Ltd., Industrial Bank of Japan, Ltd, Union Bank of California, N.A. Tokyo Branch and the Fuji Bank.

## CERTAIN UNITED STATES FEDERAL INCOME TAX CONSIDERATIONS

The following is a discussion of the material U.S. federal income tax consequences relating to the ownership and disposition of the notes based on the Internal Revenue Code of 1986, as amended to the date hereof (the "Code"), administrative pronouncements, judicial decisions and final, temporary and proposed Treasury regulations and interpretations of the foregoing, changes to any of which subsequent to the date of this prospectus may affect the tax consequences described herein, possibly with retroactive effect. This summary discusses notes held as capital assets within the meaning of Section 1221 of the Code. It does not discuss all of the tax consequences that may be relevant to a holder in light of the holder's particular circumstances or to holders subject to special rules, like certain financial institutions, tax-exempt entities, holders whose "functional currency" is not the U.S. dollar, insurance companies, dealers in securities or foreign currencies, foreign partnerships, persons holding notes as part of a hedge, straddle or other integrated transaction, foreign persons engaged in a trade or business in the United States or persons who have ceased to be United States citizens or to be taxed as aliens. The U.S. federal income tax consequences to an owner of a note that is a partnership may depend on the status of its partners and activities of the partnership. Prospective purchasers, including foreign partnerships and their partners, should consult their own tax advisors with regard to the application of federal income tax laws to their particular situation, as well as any tax consequences arising under the laws of any state, local or foreign taxing jurisdiction.

As used herein, a "United States holder" of a note means a beneficial owner of a note that is for United States federal income tax purposes:

- o a citizen or resident of the United States;
- o a corporation or partnership (including an entity treated as a corporation or partnership for United States federal income tax purposes) created or organized in or under the laws of the United States, any state thereof or the District of Columbia (unless, in the case of a partnership, Treasury regulations are adopted that provide otherwise);
- o an estate the income of which is subject to United States federal income taxation regardless of its source; or
- o a trust if a court within the United States is able to exercise primary supervision over the administration of the trust and one or more United States persons have the authority to control all substantial decisions of the trust or the trust has a valid election in effect under applicable Treasury regulations to be treated as a United States person.

As used herein, the term "non-U.S. holder" means a beneficial owner of a note that is not a United States holder.

### TAX CONSEQUENCES OF THE EXCHANGE OFFER

The exchange of old notes for new notes pursuant to the exchange offer will not be a taxable sale or exchange. Holders' basis in the old notes will carry over to the new notes received and the holding period of the new notes will include the holding period of the old notes surrendered. Accordingly, there will be no U.S. Federal income tax consequences to holders who exchange their old notes for new notes in connection with the exchange offer and any such holder will have the same adjusted tax basis and holding period in the new notes as it had in the old notes immediately before the exchange.

### TAX CONSEQUENCES TO UNITED STATES HOLDERS

#### PAYMENTS OF INTEREST

Interest on a note, including additional interest payable upon a Registration Default, if any, will generally be taxable to a United States holder as ordinary interest income at the time it accrues or is received in accordance with the United States holder's regular method of accounting for federal income tax purposes.

## SALES, EXCHANGE OR RETIREMENT OF THE NOTES

Upon the sale, exchange or retirement of a note, a United States holder will recognize gain or loss equal to the difference between the amount realized on the sale, exchange, or retirement of the note and the holder's adjusted tax basis in the note. A United States holder's adjusted tax basis in a note will generally equal the cost of the note to the holder. The amount realized excludes any amounts attributable to interest accrued between interest payment dates which will be includible in income as interest in accordance with the United States holder's method of accounting if not previously included in income. Any gain or loss will be capital gain or loss and will be long-term capital gain or loss if at the time of the sale, exchange, or retirement the note has been held for more than one year. Under current law, the excess of net long-term capital gains over net short-term capital losses is taxed at a lower rate than ordinary income for certain non-corporate taxpayers. The distinction between capital gain or loss and ordinary income or loss is also relevant for purposes of, among other things, the limitations on the deductibility of capital losses.

## TAX CONSEQUENCES TO NON-U.S. HOLDERS

### PAYMENTS OF INTEREST

Subject to the discussion below concerning backup withholding, payments of interest on the notes, including additional interest payable upon a Registration Default, if any, by us or any paying agent to any non-U.S. holder will not be subject to U.S. federal income tax or a 30% withholding tax provided that (i) the interest is not effectively connected with the conduct by the holder of a trade or business in the United States, (ii) the holder does not own, actually or constructively, 10% or more of the combined voting power of all classes of our stock entitled to vote, (iii) the holder is not a controlled foreign corporation (within the meaning of the Code) that is related, directly or indirectly, to us through stock ownership and (iv) the certification requirements required to claim the portfolio interest exemption set forth in Section 871(h) or Section 881(c) of the Code have been fulfilled with respect to the beneficial owner. Generally, to satisfy the certification requirements set forth in Section 871(h) or Section 881(c) of the Code, the beneficial owner of a note must certify on IRS Form W-8BEN, under penalties of perjury, that the holder is not a United States person. If notes are held by a foreign partnership or a foreign intermediary, certain certification requirements apply to the foreign partnership or the foreign intermediary, as the case may be, as well as partners and beneficial owners, as the case may be.

### SALE, EXCHANGE OR RETIREMENT OF THE NOTES

Subject to the discussion below concerning backup withholding, a non-U.S. holder of a note will not be subject to U.S. federal income tax on any gain realized on the sale, exchange or other disposition of a note unless (i) the holder is an individual who is present in the United States for 183 days or more during the taxable year of disposition and certain other conditions are met or (ii) the gain is effectively connected with the conduct by the holder of a trade or business in the United States.

### EFFECTIVELY CONNECTED INCOME

If a non-U.S. holder is engaged in a trade or business in the United States and its investment in a note is effectively connected with that trade or business, the non-U.S. holder, although exempt from the 30% withholding tax (provided a required certification, generally on IRS form W-8ECI, is met), will generally be subject to regular U.S. federal income tax on any interest and gain with respect to the notes in the same manner as if it were a United States holder and may also be subject to branch profits tax at 30% (or a reduced rate under an applicable treaty).

### INFORMATION REPORTING AND BACKUP WITHHOLDING

Both a United States Holder and a Non-United States Holder of notes may be subject to information reporting and backup withholding which is presently at a rate of up to 31% on certain amounts paid to the holder unless such holder provides proof of an applicable exemption (including a general exemption for Non-U.S. Holders and for corporations) or correct taxpayer identification number, and otherwise complies with applicable requirements of the information reporting and backup withholding rules. Any amount withheld under the backup

withholding rules may be allowed as a refund or a credit against the holder's United States federal income tax liability, provided that the required information is furnished to the Internal Revenue Service.

Under current United States federal income tax law, information reporting requirements apply to certain payments of principal and interest made to, and to the proceeds of sales before maturity by, non-corporate United States holders. In addition, a backup withholding tax at a rate of up to 31% will apply if the non-corporate United States holder (i) fails to furnish its Taxpayer Identification Number ("TIN") which, for an individual, is his Social Security Number, (ii) furnishes an incorrect TIN, (iii) is notified by the IRS that it has failed to properly report payments of interest and dividends, or (iv) under certain circumstances, fails to certify, under penalty of perjury, that it has furnished a correct TIN and has not been notified by the IRS that it is subject to backup withholding for failure to report interest and dividend payments. Holders should consult their tax advisers regarding their qualification for exemption from backup withholding and the procedure for obtaining such an exemption if applicable.

Under current Treasury regulations, payments on the sale, exchange, or other disposition of a note made to or through a foreign office of a broker generally will not be subject to information reporting or backup withholding. However, if the broker is (i) a United States person, (ii) a controlled foreign corporation for United States federal income tax purposes, (iii) a foreign person 50% or more of whose gross income is effectively connected with a United States trade or business for a specified three-year period, or (iv) a foreign partnership if, at any time during its tax year, one or more of its partners are United States persons who in the aggregate hold more than 50% of the income or capital interests in the partnership or if the partnership is engaged in a trade or business in the United States, then information reporting will be required unless the broker has in its records documentary evidence that the beneficial owner is not a United States person and certain other conditions are met or the beneficial owner otherwise establishes an exemption. Backup withholding may apply to any payment that the broker is required to report if the broker has actual knowledge that the payee is a United States person. Payments to or through the United States office of a broker will be subject to backup withholding and information reporting unless the beneficial owner certifies, under penalties of perjury, that it is not a United States person or otherwise establishes an exemption.

#### PLAN OF DISTRIBUTION

Each broker-dealer that receives new notes for its own account in connection with the exchange offer must acknowledge that it will deliver a prospectus in connection with any resale of new notes. This prospectus, as it may be amended or supplemented from time to time, may be used by a broker-dealer in connection with resales of new notes received in exchange for old notes where the old notes were acquired as a result of market-making activities or other trading activities. We have agreed that for a period of 180 days after the expiration date, we will make available a prospectus, as amended or supplemented, meeting the requirements of the Securities Act of 1933 to any broker-dealer for use in connection with any such resale. In addition, until [Date], 2001 (90 days after the date of this prospectus), all dealers effecting transactions in the new notes may be required to deliver a prospectus.

We will not receive any proceeds from any sale of new notes by broker-dealers. New notes received by broker-dealers for their own account pursuant to the exchange offer may be sold from time to time in one or more transactions in the over-the-counter market, in negotiated transactions, through the writing of options on the new notes or a combination of those methods of resale, at market prices prevailing at the time of resale, at prices related to the prevailing market prices or negotiated prices. Any resale may be made directly to purchasers or to or through brokers or dealers who may receive compensation in the form of commissions or concessions from any broker-dealer or the purchasers of any new notes. Any broker-dealer that resells new notes that were received by it for its own account pursuant to the exchange offer and any broker or dealer that participates in a distribution of new notes may be deemed to be an "underwriter" within the meaning of the Securities Act of 1933, and any profit on any resale of new notes and any commissions or concessions received by any such persons may be deemed to be underwriting compensation under the Securities Act of 1933. The letter of transmittal states that by acknowledging that it will deliver and by delivering a prospectus, a broker-dealer will not be deemed to admit that it is an "underwriter" within the meaning of the Securities Act of 1933.

Each initial purchaser of the old notes agreed that (i) it had not offered or sold, and prior to the six months after the date of issue of the old notes would not offer or sell any notes to persons in the United Kingdom except to persons whose ordinary activities involve them in acquiring, holding, managing or disposing of investments (as principal or agent) for purposes of their businesses or otherwise in circumstances which have not resulted and will

not result in an offer to the public in the United Kingdom within the meaning of the Public Offers of Securities Regulations 1995; (ii) it had complied, and will comply with, all applicable provisions of the Financial Services Act 1986 of Great Britain with respect to anything done by it in relation to the notes in, from or otherwise involving the United Kingdom, and (iii) it had only issued or passed on and will only issue or pass on in the United Kingdom any document received by it in connection with the issuance of the notes to a person who is of a kind described in Article 11(3) of the Financial Services Act 1986 (Investment Advertisements) (Exemptions) Order 1996 (as amended) or is a person to whom the document may otherwise lawfully be issued or passed on.

The notes may not be offered, sold, transferred or delivered in or from The Netherlands, as part of their initial distribution or as part of any re-offering, and neither this prospectus nor any other document in respect of the exchange offer may be distributed or circulated in The Netherlands, other than to individuals or legal entities which include, but are not limited to, banks, brokers, dealers, institutional investors and undertakings with a treasury department, who or which trade or invest in securities in the conduct of a business or profession.

#### LEGAL MATTERS

The validity of the new notes offered hereby will be passed on by McDermott, Will & Emery, Chicago, Illinois.

#### EXPERTS

The financial statements and the related financial statement schedules incorporated in this prospectus by reference from the Office Depot's Annual Report on Form 10-K for the year ended December 30, 2000 have been audited by Deloitte & Touche LLP, independent auditors, as stated in their reports, which are incorporated herein by reference, and have been so incorporated in reliance upon the reports of such firm given upon their authority as experts in accounting and auditing.

\$250,000,000 10% Senior Subordinated Notes Due 2008

[OFFICE DEPOT LOGO]

OFFICE DEPOT, INC.

Offer to Exchange  
all Outstanding 10% Senior Subordinated Notes Due 2008 for  
10% Senior Subordinated Notes Due 2008 that have been Registered under  
the Securities Act of 1933

-----  
PROSPECTUS

[Date], 2001

-----

Until [Date], 2001, all dealers that effect transactions in these securities, whether or not participating in this exchange offer, may be required to deliver a prospectus. This is in addition to the dealers' obligation to deliver a prospectus when acting as underwriters and with respect to their unsold allotments or subscriptions.

PART II

INFORMATION NOT REQUIRED IN THE PROSPECTUS

ITEM 20. INDEMNIFICATION OF DIRECTORS AND OFFICERS.

The General Corporation law of the State of Delaware (the "Delaware Law") permits indemnification of directors, employees and agents of corporations under certain conditions and subject to certain limitations. Pursuant to the Delaware Law, Office Depot has included in its Restated Certificate of Incorporation and bylaws a provision to eliminate the personal liability of its directors for monetary damages for breach or alleged breach of their duty of care to the fullest extent permitted by Delaware Law and to provide that Office Depot shall indemnify its directors and officers to the fullest extent permitted by the Delaware Law. Office Depot believes that its charter and bylaw provisions are necessary to attract and retain qualified persons as directors and officers.

Office Depot has obtained insurance policies under which its directors and officers are insured, within the limits and subject to the limitations of the policies, against certain expenses in connection with the defense of certain actions, suits or proceedings, and certain liabilities which might be imposed as a result of certain actions, suits or proceedings, to which they are parties by reason of being or having been such directors or officers.

ITEM 21. EXHIBITS.

Exhibit Number -----	Description of Exhibit -----
4(a)*	Indenture, dated as of July 2, 2001, between Office Depot, Inc. and SunTrust Bank, N.A., relating to the 10% Senior Subordinated Notes due 2008.
4(b)*	Exchange and Registration Rights Agreement dated July 2, 2001 between Office Depot, Inc. and Goldman Sachs, as representatives of the purchasers.
4(c)	Form of Indenture (including form of LYON(R)) between Office Depot, Inc. and The Bank of New York, as Trustee (incorporated by reference to the respective exhibit to the Office Depot's Registration Statement No. 33-54574).
4(d)	Form of Indenture (including form of LYON(R)) between Office Depot, Inc. and Bankers Trust Company, as Trustee (incorporated by reference to the respective exhibit to the Office Depot's Registration Statement No. 33-70378).
5*	Opinion of McDermott, Will & Emery as to the legality of the securities being registered.
12*	Computation of Ratios of Earnings to Fixed Charges.
23(a)	Consent of McDermott, Will & Emery (included in its opinion filed as Exhibit 5).
23(b)	Consent of Deloitte & Touche LLP.
24*	Power of Attorney.
25	Statement of Eligibility and Qualification under the Trust Indenture Act of 1939 of SunTrust Bank, as Trustee, on Form T-1, relating to the 10% Senior Subordinated Notes due 2008.
99.1	Letter of Transmittal.
99.2	Notice of Guaranteed Delivery.
99.3	Letters to Brokers, Dealers, Commercial banks, Trust Companies and Other Nominees.



99.4 Letter to Clients.

99.5 Tax Guidelines.

-----  
\*previously filed.

ITEM 22. UNDERTAKINGS.

- (a) The undersigned registrant hereby undertakes that, for purposes of determining any liability under the Securities Act of 1933, each filing of the registrant's annual report pursuant to Section 13(a) or Section 15(d) of the Securities Exchange Act of 1934 (and, where applicable, each filing of an employee benefit plan's annual report pursuant to Section 15(d) of the Securities Exchange Act of 1934) that is incorporated by reference in the registration statement shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at the time shall be deemed to be the initial bona fide offering thereof.
- (b) Insofar as indemnification for liabilities arising under the Securities Act of 1933 may be permitted to directors, officers and controlling persons of the registrant pursuant to the foregoing provisions, or otherwise, the registrant has been advised that in the opinion of the Securities and Exchange Commission such indemnification is against public policy as expressed in the Act and is, therefore, unenforceable. In the event that a claim for indemnification against such liabilities (other than the payment by the registrant of expenses incurred or paid by a director, officer or controlling person of the registrant in the successful defense of any action, suit or proceeding) is asserted by such director, officer or controlling person in connection with the securities being registered, the registrant will, unless in the opinion of its counsel the matter has been settled by controlling precedent, submit to a court of appropriate jurisdiction the question whether such indemnification by it is against public policy as expressed in the Act and will be governed by the final adjudication of such issue.
- (c) The undersigned registrant hereby undertakes to respond to requests for information that is incorporated by reference into the prospectus pursuant to Items 4, 10(b), 11, or 13 of this Form, within one business day of receipt of such request, and to send the incorporated documents by first class mail or other equally prompt means. This includes information contained in documents filed subsequent to the effective date of the registration statement through the date of responding to the request.
- (d) The undersigned registrant hereby undertakes to supply by means of a post-effective amendment all information concerning a transaction, and the company being acquired involved therein, that was not the subject of and included in the registration statement when it became effective.

SIGNATURES

Pursuant to the requirements of the Securities Act of 1933, the registrant has duly caused this Amendment No. 1 to Form S-4 Registration Statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Delray Beach, Florida, on this 10th day of September, 2001.

OFFICE DEPOT, INC.

By: /s/ David C. Fannin

-----  
Name: David C. Fannin  
Title: Executive Vice President, General Counsel  
and Secretary

Pursuant to the requirements of the Securities Act of 1933, this Registration Statement has been signed by the following persons in the capacities indicated on this 10th day of September, 2001.

Signature  
-----

Title  
-----

/s/ \* \_\_\_\_\_ Chief Executive Officer and member of the Board  
M. Bruce Nelson of Directors (a Principal Executive Officer)

/s/ \* \_\_\_\_\_ President, North American Retail Stores  
Jerry Colley (a Principal Executive Officer)

/s/ \* \_\_\_\_\_ President, Business Services Group  
Robert J. Keller (a Principal Executive Officer)

/s/ \* \_\_\_\_\_ President, European Operations  
Rolf Van Kaldekerken (a Principal Executive Officer)

/s/ \* \_\_\_\_\_ Senior Vice President, Finance and Controller  
Charles Brown (Principal Financial Officer and Controller)

/s/ \* \_\_\_\_\_ Chairman of the Board of Directors  
David I. Fuente

/s/ \* \_\_\_\_\_ Vice Chairman of the Board of Directors  
Irwin Helford

/s/ \* \_\_\_\_\_ Director  
Lee A. Ault III

/s/ \* \_\_\_\_\_ Director  
Neil A. Austrian

/s/ \* \_\_\_\_\_ Director  
Cynthia R. Cohen

/s/ \* \_\_\_\_\_ Director  
W. Scott Hedrick

/s/ \* \_\_\_\_\_ Director  
James L. Heskett

/s/ \* \_\_\_\_\_ Director  
Michael J. Myers

/s/ \* \_\_\_\_\_ Director  
Frank P. Scruggs, Jr.

/s/ \* \_\_\_\_\_ Director  
Peter J. Solomon

\* By: /s/ David C. Fannin  
-----  
Name: David C. Fannin  
Title: Executive Vice President, General Counsel  
and Secretary

Pursuant to a power of attorney

OFFICE DEPOT, INC.

10% SENIOR SUBORDINATED NOTES DUE 2008

-----  
 INDENTURE

Dated as of July 2, 2001  
 -----

SunTrust Bank

Trustee  
 -----

-----  
 CROSS-REFERENCE TABLE\*

Trust Indenture Act Section	Indenture Section
310(a)(1).....	7.10
(a)(2).....	7.10
(a)(3).....	N.A.
(a)(4).....	N.A.
(a)(5).....	7.10
(b).....	7.10
(c).....	N.A.
311(a).....	7.11
(b).....	7.11
(c).....	N.A.
312(a).....	2.05
(b).....	12.03
(c).....	12.03
313(a).....	7.06
(b)(1).....	10.03
(b)(2).....	7.07
(c).....	7.06, 12.02
(d).....	7.06
314(a).....	4.03, 12.02
(b).....	N.A.
(c)(1).....	12.04
(c)(2).....	12.04
(c)(3).....	N.A.
(d).....	N.A.
(e).....	12.05
(f).....	N.A.
315(a).....	7.01
(b).....	7.05, 12.02
(c).....	7.01
(d).....	7.01
(e).....	6.11
316(a) (last sentence).....	2.09
(a)(1)(A).....	6.05
(a)(1)(B).....	6.04
(a)(2).....	N.A.
(b).....	6.07
(c).....	2.12
317(a)(1).....	6.08
(a)(2).....	6.09
(b).....	2.04
318(a).....	12.01

(b).....  
(c).....

N.A.  
12.01

N.A. means not applicable.

\* This Cross Reference Table is not part of the Indenture.

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EXHIBITS

Exhibit A	FORM OF NOTE
Exhibit B	FORM OF CERTIFICATE OF TRANSFER
Exhibit C	FORM OF CERTIFICATE OF EXCHANGE
Exhibit D	FORM OF CERTIFICATE OF ACQUIRING INSTITUTIONAL ACCREDITED INVESTOR

INDENTURE dated as of July 2, 2001 between Office Depot, Inc., a Delaware corporation (the "Company"), and SunTrust Bank, as trustee (the "Trustee").

The Company and the Trustee agree as follows for the benefit of each other and for the equal and ratable benefit of the Holders of the 10% Series A Senior Subordinated Notes due 2008 (the "Series A Notes") and the 10% Series B Senior Subordinated Notes due 2008 (the "Series B Notes" and, together with the Series A Notes, the "Notes"):

ARTICLE 1.  
DEFINITIONS AND INCORPORATION  
BY REFERENCE

Section 1.01. Definitions.

"144A Global Note" means a Global Note substantially in the form of Exhibit A hereto bearing the Global Note Legend and the Private Placement Legend and deposited with or on behalf of, and registered in the name of, the Depository or its nominee that will be issued in a denomination equal to the outstanding principal amount of the Notes sold in reliance on Rule 144A.

"Acquired Debt" means, with respect to any specified Person:

- (i) Indebtedness of any other Person existing at the time such other Person is merged with or into or became a Subsidiary of such specified Person, whether or not such Indebtedness is incurred in connection with, or in contemplation of, such other Person merging with or into, or becoming a Subsidiary of, such specified Person; and
- (ii) Indebtedness secured by a Lien encumbering any asset acquired by such specified Person.

"Adjusted Treasury Rate" means, with respect to any redemption date, the rate per annum equal to the semiannual equivalent yield to maturity of the Comparable Treasury Issue, assuming a price for the Comparable Treasury Issue (expressed as a percentage of its principal amount) equal to the Comparable Treasury Price for such redemption date, plus 50 basis points.

"Affiliate" of any specified Person means any other Person directly or indirectly controlling or controlled by or under direct or indirect common control with such specified Person. For purposes of this definition, "control," as used with respect to any Person, shall mean the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of such Person, whether through the ownership of voting securities, by agreement or otherwise; provided that beneficial ownership of 10% or more of the Voting Stock of a Person will be deemed to be control. For purposes of this definition, the terms "controlling," "controlled by" and "under common control with" have correlative meanings. No Person (other than the Company or any Subsidiary of the Company) in whom a Receivables Subsidiary makes an Investment in connection with a Qualified Receivables Transaction will be deemed to be an Affiliate of the Company or any of its Subsidiaries solely by reason of such Investment. "Agent" means any Registrar, Paying Agent or co-registrar.

"Applicable Procedures" means, with respect to any transfer or exchange of or for beneficial interests in any Global Note, the rules and procedures of the Depository, Euroclear and Clearstream that apply to such transfer or exchange.

"Asset Sale" means:

- (i) the sale, lease, conveyance or other disposition of any assets or rights, other than sales of inventory in the ordinary course of business; provided that the sale, conveyance or other disposition of all or substantially all of the assets of the Company and its Subsidiaries taken as a whole will be governed by the provisions of Section 4.14 hereof and/or Section 5.01 hereof and not by the provisions of Section 4.10 hereof; and
- (ii) the issuance of Equity Interests in any of the Company's Restricted Subsidiaries or the sale of Equity Interests in any of its Subsidiaries.

Notwithstanding the preceding, none of the following items shall be deemed to be Asset Sales:

- (i) any single transaction or series of related transactions that involves assets having a fair market value of less than \$10.0 million;
- (ii) a transfer of assets between or among the Company and its Subsidiaries;
- (iii) an issuance of Equity Interests by a Subsidiary to the Company or to another Subsidiary;
- (iv) the sale or lease of equipment, inventory, accounts receivable or other assets in the ordinary course of business;
- (v) the sale or other disposition of cash or Cash Equivalents;
- (vi) sales of accounts receivable and related assets of the type specified in the definition of "Qualified Receivables Transaction" to a Receivables Subsidiary for the fair market value thereof, including cash in an amount at least equal to 75% of the book value thereof as determined in accordance with GAAP, it being understood that, for the purposes of this clause (vi), Notes received in exchange for the transfer of accounts receivable and related assets shall be deemed cash if the Receivables Subsidiary or other payor is required to repay said Notes as soon as practicable from available cash collections less amounts required to be established as reserves pursuant to contractual agreements with entities that are not Affiliates of the Company entered into as part of a Qualified Receivables Transaction;
- (vii) transfers of accounts receivable and related assets of the type specified in the definition of "Qualified Receivables Transaction" (or a fractional undivided interest therein) by a Receivables Subsidiary in a Qualified Receivables Transaction;
- (viii) sale of assets deemed to occur in sale/lease back transactions in an amount not to exceed \$175 million; or
- (ix) a Restricted Payment or Permitted Investment that is permitted by Section 4.07 hereof.

"Bankruptcy Law" means Title 11, U.S. Code or any similar federal or state law for the relief of debtors.

"Beneficial Owner" has the meaning assigned to such term in Rule 13d-3 and Rule 13d-5 under the Exchange Act, except that in calculating the beneficial ownership of any particular "person" (as that term is used in Section 13(d)(3) of the Exchange Act), such "person" will be deemed to have beneficial ownership of all securities that such "person" has the right to acquire by conversion or exercise of other securities, whether such right is currently exercisable or is

exercisable only upon the occurrence of a subsequent condition. The terms "Beneficially Owns" and "Beneficially Owned" have a corresponding meaning.

"Board of Directors" means:

- (i) with respect to a corporation, the Board of Directors of the corporation;
- (ii) with respect to a partnership, the Board of Directors of the general partner of the partnership; and
- (iii) with respect to any other Person, the board or committee of such Person serving a similar function.

"Broker-Dealer" has the meaning set forth in the Registration Rights Agreement.

"Business Day" means any day other than a Legal Holiday.

"Capital Lease Obligation" means, at the time any determination is to be made, the amount of the liability in respect of a capital lease that would at such time be required to be capitalized on a balance sheet in accordance with GAAP.

"Capital Stock" means:

- (i) in the case of a corporation, corporate stock;
- (ii) in the case of an association or business entity, any and all shares, interests, participations, rights or other equivalents (however designated) of corporate stock;
- (iii) in the case of a partnership or limited liability company, partnership or membership interests (whether general or limited); and
- (iv) any other interest or participation that confers on a Person the right to receive a share of the profits and losses of, or distributions of assets of, the issuing Person.

"Cash Equivalents" means:

- (i) United States dollars;
- (ii) securities issued or directly and fully guaranteed or insured by the United States government or any agency or instrumentality of the United States government (provided that the full faith and credit of the United States is pledged in support of those securities) having maturities of not more than six months from the date of acquisition;
- (iii) certificates of deposit and eurodollar time deposits with maturities of six months or less from the date of acquisition, bankers' acceptances with maturities not exceeding six months and overnight bank deposits, in each case, with any domestic commercial bank having capital and surplus in excess of \$500.0 million and a Thomson Bank Watch Rating of "B" or better;
- (iv) repurchase obligations with a term of not more than seven days for underlying securities of the types described in clauses (ii) and (iii) above entered into with any financial institution meeting the qualifications specified in clause (iii) above;

- (v) commercial paper having the highest rating obtainable from Moody's or S&P and in each case maturing within six months after the date of acquisition; and
- (vi) money market funds at least 90% of the assets of which constitute Cash Equivalents of the kinds described in clauses (i) through (v) of this definition.

"Change of Control" means the occurrence of any of the following:

- (i) the direct or indirect sale, transfer, conveyance or other disposition (other than by way of merger or consolidation), in one or a series of related transactions, of all or substantially all of the properties or assets of the Company and its Restricted Subsidiaries taken as a whole to any "person" (as that term is used in Section 13(d)(3) of the Exchange Act);
- (ii) the adoption of a plan relating to the liquidation or dissolution of the Company;
- (iii) the consummation of any transaction (including, without limitation, any merger or consolidation) the result of which is that any "person" (as defined above), becomes the Beneficial Owner, directly or indirectly, of more than 50% of the Voting Stock of the Company, measured by voting power rather than number of shares; or
- (iv) the first day on which a majority of the members of the Board of Directors of the Company are not Continuing Directors.

"Clearstream" means Clearstream Banking S.A.

"Company" means Office Depot, Inc., and any and all successors thereto.

"Comparable Treasury Issue" means the United States Treasury Security selected by an Independent Investment Banker as having a maturity comparable to the remaining term of the Notes that would be utilized, at the time of selection and in accordance with customary financial practice, in pricing new issues of corporate debt securities of comparable maturity to the remaining term of the Notes.

"Comparable Treasury Price" means, with respect to any redemption date, (i) the average of the bid and asked prices for the Comparable Treasury Issue (expressed in each case as a percentage of its principal amount) on the third Business Day preceding such redemption date, as set forth in the daily statistical release (or any successor release) published by the Federal Reserve Bank of New York and designated "Composite 3:30 p.m. Quotations for U.S. Government Securities" or (ii) if such release (or any successor release) is not published or does not contain such prices on such Business Day, (A) the Reference Treasury Dealer Quotations for such redemption date, after excluding the highest and lowest of such Reference Treasury Dealer Quotations, or (B) if the Trustee obtains fewer than three such Reference Treasury Dealer Quotations, the average of all such Quotations.

"Consolidated Cash Flow" means, with respect to any specified Person for any period, the Consolidated Net Income of such Person for such period plus:

- (i) an amount equal to any extraordinary loss plus any net loss realized by such Person or any of its Restricted Subsidiaries in connection with an Asset Sale, to the extent such losses were deducted in computing such Consolidated Net Income; plus

- (ii) provision for taxes based on income or profits of such Person and its Restricted Subsidiaries for such period, to the extent that such provision for taxes was deducted in computing such Consolidated Net Income; plus
- (iii) consolidated interest expense of such Person and its Restricted Subsidiaries for such period, whether paid or accrued and whether or not capitalized (including, without limitation, amortization of debt issuance costs and original issue discount, non-cash interest payments, the interest component of any deferred payment obligations, the interest component of all payments associated with Capital Lease Obligations, commissions, discounts and other fees and charges incurred in respect of letter of credit or bankers' acceptance financings, and net of the effect of all payments made or received pursuant to Hedging Obligations), to the extent that any such expense was deducted in computing such Consolidated Net Income; plus
- (iv) depreciation, amortization (including amortization of goodwill and other intangibles but excluding amortization of prepaid cash expenses that were paid in a prior period) and other non-cash expenses (excluding any such non-cash expense to the extent that it represents an accrual of or reserve for cash expenses in any future period or amortization of a prepaid cash expense that was paid in a prior period) of such Person and its Restricted Subsidiaries for such period to the extent that such depreciation, amortization and other non-cash expenses were deducted in computing such Consolidated Net Income; minus
- (v) non-cash items increasing such Consolidated Net Income for such period, other than the accrual of revenue in the ordinary course of business,

in each case, on a consolidated basis and determined in accordance with GAAP.

"Consolidated Net Income" means, with respect to any specified Person for any period, the aggregate of the Net Income of such Person and its Subsidiaries for such period, on a consolidated basis, determined in accordance with GAAP; provided that:

- (i) the Net Income (but not loss) of any Person that is not a Subsidiary or that is accounted for by the equity method of accounting shall be included only to the extent of the amount of dividends or distributions paid in cash to the specified Person or a Restricted Subsidiary of the Person;
- (ii) the Net Income of any Restricted Subsidiary shall be excluded to the extent that the declaration or payment of dividends or similar distributions by that Restricted Subsidiary of that Net Income is not at the date of determination permitted without any prior governmental approval (that has not been obtained) or, directly or indirectly, by operation of the terms of its charter or any agreement, instrument, judgment, decree, order, statute, rule or governmental regulation applicable to that Restricted Subsidiary or its stockholders;
- (iii) the Net Income of any Person acquired in a pooling of interests transaction for any period prior to the date of such acquisition shall be excluded;
- (iv) the cumulative effect of a change in accounting principles shall be excluded;
- (v) charges taken by the Company in connection with the restructuring of its operations in an amount not to exceed \$260.7 million shall be excluded; and
- (vi) the Net Income (but not loss) of any Unrestricted Subsidiary shall be excluded (except to the extent distributed to the Company or one of its Restricted Subsidiaries).

"Consolidated Net Worth" means, with respect to any specified Person as of any date, the sum of:

- (i) the consolidated equity of the common stockholders of such Person and its consolidated Subsidiaries as of such date; plus
- (ii) the respective amounts reported on such Person's balance sheet as of such date with respect to any series of preferred stock (other than Disqualified Stock) that by its terms is not entitled to the payment of dividends unless such dividends may be declared and paid only out of net earnings in respect of the year of such declaration and payment, but only to the extent of any cash received by such Person upon issuance of such preferred stock.

"Continuing Directors" means, as of any date of determination, any member of the Board of Directors of the Company who:

- (i) was a member of such Board of Directors on the date of this Indenture; or
- (ii) was nominated for election or elected to such Board of Directors with the approval of a majority of the Continuing Directors who were members of such Board at the time of such nomination or election.

"Corporate Trust Office of the Trustee" shall be at the address of the Trustee specified in Section 12.02 hereof or such other address as to which the Trustee may give notice to the Company.

"Credit Facilities" means one or more debt facilities or commercial paper facilities, in each case with banks or other institutional lenders providing for revolving credit loans, term loans, receivables financing (including through the sale of receivables to such lenders or to special purpose entities formed to borrow from such lenders against such receivables) or letters of credit, in each case, as amended, restated, modified, renewed, refunded, replaced or refinanced in whole or in part from time to time.

"Custodian" means the Trustee, as custodian with respect to the Notes in global form, or any successor entity thereto.

"Default" means any event that is, or with the passage of time or the giving of notice or both would be, an Event of Default.

"Definitive Note" means a certificated Note registered in the name of the Holder thereof and issued in accordance with Section 2.06 hereof, substantially in the form of Exhibit A hereto except that such Note shall not bear the Global Note Legend and shall not have the "Schedule of Exchanges of Interests in the Global Note" attached thereto.

"Depository" means, with respect to the Notes issuable or issued in whole or in part in global form, the Person specified in Section 2.03 hereof as the Depository with respect to the Notes, and any and all successors thereto appointed as depository hereunder and having become such pursuant to the applicable provision of this Indenture.

"Disqualified Stock" means any Capital Stock that, by its terms (or by the terms of any security into which it is convertible, or for which it is exchangeable, in each case at the option of the holder of the Capital Stock), or upon the happening of any event, matures or is mandatorily redeemable, pursuant to a sinking fund obligation or otherwise, or redeemable at the option of the holder of the Capital Stock, in whole or in part, on or prior to the date that is 91 days after the date on which the Notes mature. Notwithstanding the preceding sentence, any Capital Stock that would constitute Disqualified Stock

solely because the holders of the Capital Stock have the right to require the Company to repurchase such Capital Stock upon the occurrence of a change of control or an asset sale shall not constitute Disqualified Stock if the terms of such Capital Stock provide that the Company may not repurchase or redeem any such Capital Stock pursuant to such provisions unless such repurchase or redemption complies with Section 4.07 hereof.

"Equity Interests" means Capital Stock and all warrants, options or other rights to acquire Capital Stock (but excluding any debt security that is convertible into, or exchangeable for, Capital Stock) and beneficial interests and trusts created by a Receivables Subsidiary.

"Euroclear" means Euroclear Bank S.A./N.V., as operator of the Euroclear system.

"Exchange Act" means the Securities Exchange Act of 1934, as amended.

"Exchange Notes" means the Notes issued in the Exchange Offer pursuant to Section 2.06(f) hereof.

"Exchange Offer" has the meaning set forth in the Registration Rights Agreement.

"Exchange Offer Registration Statement" has the meaning set forth in the Registration Rights Agreement.

"Existing Credit Facilities" means (1) the \$255 million, 364-Day Revolving Credit Agreement dated May 10, 2001 among the Company, Bank One, N.A., BNP Paribas, Citibank, N.A., First Union National Bank, Fleet National Bank, The Royal Bank of Scotland, SunTrust Bank and Wells Fargo Bank, N.A.; and (2) the \$300 million, five-year, Revolving Credit and Line of Credit Agreement dated February 20, 1998 among the Company, SunTrust Bank and other lenders.

"Existing Indebtedness" means the aggregate principal amount of Indebtedness of the Company and its Restricted Subsidiaries (other than Indebtedness under Credit Facilities) in existence on the date of this Indenture, until such amounts are repaid.

"Fixed Charges" means, with respect to any specified Person for any period, the sum, without duplication, of:

- (i) the consolidated interest expense of such Person and its Restricted Subsidiaries for such period, whether paid or accrued, including, without limitation, amortization of debt issuance costs and original issue discount, non-cash interest payments, the interest component of any deferred payment obligations, the interest component of all payments associated with Capital Lease Obligations, commissions, discounts and other fees and charges incurred in respect of letter of credit or bankers' acceptance financings, and net of the effect of all payments made or received pursuant to Hedging Obligations; plus
- (ii) the consolidated interest of such Person and its Restricted Subsidiaries that was capitalized during such period; plus
- (iii) any interest expense on Indebtedness of another Person that is Guaranteed by such Person or one of its Restricted Subsidiaries or secured by a Lien on assets of such Person or one of its Restricted Subsidiaries, whether or not such Guarantee or Lien is called upon; plus



- (iv) the product of (a) all dividends, whether paid or accrued and whether or not in cash, on any series of preferred stock of such Person or any of its Restricted Subsidiaries, other than dividends on Equity Interests payable solely in Equity Interests of the Company (other than Disqualified Stock) or to the Company or a Restricted Subsidiary of the Company, times (b) a fraction, the numerator of which is one and the denominator of which is one minus the then current combined federal, state and local statutory tax rate of such Person, expressed as a decimal, in each case, on a consolidated basis and in accordance with GAAP.

"Fixed Charge Coverage Ratio" means with respect to any specified Person and its Restricted Subsidiaries for any period, the ratio of the Consolidated Cash Flow of such Person for such period to the Fixed Charges of such Person for such period. In the event that the specified Person or any of its Restricted Subsidiaries incurs, assumes, Guarantees, repays, repurchases or redeems any Indebtedness (other than ordinary working capital borrowings) or issues, repurchases or redeems preferred stock subsequent to the commencement of the period for which the Fixed Charge Coverage Ratio is being calculated and on or prior to the date on which the event for which the calculation of the Fixed Charge Coverage Ratio is made (the "Calculation Date"), then the Fixed Charge Coverage Ratio will be calculated giving pro forma effect to such incurrence, assumption, Guarantee, repayment, repurchase or redemption of Indebtedness, or such issuance, repurchase or redemption of preferred stock, and the use of the proceeds therefrom as if the same had occurred at the beginning of the applicable four-quarter reference period.

In addition, for purposes of calculating the Fixed Charge Coverage Ratio:

- (i) acquisitions that have been made by the specified Person or any of its Restricted Subsidiaries, including through mergers or consolidations and including any related financing transactions, during the four-quarter reference period or subsequent to such reference period and on or prior to the Calculation Date will be given pro forma effect as if they had occurred on the first day of the four-quarter reference period and Consolidated Cash Flow for such reference period shall be calculated on a pro forma basis in accordance with Regulation S-X under the Securities Act, but without giving effect to clause (iii) of the proviso set forth in the definition of Consolidated Net Income;
- (ii) the Consolidated Cash Flow attributable to discontinued operations, as determined in accordance with GAAP, and operations or businesses disposed of prior to the Calculation Date, will be excluded; and
- (iii) the Fixed Charges attributable to discontinued operations, as determined in accordance with GAAP, and operations or businesses disposed of prior to the Calculation Date, shall be excluded, but only to the extent that the obligations giving rise to such Fixed Charges shall not be obligations of the specified Person or any of its Subsidiaries following the Calculation Date.

"GAAP" means generally accepted accounting principles set forth in the opinions and pronouncements of the Accounting Principles Board of the American Institute of Certified Public Accountants and statements and pronouncements of the Financial Accounting Standards Board or in such other statements by such other entity as have been approved by a significant segment of the accounting profession, which are in effect on the date of this Indenture.

"Global Notes" means, individually and collectively, each of the Restricted Global Notes and the Unrestricted Global Notes, substantially in the form of Exhibit A hereto issued in accordance with Section 2.01, 2.06(b)(iv), 2.06(d)(ii) or 2.06(f) hereof.

"Global Note Legend" means the legend set forth in Section 2.06(g)(ii), which is required to be placed on all Global Notes issued under this Indenture.

"Government Securities" means direct obligations of, or obligations guaranteed by, the United States of America, and the payment for which the United States pledges its full faith and credit.

"Guarantee" means a guarantee other than by endorsement of negotiable instruments for collection in the ordinary course of business, direct or indirect, in any manner including, without limitation, by way of a pledge of assets or through letters of credit or reimbursement agreements in respect thereof, of all or any part of any Indebtedness.

"Hedging Obligations" means, with respect to any specified Person, the obligations of such Person under:

- (i) interest rate swap agreements, interest rate cap agreements and interest rate collar agreements; and
- (ii) other agreements or arrangements designed to protect such Person against fluctuations in interest rates, foreign currency translation and commodity prices.

"Holder" means a Person in whose name a Note is registered.

"IAI Global Note" means the Global Note substantially in the form of Exhibit A hereto bearing the Global Note Legend and the Private Placement Legend and deposited with or on behalf of and registered in the name of the Depository or its nominee that will be issued in a denomination equal to the outstanding principal amount of the Notes sold to Institutional Accredited Investors.

"Indebtedness" means, with respect to any specified Person, any indebtedness of such Person, whether or not contingent:

- (i) in respect of borrowed money;
- (ii) evidenced by bonds, notes, debentures or similar instruments or letters of credit (or reimbursement agreements in respect thereof);
- (iii) in respect of banker's acceptances;
- (iv) representing Capital Lease Obligations;
- (v) representing the balance deferred and unpaid of the purchase price of any property, except any such balance that constitutes an accrued expense or trade payable; or
- (vi) representing any Hedging Obligations,

if and to the extent any of the preceding items (other than letters of credit and Hedging Obligations) would appear as a liability upon a balance sheet of the specified Person prepared in accordance with GAAP. In addition, the term "Indebtedness" includes all Indebtedness of others secured by a Lien on any asset of the specified Person (whether or not such Indebtedness is assumed by the specified Person) and, to the extent not otherwise included, the Guarantee by the specified Person of any indebtedness of any other Person.

The amount of any Indebtedness outstanding as of any date will be:

- (i) the accreted value of the Indebtedness, in the case of any Indebtedness issued with original issue discount; and
- (ii) the principal amount of the Indebtedness, together with any interest on the Indebtedness that is more than 30 days past due, in the case of any other Indebtedness.

"Indenture" means this Indenture, as amended or supplemented from time to time.

"Independent Investment Banker" means the Reference Treasury Dealers appointed by the Company.

"Indirect Participant" means a Person who holds a beneficial interest in a Global Note through a Participant.

"Institutional Accredited Investor" means an institution that is an "accredited investor" as defined in Rule 501(a)(1), (2), (3) or (7) under the Securities Act, who are not also QIBs.

"Investments" means, with respect to any Person, all direct or indirect investments by such Person in other Persons (including Affiliates) in the forms of loans (including Guarantees or other obligations), advances or capital contributions (excluding commission, travel and similar advances to officers and employees made in the ordinary course of business), purchases or other acquisitions for consideration of Indebtedness, Equity Interests or other securities, together with all items that are or would be classified as investments on a balance sheet prepared in accordance with GAAP. If the Company or any Subsidiary of the Company sells or otherwise disposes of any Equity Interests of any direct or indirect Subsidiary of the Company such that, after giving effect to any such sale or disposition, such Person is no longer a Subsidiary of the Company, the Company will be deemed to have made an Investment on the date of any such sale or disposition equal to the fair market value of the Equity Interests of such Subsidiary not sold or disposed of in an amount determined as provided in the final paragraph of Section 4.07 hereof. The acquisition by the Company or any Subsidiary of the Company of a Person that holds an Investment in a third Person will be deemed to be an Investment by the Company or such Subsidiary in such third Person in an amount equal to the fair market value of the Investment held by the acquired Person in such third Person in an amount determined as provided in the final paragraph of Section 4.07 hereof

"Legal Holiday" means a Saturday, a Sunday or a day on which banking institutions in the City of New York or at a place of payment are authorized by law, regulation or executive order to remain closed. If a payment date is a Legal Holiday at a place of payment, payment may be made at that place on the next succeeding day that is not a Legal Holiday, and no interest shall accrue on such payment for the intervening period.

"Letter of Transmittal" means the letter of transmittal to be prepared by the Company and sent to all Holders of the Notes for use by such Holders in connection with the Exchange Offer.

"Lien" means, with respect to any asset, any mortgage, lien, pledge, charge, security interest or encumbrance of any kind in respect of such asset, whether or not filed, recorded or otherwise perfected under applicable law, including any conditional sale or other title retention agreement, any lease in the nature thereof, any option or other agreement to sell or give a security interest in and, except in connection with any Qualified Receivables Transaction, any filing of or agreement to give any financing statement under the Uniform Commercial Code (or equivalent statutes) of any jurisdiction.

"LYONS" means the Liquid Yield Option Notes due 2007 issued by the Company in 1992.

"Net Income" means, with respect to any specified Person, the net income (loss) of such Person, determined in accordance with GAAP and before any reduction in respect of preferred stock dividends, excluding, however:

- (i) any gain (but not loss), together with any related provision for taxes on such gain (but not loss), realized in connection with: (a) any Asset Sale; or (b) the disposition of any securities by such Person or any of its Restricted Subsidiaries or the extinguishment of any Indebtedness of such Person or any of its Restricted Subsidiaries; and
- (ii) any extraordinary gain (but not loss), together with any related provision for taxes on such extraordinary gain (but not loss).

"Net Proceeds" means the aggregate cash proceeds received by the Company or any of its Restricted Subsidiaries in respect of any Asset Sale (including, without limitation, any cash received upon the sale or other disposition of any non-cash consideration received in any Asset Sale), net of the direct costs relating to such Asset Sale, including, without limitation, legal, accounting and investment banking fees, and sales commissions, and any relocation expenses incurred as a result of the Asset Sale, taxes paid or payable as a result of the Asset Sale, in each case, after taking into account any available tax credits or deductions and any tax sharing arrangements, and amounts required to be applied to the repayment of Indebtedness, other than Indebtedness under a Credit Facility, secured by a Lien on the asset or assets that were the subject of such Asset Sale and any reserve for adjustment in respect of the sale price of such asset or assets established in accordance with GAAP.

"Non-Recourse Debt" means Indebtedness:

- (1) as to which neither the Company nor any of its Restricted Subsidiaries (a) provides credit support of any kind (including any undertaking, agreement or instrument that would constitute Indebtedness), (b) is directly or indirectly liable as a guarantor or otherwise, or (c) constitutes the lender;
- (2) no default with respect to which (including any rights that the holders of the Indebtedness may have to take enforcement action against an Unrestricted Subsidiary) would permit upon notice, lapse of time or both any holder of any other Indebtedness of the Company or any of its Restricted Subsidiaries to declare a default on such other Indebtedness or cause the payment of the Indebtedness to be accelerated or payable prior to its stated maturity; and
- (3) as to which the lenders have been notified in writing that they will not have any recourse to the stock or assets of the Company or any of its Restricted Subsidiaries.

"Non-U.S. Person" means a Person who is not a U.S. Person.

"Notes" has the meaning assigned to it in the preamble to this Indenture.

"Obligations" means any principal, interest, penalties, fees, indemnifications, reimbursements, damages and other liabilities payable under the documentation governing any Indebtedness.

"Offering" means the offering of the Notes by the Company.

"Officer" means, with respect to any Person, the Chairman of the Board, the Chief Executive Officer, the President, the Chief Operating Officer, the Chief Financial Officer, the Treasurer, any Assistant Treasurer, the Controller, the Secretary or any Vice-President of such Person.

"Officers' Certificate" means a certificate signed on behalf of the Company by two Officers of the Company, one of whom must be the principal executive officer, the principal financial officer, the treasurer or the principal accounting officer of the Company, that meets the requirements of Section 12.05 hereof.

"Opinion of Counsel" means an opinion from legal counsel who is reasonably acceptable to the Trustee, that meets the requirements of Section 12.05 hereof. The counsel may be an employee of or counsel to the Company, any Subsidiary of the Company or the Trustee.

"Participant" means, with respect to the Depository, Euroclear or Clearstream, a Person who has an account with the Depository, Euroclear or Clearstream, respectively (and, with respect to DTC, shall include Euroclear and Clearstream).

"Permitted Business" means any business that derives a majority of its revenues from the business engaged in by the Company and its Restricted Subsidiaries on the date of original issuance of the Notes and/or activities that are reasonably similar, ancillary or related to, or a reasonable extension, development or expansion of, the businesses in which the Company and its Restricted Subsidiaries are engaged on the date of original issuance of the Notes.

"Permitted Investments" means:

- (i) any Investment in the Company or in a Restricted Subsidiary of the Company;
- (ii) any Investment in Cash Equivalents;
- (iii) any Investment by the Company or any Restricted Subsidiary of the Company in a Person, if as a result of such Investment:
  - (a) such Person becomes a Restricted Subsidiary of the Company; or
  - (b) such Person is merged, consolidated or amalgamated with or into, or transfers or conveys substantially all of its assets to, or is liquidated into, the Company or a Restricted Subsidiary of the Company;
- (iv) any Investment made as a result of the receipt of non-cash consideration from an Asset Sale that was made pursuant to and in compliance with Section 4.10 hereof;
- (v) any acquisition of assets to the extent in exchange for the issuance of Equity Interests (other than Disqualified Stock) of the Company;
- (vi) any Investments received in compromise of obligations of such persons incurred in the ordinary course of trade creditors or customers that were incurred in the ordinary course of business, including pursuant to any plan of reorganization or similar arrangement upon the bankruptcy or insolvency of any trade creditor or customer;
- (vii) Hedging Obligations;

(viii) the acquisition by a Receivables Subsidiary in connection with a Qualified Receivables Transaction of Equity Interests of a trust or other Person established by such Receivables Subsidiary to effect such Qualified Receivables Transaction; and any other Investment by the Company or a Subsidiary of the Company in a Receivables Subsidiary or any Investment by a Receivables Subsidiary in any other Person in connection with a Qualified Receivables Transaction, provided that such other Investment is in the form of a note or other instrument that the Receivables Subsidiary or other Person is required to repay as soon as practicable from available cash collections less amounts required to be established as reserves pursuant to contractual agreements with entities that are not Affiliates of the Company entered into as part of a Qualified Receivables Transaction; and

(ix) other Investments in any Person having an aggregate fair market value (measured on the date each such Investment was made and without giving effect to subsequent changes in value), when taken together with all other Investments made pursuant to this clause (ix) that are at the time outstanding not to exceed \$50.0 million.

"Permitted Liens" means any of the following:

(i) Liens in favor of the Company;

(ii) Liens on property of a Person existing at the time such Person is merged with or into or consolidated with the Company or any Restricted Subsidiary of the Company; provided that such Liens were in existence prior to the contemplation of such merger or consolidation and do not extend to any assets other than those of the Person merged into or consolidated with the Company or the Restricted Subsidiary;

(iii) Liens on property existing at the time of acquisition of the property by the Company or any Restricted Subsidiary of the Company, provided that such Liens were in existence prior to the contemplation of such acquisition;

(iv) Liens to secure the performance of statutory obligations, surety or appeal bonds, performance bonds or other obligations of a like nature incurred in the ordinary course of business;

(v) Liens to secure Indebtedness (including Capital Lease Obligations) permitted by clause (iv) of the second paragraph of Section 4.09 hereof covering only the assets acquired with such Indebtedness;

(vi) Liens existing on the date of this Indenture;

(vii) Liens on all Senior Debt;

(viii) Liens for taxes, assessments or governmental charges or claims that are not yet delinquent or that are being contested in good faith by appropriate proceedings promptly instituted and diligently concluded, provided that any reserve or other appropriate provision as is required in conformity with GAAP has been made therefor;

(ix) Liens on assets of the Company or a Receivables Subsidiary incurred in connection with a Qualified Receivables Transaction;

(x) Liens on assets of Unrestricted Subsidiaries that secure Non-Recourse Debt of Unrestricted Subsidiaries; and

- (xi) Liens incurred in the ordinary course of business of the Company or any Restricted Subsidiary of the Company with respect to obligations that do not exceed \$25.0 million at any one time outstanding.

"Permitted Refinancing Indebtedness" means any Indebtedness of the Company or any of its Restricted Subsidiaries issued in exchange for, or the net proceeds of which are used to extend, refinance, renew, replace, defease or refund other Indebtedness of the Company or any of its Restricted Subsidiaries (other than intercompany Indebtedness); provided that:

- (i) the principal amount (or accreted value, if applicable) of such Permitted Refinancing Indebtedness does not exceed the principal amount (or accreted value, if applicable) of the Indebtedness extended, refinanced, renewed, replaced, defeased or refunded (plus all accrued interest on the Indebtedness and the amount of all expenses and premiums incurred in connection therewith) (the "Original Principal Amount"); provided, however, if the Indebtedness exceeds the Original Principal Amount, the Permitted Refinancing Indebtedness shall be limited to the Original Principal Amount;
- (ii) such Permitted Refinancing Indebtedness has a final maturity date later than the final maturity date of, and has a Weighted Average Life to Maturity equal to or greater than the Weighted Average Life to Maturity of, the Indebtedness being extended, refinanced, renewed, replaced, defeased or refunded;
- (iii) if the Indebtedness being extended, refinanced, renewed, replaced, defeased or refunded is subordinated in right of payment to the Notes, such Permitted Refinancing Indebtedness has a final maturity date later than the final maturity date of, and is subordinated in right of payment to, the Notes on terms at least as favorable to the Holders of Notes as those contained in the documentation governing the Indebtedness being extended, refinanced, renewed, replaced, defeased or refunded; and
- (iv) such Indebtedness is incurred either by the Company or by the Restricted Subsidiary who is the obligor on the Indebtedness being extended, refinanced, renewed, replaced, defeased or refunded.

"Person" means any individual, corporation, partnership, joint venture, association, joint-stock company, trust, unincorporated organization, limited liability company or government or other entity.

"Private Placement Legend" means the legend set forth in Section 2.06(g)(i) to be placed on all Notes issued under this Indenture except where otherwise permitted by the provisions of this Indenture.

"QIB" means a "qualified institutional buyer" as defined in Rule 144A.

"Qualified Receivables Transaction" means any transaction or series of transactions entered into by the Company or any of its Subsidiaries pursuant to which the Company or any of its Subsidiaries sells, conveys or otherwise transfers to (i) a Receivables Subsidiary (in the case of a transfer by the Company or any of its Subsidiaries) and (ii) any other Person (in the case of a transfer by a Receivables Subsidiary), or grants a security interest in, any accounts receivable (whether now existing or arising in the future) of the Company or any of its Subsidiaries, and any assets related thereto including, without limitation, all collateral securing such accounts receivable, all contracts and all guarantees or other obligations in respect of such accounts receivable, proceeds of such accounts receivable and other assets which are customarily transferred or in respect of which security interests are customarily granted in connection with asset securitization transactions involving accounts receivable.

"Receivables Subsidiary" means a Subsidiary of the Company which engages in no activities other than in connection with the financing of accounts receivable and which is designated by the Board of Directors of the Company (as provided below) as a Receivables Subsidiary (a) no portion of the Indebtedness or any other Obligations (contingent or otherwise) of which (i) is guaranteed by the Company or any Subsidiary of the Company (excluding guarantees of Obligations (other than the principal of, and interest on, Indebtedness) pursuant to representations, warranties, covenants and indemnities entered into in the ordinary course of business in connection with a Qualified Receivables Transaction), (ii) is recourse to or obligates the Company or any Subsidiary of the Company in any way other than pursuant to representations, warranties, covenants and indemnities entered into in the ordinary course of business in connection with a Qualified Receivables Transaction or (iii) subjects any property or asset of the Company or any Subsidiary of the Company (other than accounts receivable and related assets as provided in the definition of "Qualified Receivables Transaction"), directly or indirectly, contingently or otherwise, to the satisfaction thereof, other than pursuant to representations, warranties, covenants and indemnities entered into in the ordinary course of business in connection with a Qualified Receivables Transaction, (b) with which neither the Company nor any Subsidiary of the Company has any material contract, agreement, arrangement or understanding other than on terms customary for securitization of receivables and (c) with which neither the Company nor any Subsidiary of the Company has any obligation to maintain or preserve such Subsidiary's financial condition or cause such Subsidiary to achieve certain levels of operating results. Any such designation by the Board of Directors of the Company shall be evidenced to the Trustee by filing with the Trustee a certified copy of the resolution of the Board of Directors of the Company giving effect to such designation and an Officers' Certificate certifying that such designation complied with the foregoing conditions.

"Reference Treasury Dealer" means Goldman, Sachs & Co. and its successors; provided, however, that if Goldman, Sachs & Co. shall cease to be a primary U.S. Government securities dealer in New York City (a "Primary Treasury Dealer"), the Company shall substitute therefor another Primary Treasury Dealer.

"Reference Treasury Dealer Quotations" means, with respect to each Reference Treasury Dealer and any redemption date, the average as determined by the Trustee, of the bid and asked prices of the Comparable Treasury Issue (expressed in each case as a percentage of its principal amount) quoted in writing to the Trustee by such Reference Treasury Dealer at 5:00 p.m. on the third Business Day preceding such redemption date.

"Registration Rights Agreement" means the Exchange and Registration Rights Agreement, dated as of July 2, 2001, by and among the Company and the other parties named on the signature pages thereof, as such agreement may be amended, modified or supplemented from time to time.

"Regulation S" means Regulation S promulgated under the Securities Act.

"Regulation S Global Note" means a global Note bearing the Private Placement Legend and deposited with or on behalf of the Depositary and registered in the name of the Depositary or its nominee, issued in a denomination equal to the outstanding principal amount of the Notes initially sold in reliance on Rule 903 of Regulation S.

"Remaining Scheduled Payments" means, with respect to each Note to be redeemed, the remaining scheduled payments of the principal thereof and interest thereon that would be due after the related redemption date but for such redemption; provided, however, that if such redemption date is not an interest payment date with respect to such Note, the amount of the next succeeding scheduled interest payment thereon shall be reduced by the amount of interest accrued thereon to such redemption date.



"Responsible Officer," when used with respect to the Trustee, means any officer within the Corporate Trust Administration of the Trustee (or any successor group of the Trustee) or any other officer of the Trustee customarily performing functions similar to those performed by any of the above designated officers and also means, with respect to a particular corporate trust matter, any other officer to whom such matter is referred because of his knowledge of and familiarity with the particular subject.

"Restricted Definitive Note" means a Definitive Note bearing the Private Placement Legend.

"Restricted Global Note" means a Global Note bearing the Private Placement Legend.

"Restricted Investment" means an Investment other than a Permitted Investment.

"Restricted Subsidiary" of a Person means any Subsidiary of the referent Person that is not an Unrestricted Subsidiary.

"Rule 144" means Rule 144 promulgated under the Securities Act.

"Rule 144A" means Rule 144A promulgated under the Securities Act.

"Rule 903" means Rule 903 promulgated under the Securities Act.

"Rule 904" means Rule 904 promulgated under the Securities Act.

"SEC" means the Securities and Exchange Commission.

"Securities Act" means the Securities Act of 1933, as amended.

"Shelf Registration Statement" means the Shelf Registration Statement as defined in the Registration Rights Agreement.

"Significant Subsidiary" means any Subsidiary that would be a "significant subsidiary" as defined in Article 1, Rule 1-02 of Regulation S-X, promulgated pursuant to the Securities Act, as such Regulation is in effect on the date of this Indenture.

"Special Interest" means all the special interest then owing pursuant to Section 2 of the Registration Rights Agreement.

"Stated Maturity" means, with respect to any installment of interest or principal on any series of Indebtedness, the date on which the payment of interest or principal was scheduled to be paid in the original documentation governing such Indebtedness, and shall not include any contingent obligations to repay, redeem or repurchase any such interest or principal prior to the date originally scheduled for the payment thereof.

"Subsidiary" means, with respect to any specified Person:

- (i) any corporation, association or other business entity of which more than 50% of the total voting power of shares of Capital Stock entitled (without regard to the occurrence of any contingency) to vote in the election of directors, managers or trustees of the corporation, association or other business entity is at the time owned or controlled, directly or indirectly, by that Person or one or more of the other Subsidiaries of that Person (or a combination thereof); and

- (ii) any partnership (a) the sole general partner or the managing general partner of which is such Person or a Subsidiary of such Person or (b) the only general partners of which are that Person or one or more Subsidiaries of that Person (or any combination thereof).

"TIA" means the Trust Indenture Act of 1939 (15 U.S.C. ss.ss. 77aaa-77bbb) as in effect on the date on which this Indenture is qualified under the TIA.

"Trustee" means the party named as such above until a successor replaces it in accordance with the applicable provisions of this Indenture and thereafter means the successor serving hereunder.

"Unrestricted Definitive Note" means one or more Definitive Notes that do not bear and are not required to bear the Private Placement Legend.

"Unrestricted Global Note" means a permanent global Note substantially in the form of Exhibit A attached hereto that bears the Global Note Legend and that has the "Schedule of Exchanges of Interests in the Global Note" attached thereto, and that is deposited with or on behalf of and registered in the name of the Depository, representing a series of Notes that do not bear the Private Placement Legend.

"Unrestricted Subsidiary" means any Subsidiary of the Company that is designated by the Board of Directors as an Unrestricted Subsidiary pursuant to a Board Resolution, but only to the extent that such Subsidiary:

- (i) has no Indebtedness other than Non-Recourse Debt;
- (ii) is not party to any agreement, contract, arrangement or understanding with the Company or any Restricted Subsidiary of the Company unless the terms of any such agreement, contract, arrangement or understanding are no less favorable to the Company or such Restricted Subsidiary than those that might be obtained at the time from Persons who are not Affiliates of the Company;
- (iii) is a Person with respect to which neither the Company nor any of its Restricted Subsidiaries has any direct or indirect obligation (a) to subscribe for additional Equity Interests or (b) to maintain or preserve such Person's financial condition or to cause such Person to achieve any specified levels of operating results;
- (iv) is guaranteeing or otherwise providing credit support for any Indebtedness of the Company or any of its Restricted Subsidiaries; and
- (v) has at least one director on its Board of Directors that is not a director or executive officer of the Company or any of its Restricted Subsidiaries and has at least one executive officer that is not a director or executive officer of the Company or any of its Restricted Subsidiaries.

Any designation of a Subsidiary of the Company as an Unrestricted Subsidiary shall be evidenced to the Trustee by filing with the Trustee a certified copy of the Board Resolution giving effect to such designation and an Officers' Certificate certifying that such designation complied with the preceding conditions and was permitted by Section 4.07 hereof. If, at any time, any Unrestricted Subsidiary would fail to meet the preceding requirements as an Unrestricted Subsidiary, it shall thereafter cease to be an Unrestricted Subsidiary for purposes of this Indenture and any Indebtedness of such Subsidiary shall be deemed to be incurred by a Restricted Subsidiary of the Company as of such date and, if such Indebtedness is not permitted to be incurred as of such date under Section 4.09 hereof, the Company shall be in default of such covenant. The Board of Directors of the Company may at any time designate any Unrestricted Subsidiary to be a Restricted Subsidiary; provided

that such designation shall be deemed to be an incurrence of Indebtedness by a Restricted Subsidiary of the Company of any outstanding Indebtedness of such Unrestricted Subsidiary and such designation shall only be permitted if (1) such Indebtedness is permitted under Section 4.09 hereof, calculated on a pro forma basis as if such designation had occurred at the beginning of the four-quarter reference period and (2) no Default or Event of Default would be in existence following such designation.

"U.S. Person" means a U.S. person as defined in Rule 902(o) under the Securities Act.

"Voting Stock" of any Person as of any date means the Capital Stock of such Person that is at the time entitled to vote in the election of the Board of Directors of such Person.

"Weighted Average Life to Maturity" means, when applied to any Indebtedness at any date, the number of years obtained by dividing:

- (i) the sum of the products obtained by multiplying (a) the amount of each then remaining installment, sinking fund, serial maturity or other required payments of principal, including payment at final maturity, in respect of the Indebtedness, by (b) the number of years (calculated to the nearest one-twelfth) that shall elapse between such date and the making of such payment; by
- (ii) the then outstanding principal amount of such Indebtedness.

"Yen Credit Facility" means that certain credit facility dated July 1, 1994, by and among Office Depot Japan Ltd., Industrial Bank of Japan, Ltd., Union Bank of California, N.A. Tokyo Branch and the Fuji Bank.

Section 1.02. Other Definitions.

Term ----	Defined in Section -----
"Affiliate Transaction".....	4.11
"Asset Sale Offer".....	3.09
"Authentication Order".....	2.02
"Change of Control Offer".....	4.14
"Change of Control Payment".....	4.14
"Change of Control Payment Date".....	4.14
"Covenant Defeasance".....	8.03
"DTC" .....	2.03
"Designated Senior Debt" .....	10.02
"Event of Default".....	6.01
"Excess Proceeds".....	4.10
"incur".....	4.09
"Legal Defeasance".....	8.02
"Moody's" .....	4.18
"Offer Amount".....	3.09
"Offer Period".....	3.09
"Paying Agent".....	2.03
"Payment Default" .....	6.01
"Payment Blockage Notice" .....	10.04

Term	Defined in Section
-----	-----
"Permitted Debt".....	4.09
"Permitted Junior Securities" .....	10.02
"Purchase Date".....	3.09
"Rating Event Date" .....	4.18
"Registrar".....	2.03
"Representative" .....	10.02
"Restricted Payments".....	4.07
"Senior Debt" .....	10.02
"S&P".....	4.18

Section 1.03 Incorporation by Reference of Trust Indenture Act.

Whenever this Indenture refers to a provision of the TIA, the provision is incorporated by reference in and made a part of this Indenture.

The following TIA terms used in this Indenture have the following meanings:

"indenture securities" means the Notes;

"indenture security Holder" means a Holder of a Note;

"indenture to be qualified" means this Indenture;

"indenture trustee" or "institutional trustee" means the Trustee; and

"obligor" on the Notes means the Company and any successor obligor upon the Notes.

All other terms used in this Indenture that are defined by the TIA, defined by TIA reference to another statute or defined by SEC rule under the TIA have the meanings so assigned to them.

Section 1.04. Rules of Construction.

Unless the context otherwise requires:

(a) a term has the meaning assigned to it;

(b) an accounting term not otherwise defined has the meaning assigned to it in accordance with GAAP;

(c) "or" is not exclusive;

(d) words in the singular include the plural, and in the plural include the singular;

(e) provisions apply to successive events and transactions; and

(f) references to sections of or rules under the Securities Act shall be deemed to include substitute, replacement of successor sections or rules adopted by the SEC from time to time.

ARTICLE 2.  
THE NOTES

Section 2.01. Form and Dating.

(a) General. The Notes and the Trustee's certificate of authentication shall be substantially in the form of Exhibit A hereto. The Notes may have notations, legends or endorsements required by law, stock exchange rule or usage. Each Note shall be dated the date of its authentication. The Notes shall be in denominations of \$1,000 and integral multiples thereof.

The terms and provisions contained in the Notes shall constitute, and are hereby expressly made, a part of this Indenture and the Company and the Trustee, by their execution and delivery of this Indenture, expressly agree to such terms and provisions and to be bound thereby. However, to the extent any provision of any Note conflicts with the express provisions of this Indenture, the provisions of this Indenture shall govern and be controlling.

(b) Global Notes. Notes issued in global form shall be substantially in the form of Exhibit A attached hereto (including the Global Note Legend thereon and the "Schedule of Exchanges of Interests in the Global Note" attached thereto). Notes issued in definitive form shall be substantially in the form of Exhibit A attached hereto but without the Global Note Legend thereon and without the "Schedule of Exchanges of Interests in the Global Note" attached thereto. Each Global Note shall represent such of the outstanding Notes as shall be specified therein and each shall provide that it shall represent the aggregate principal amount of outstanding Notes from time to time endorsed thereon and that the aggregate principal amount of outstanding Notes represented thereby may from time to time be reduced or increased, as appropriate, to reflect exchanges and redemptions. Any endorsement of a Global Note to reflect the amount of any increase or decrease in the aggregate principal amount of outstanding Notes represented thereby shall be made by the Trustee or the Custodian, at the direction of the Trustee, in accordance with instructions given by the Holder thereof as required by Section 2.06 hereof.

(c) Euroclear and Clearstream Procedures Applicable. The provisions of the "Operating Procedures of the Euroclear System" and "Terms and Conditions Governing Use of Euroclear" and the "General Terms and Conditions of Clearstream" and "Customer Handbook" of Clearstream shall be applicable to transfers of beneficial interests in the Regulation S Global Notes that are held by Participants through Euroclear or Clearstream.

Section 2.02. Execution and Authentication.

An Officer shall sign the Notes for the Company by manual or facsimile signature. The Company's seal shall be reproduced on the Notes and may be in facsimile form.

If an Officer whose signature is on a Note no longer holds that office at the time a Note is authenticated, the Note shall nevertheless be valid.

A Note shall not be valid until authenticated by the manual signature of the Trustee. The signature shall be conclusive evidence that the Note has been authenticated under this Indenture.

The Trustee shall, upon a written order of the Company signed by an Officer (an "Authentication Order"), authenticate Notes for original issue up to the aggregate principal amount stated in paragraph 4 of the Notes. The aggregate principal amount of Notes outstanding at any time may not exceed such amount except as provided in Section 2.07 hereof.

The Trustee may appoint an authenticating agent acceptable to the Company to authenticate Notes. An authenticating agent may authenticate Notes whenever the Trustee may do so. Each reference in this Indenture to authentication by the Trustee includes authentication by such agent. An authenticating agent has the same rights as an Agent to deal with Holders or an Affiliate of the Company.

Section 2.03. Registrar and Paying Agent.

The Company shall maintain an office or agency where Notes may be presented for registration of transfer or for exchange ("Registrar") and an office or agency where Notes may be presented for payment ("Paying Agent"). The Registrar shall keep a register of the Notes and of their transfer and exchange. The Company may appoint one or more co-registrars and one or more additional paying agents. The term "Registrar" includes any co-registrar and the term "Paying Agent" includes any additional paying agent. The Company may change any Paying Agent or Registrar without notice to any Holder. The Company shall notify the Trustee in writing of the name and address of any Agent not a party to this Indenture. If the Company fails to appoint or maintain another entity as Registrar or Paying Agent, the Trustee shall act as such. The Company or any of its Subsidiaries may act as Paying Agent or Registrar.

The Company initially appoints The Depository Trust Company ("DTC") to act as Depository with respect to the Global Notes.

The Company initially appoints the Trustee to act as the Registrar and Paying Agent and to act as Custodian with respect to the Global Notes.

Section 2.04. Paying Agent to Hold Money in Trust.

The Company shall require each Paying Agent other than the Trustee to agree in writing that the Paying Agent will hold in trust for the benefit of Holders or the Trustee all money held by the Paying Agent for the payment of principal, premium or Special Interest, if any, or interest on the Notes, and will notify the Trustee of any default by the Company in making any such payment. While any such default continues, the Trustee may require a Paying Agent to pay all money held by it to the Trustee. The Company at any time may require a Paying Agent to pay all money held by it to the Trustee. Upon payment over to the Trustee, the Paying Agent (if other than the Company or a Subsidiary) shall have no further liability for the money. If the Company or a Subsidiary acts as Paying Agent, it shall segregate and hold in a separate trust fund for the benefit of the Holders all money held by it as Paying Agent. Upon any bankruptcy or reorganization proceedings relating to the Company, the Trustee shall serve as Paying Agent for the Notes.

Section 2.05. Holder Lists.

The Trustee shall preserve in as current a form as is reasonably practicable the most recent list available to it of the names and addresses of all Holders and shall otherwise comply with TIA ss. 312(a). If the Trustee is not the Registrar, the Company shall furnish to the Trustee at least seven Business Days before each interest payment date and at such other times as the Trustee may request in writing, a list in such form and as of such date as the Trustee may reasonably require of the names and addresses of the Holders of Notes and the Company shall otherwise comply with TIA ss. 312(a).

Section 2.06. Transfer and Exchange.

(a) Transfer and Exchange of Global Notes. A Global Note may not be transferred as a whole except by the Depository to a nominee of the Depository, by a nominee of the Depository to the Depository or to another nominee of the

Depository, or by the Depository or any such nominee to a successor Depository or a nominee of such successor Depository. All Global Notes will be exchanged by the Company for Definitive Notes if (i) the Company delivers to the Trustee notice from the Depository that it is unwilling or unable to continue to act as Depository or that it is no longer a clearing agency registered under the Exchange Act and, in either case, a successor Depository is not appointed by the Company within 120 days after the date of such notice from the Depository or (ii) the Company in its sole discretion determines that the Global Notes (in whole but not in part) should be exchanged for Definitive Notes and delivers a written notice to such effect to the Trustee. Upon the occurrence of either of the preceding events in (i) or (ii) above, Definitive Notes shall be issued in such names as the Depository shall instruct the Trustee. Global Notes also may be exchanged or replaced, in whole or in part, as provided in Sections 2.07 and 2.10 hereof. Every Note authenticated and delivered in exchange for, or in lieu of, a Global Note or any portion thereof, pursuant to this Section 2.06 or Section 2.07 or 2.10 hereof, shall be authenticated and delivered in the form of, and shall be, a Global Note. A Global Note may not be exchanged for another Note other than as provided in this Section 2.06(a); however, beneficial interests in a Global Note may be transferred and exchanged as provided in Section 2.06(b), (c) or (f) hereof.

(b) Transfer and Exchange of Beneficial Interests in the Global Notes. The transfer and exchange of beneficial interests in the Global Notes shall be effected through the Depository, in accordance with the provisions of this Indenture and the Applicable Procedures. Beneficial interests in the Restricted Global Notes shall be subject to restrictions on transfer comparable to those set forth herein to the extent required by the Securities Act. Transfers of beneficial interests in the Global Notes also shall require compliance with either subparagraph (i) or (ii) below, as applicable, as well as one or more of the other following subparagraphs, as applicable:

(i) Transfer of Beneficial Interests in the Same Global Note. Beneficial interests in any Restricted Global Note may be transferred to Persons who take delivery thereof in the form of a beneficial interest in the same Restricted Global Note in accordance with the transfer restrictions set forth in the Private Placement Legend; provided, however, that prior to the expiration of the Restricted Period, transfers of beneficial interests in the Regulation S Global Note may not be made to a U.S. Person or for the account or benefit of a U.S. Person (other than an Initial Purchaser). Beneficial interests in any Unrestricted Global Note may be transferred to Persons who take delivery thereof in the form of a beneficial interest in an Unrestricted Global Note. No written orders or instructions shall be required to be delivered to the Registrar to effect the transfers described in this Section 2.06(b)(i).

(ii) All Other Transfers and Exchanges of Beneficial Interests in Global Notes. In connection with all transfers and exchanges of beneficial interests that are not subject to Section 2.06(b)(i) above, the transferor of such beneficial interest must deliver to the Registrar either (A) (1) a written order from a Participant or an Indirect Participant given to the Depository in accordance with the Applicable Procedures directing the Depository to credit or cause to be credited a beneficial interest in another Global Note in an amount equal to the beneficial interest to be transferred or exchanged and (2) instructions given in accordance with the Applicable Procedures containing information regarding the Participant account to be credited with such increase or (B) (1) a written order from a Participant or an Indirect Participant given to the Depository in accordance with the Applicable Procedures directing the Depository to cause to be issued a Definitive Note in an amount equal to the beneficial interest to be transferred or exchanged and (2) instructions given by the Depository to the Registrar containing information regarding the Person in whose name such Definitive Note shall be registered to effect the transfer or exchange referred to in (1) above. Upon consummation of an Exchange Offer by the Company in accordance with Section 2.06(f) hereof, the requirements of this Section 2.06(b)(ii) shall be deemed to have been

satisfied upon receipt by the Registrar of the instructions contained in the Letter of Transmittal delivered by the Holder of such beneficial interests in the Restricted Global Notes. Upon satisfaction of all of the requirements for transfer or exchange of beneficial interests in Global Notes contained in this Indenture and the Notes or otherwise applicable under the Securities Act, the Trustee shall adjust the principal amount of the relevant Global Note(s) pursuant to Section 2.06(h) hereof.

(iii) Transfer of Beneficial Interests to Another Restricted Global Note. A beneficial interest in any Restricted Global Note may be transferred to a Person who takes delivery thereof in the form of a beneficial interest in another Restricted Global Note if the transfer complies with the requirements of Section 2.06(b)(ii) above and the Registrar receives the following:

(A) if the transferee will take delivery in the form of a beneficial interest in the 144A Global Note, then the transferor must deliver a certificate in the form of Exhibit B hereto, including the certifications in item (1) thereof;

(B) if the transferee will take delivery in the form of a beneficial interest in the Regulation S Global Note, then the transferor must deliver a certificate in the form of Exhibit B hereto, including the certifications in item (2) thereof; and

(C) if the transferee will take delivery in the form of a beneficial interest in the IAI Global Note, then the transferor must deliver a certificate in the form of Exhibit B hereto, including the certifications and certificates and Opinion of Counsel required by item (3) thereof, if applicable.

(iv) Transfer and Exchange of Beneficial Interests in a Restricted Global Note for Beneficial Interests in the Unrestricted Global Note. A beneficial interest in any Restricted Global Note may be exchanged by any Holder thereof for a beneficial interest in an Unrestricted Global Note or transferred to a Person who takes delivery thereof in the form of a beneficial interest in an Unrestricted Global Note if the exchange or transfer complies with the requirements of Section 2.06(b)(ii) above and:

(A) such exchange or transfer is effected pursuant to the Exchange Offer in accordance with the Registration Rights Agreement and the Holder of the beneficial interest to be transferred, in the case of an exchange, or the transferee, in the case of a transfer, certifies in the applicable Letter of Transmittal that it is not (1) a broker-dealer, (2) a Person participating in the distribution of the Exchange Notes or (3) a Person who is an affiliate (as defined in Rule 144) of the Company;

(B) such transfer is effected pursuant to the Shelf Registration Statement in accordance with the Registration Rights Agreement;

(C) such transfer is effected by a Broker-Dealer pursuant to the Exchange Offer Registration Statement in accordance with the Registration Rights Agreement; or

(D) the Registrar receives the following:

(1) if the Holder of such beneficial interest in a Restricted Global Note proposes to exchange such beneficial interest for a beneficial interest in an Unrestricted Global Note, a certificate from such Holder in the form of Exhibit C hereto, including the certifications in item (1)(a) thereof; or



(2) if the Holder of such beneficial interest in a Restricted Global Note proposes to transfer such beneficial interest to a Person who shall take delivery thereof in the form of a beneficial interest in an Unrestricted Global Note, a certificate from such Holder in the form of Exhibit B hereto, including the certifications in item (4) thereof;

and, in each such case set forth in this subparagraph (D), if the Registrar so requests or if the Applicable Procedures so require, an Opinion of Counsel in form reasonably acceptable to the Registrar to the effect that such exchange or transfer is in compliance with the Securities Act and that the restrictions on transfer contained herein and in the Private Placement Legend are no longer required in order to maintain compliance with the Securities Act.

If any such transfer is effected pursuant to subparagraph (B) or (D) above at a time when an Unrestricted Global Note has not yet been issued, the Company shall issue and, upon receipt of an Authentication Order in accordance with Section 2.02 hereof, the Trustee shall authenticate one or more Unrestricted Global Notes in an aggregate principal amount equal to the aggregate principal amount of beneficial interests transferred pursuant to subparagraph (B) or (D) above.

Beneficial interests in an Unrestricted Global Note cannot be exchanged for, or transferred to Persons who take delivery thereof in the form of, a beneficial interest in a Restricted Global Note.

(c) Transfer or Exchange of Beneficial Interests for Definitive Notes.

(i) Beneficial Interests in Restricted Global Notes to Restricted Definitive Notes. If any Holder of a beneficial interest in a Restricted Global Note proposes to exchange such beneficial interest for a Restricted Definitive Note or to transfer such beneficial interest to a Person who takes delivery thereof in the form of a Restricted Definitive Note, then, upon receipt by the Registrar of the following documentation:

(A) if the Holder of such beneficial interest in a Restricted Global Note proposes to exchange such beneficial interest for a Restricted Definitive Note, a certificate from such Holder in the form of Exhibit C hereto, including the certifications in item (2)(a) thereof;

(B) if such beneficial interest is being transferred to a QIB in accordance with Rule 144A under the Securities Act, a certificate to the effect set forth in Exhibit B hereto, including the certifications in item (1) thereof;

(C) if such beneficial interest is being transferred to a Non-U.S. Person in an offshore transaction in accordance with Rule 903 or Rule 904 under the Securities Act, a certificate to the effect set forth in Exhibit B hereto, including the certifications in item (2) thereof;

(D) if such beneficial interest is being transferred pursuant to an exemption from the registration requirements of the Securities Act in accordance with Rule 144 under the Securities Act, a certificate to the effect set forth in Exhibit B hereto, including the certifications in item (3)(a) thereof;

(E) if such beneficial interest is being transferred to an Institutional Accredited Investor in reliance on an exemption from the registration requirements of the Securities

Act other than those listed in subparagraphs (B) through (D) above, a certificate to the effect set forth in Exhibit B hereto, including the certifications, certificates and Opinion of Counsel required by item (3) thereof, if applicable;

(F) if such beneficial interest is being transferred to the Company or any of its Subsidiaries, a certificate to the effect set forth in Exhibit B hereto, including the certifications in item (3)(b) thereof; or

(G) if such beneficial interest is being transferred pursuant to an effective registration statement under the Securities Act, a certificate to the effect set forth in Exhibit B hereto, including the certifications in item (3)(c) thereof,

the Trustee shall cause the aggregate principal amount of the applicable Global Note to be reduced accordingly pursuant to Section 2.06(h) hereof, and the Company shall execute and the Trustee shall authenticate and deliver to the Person designated in the instructions a Definitive Note in the appropriate principal amount. Any Definitive Note issued in exchange for a beneficial interest in a Restricted Global Note pursuant to this Section 2.06(c) shall be registered in such name or names and in such authorized denomination or denominations as the Holder of such beneficial interest shall instruct the Registrar through instructions from the Depositary and the Participant or Indirect Participant. The Trustee shall deliver such Definitive Notes to the Persons in whose names such Notes are so registered. Any Definitive Note issued in exchange for a beneficial interest in a Restricted Global Note pursuant to this Section 2.06(c)(i) shall bear the Private Placement Legend and shall be subject to all restrictions on transfer contained therein.

(ii) Beneficial Interests in Restricted Global Notes to Unrestricted Definitive Notes. A Holder of a beneficial interest in a Restricted Global Note may exchange such beneficial interest for an Unrestricted Definitive Note or may transfer such beneficial interest to a Person who takes delivery thereof in the form of an Unrestricted Definitive Note only if:

(A) such exchange or transfer is effected pursuant to the Exchange Offer in accordance with the Registration Rights Agreement and the Holder of such beneficial interest, in the case of an exchange, or the transferee, in the case of a transfer, certifies in the applicable Letter of Transmittal that it is not (1) a broker-dealer, (2) a Person participating in the distribution of the Exchange Notes or (3) a Person who is an affiliate (as defined in Rule 144) of the Company;

(B) such transfer is effected pursuant to the Shelf Registration Statement in accordance with the Registration Rights Agreement;

(C) such transfer is effected by a Broker-Dealer pursuant to the Exchange Offer Registration Statement in accordance with the Registration Rights Agreement; or

(D) the Registrar receives the following:

(1) if the Holder of such beneficial interest in a Restricted Global Note proposes to exchange such beneficial interest for a Definitive Note that does not bear the Private Placement Legend, a certificate from such Holder in the form of Exhibit C hereto, including the certifications in item (1)(b) thereof; or

(2) if the Holder of such beneficial interest in a Restricted Global Note proposes to transfer such beneficial interest to a Person who shall take delivery thereof in the form of a

Definitive Note that does not bear the Private Placement Legend, a certificate from such Holder in the form of Exhibit B hereto, including the certifications in item (4) thereof;

and, in each such case set forth in this subparagraph (D), if the Registrar so requests or if the Applicable Procedures so require, an Opinion of Counsel in form reasonably acceptable to the Registrar to the effect that such exchange or transfer is in compliance with the Securities Act and that the restrictions on transfer contained herein and in the Private Placement Legend are no longer required in order to maintain compliance with the Securities Act.

(iii) Beneficial Interests in Unrestricted Global Notes to Unrestricted Definitive Notes. If any Holder of a beneficial interest in an Unrestricted Global Note proposes to exchange such beneficial interest for a Definitive Note or to transfer such beneficial interest to a Person who takes delivery thereof in the form of a Definitive Note, then, upon satisfaction of the conditions set forth in Section 2.06(b)(ii) hereof, the Trustee shall cause the aggregate principal amount of the applicable Global Note to be reduced accordingly pursuant to Section 2.06(h) hereof, and the Company shall execute and the Trustee shall authenticate and deliver to the Person designated in the instructions a Definitive Note in the appropriate principal amount. Any Definitive Note issued in exchange for a beneficial interest pursuant to this Section 2.06(c)(iii) shall be registered in such name or names and in such authorized denomination or denominations as the Holder of such beneficial interest shall instruct the Registrar through instructions from the Depositary and the Participant or Indirect Participant. The Trustee shall deliver such Definitive Notes to the Persons in whose names such Notes are so registered. Any Definitive Note issued in exchange for a beneficial interest pursuant to this Section 2.06(c)(iii) shall not bear the Private Placement Legend.

(d) Transfer and Exchange of Definitive Notes for Beneficial Interests.

(i) Restricted Definitive Notes to Beneficial Interests in Restricted Global Notes. If any Holder of a Restricted Definitive Note proposes to exchange such Note for a beneficial interest in a Restricted Global Note or to transfer such Restricted Definitive Notes to a Person who takes delivery thereof in the form of a beneficial interest in a Restricted Global Note, then, upon receipt by the Registrar of the following documentation:

(A) if the Holder of such Restricted Definitive Note proposes to exchange such Note for a beneficial interest in a Restricted Global Note, a certificate from such Holder in the form of Exhibit C hereto, including the certifications in item (2)(b) thereof;

(B) if such Restricted Definitive Note is being transferred to a QIB in accordance with Rule 144A under the Securities Act, a certificate to the effect set forth in Exhibit B hereto, including the certifications in item (1) thereof;

(C) if such Restricted Definitive Note is being transferred to a Non-U.S. Person in an offshore transaction in accordance with Rule 903 or Rule 904 under the Securities Act, a certificate to the effect set forth in Exhibit B hereto, including the certifications in item (2) thereof;

(D) if such Restricted Definitive Note is being transferred pursuant to an exemption from the registration requirements of the Securities Act in accordance with Rule 144

under the Securities Act, a certificate to the effect set forth in Exhibit B hereto, including the certifications in item (3)(a) thereof;

(E) if such Restricted Definitive Note is being transferred to an Institutional Accredited Investor in reliance on an exemption from the registration requirements of the Securities Act other than those listed in subparagraphs (B) through (D) above, a certificate to the effect set forth in Exhibit B hereto, including the certifications, certificates and Opinion of Counsel required by item (3) thereof, if applicable;

(F) if such Restricted Definitive Note is being transferred to the Company or any of its Subsidiaries, a certificate to the effect set forth in Exhibit B hereto, including the certifications in item (3)(b) thereof; or

(G) if such Restricted Definitive Note is being transferred pursuant to an effective registration statement under the Securities Act, a certificate to the effect set forth in Exhibit B hereto, including the certifications in item (3)(c) thereof,

the Trustee shall cancel the Restricted Definitive Note, increase or cause to be increased the aggregate principal amount of, in the case of clause (A) above, the appropriate Restricted Global Note, in the case of clause (B) above, the 144A Global Note, in the case of clause (C) above, the Regulation S Global Note, and in all other cases, the IAI Global Note.

(ii) Restricted Definitive Notes to Beneficial Interests in Unrestricted Global Notes. A Holder of a Restricted Definitive Note may exchange such Note for a beneficial interest in an Unrestricted Global Note or transfer such Restricted Definitive Note to a Person who takes delivery thereof in the form of a beneficial interest in an Unrestricted Global Note only if:

(A) such exchange or transfer is effected pursuant to the Exchange Offer in accordance with the Registration Rights Agreement and the Holder, in the case of an exchange, or the transferee, in the case of a transfer, certifies in the applicable Letter of Transmittal that it is not (1) a broker-dealer, (2) a Person participating in the distribution of the Exchange Notes or (3) a Person who is an affiliate (as defined in Rule 144) of the Company;

(B) such transfer is effected pursuant to the Shelf Registration Statement in accordance with the Registration Rights Agreement;

(C) such transfer is effected by a Broker-Dealer pursuant to the Exchange Offer Registration Statement in accordance with the Registration Rights Agreement; or

(D) the Registrar receives the following:

(1) if the Holder of such Definitive Notes proposes to exchange such Notes for a beneficial interest in the Unrestricted Global Note, a certificate from such Holder in the form of Exhibit C hereto, including the certifications in item (1)(c) thereof; or

(2) if the Holder of such Definitive Notes proposes to transfer such Notes to a Person who shall take delivery thereof in the form of a beneficial interest in the Unrestricted Global Note, a certificate from such Holder in the form of Exhibit B hereto, including the certifications in item (4) thereof;

and, in each such case set forth in this subparagraph (D), if the Registrar so requests or if the Applicable Procedures so require, an Opinion of Counsel in form reasonably acceptable to the Registrar to the effect that such exchange or transfer is in compliance with the Securities Act and that the restrictions on transfer contained herein and in the Private Placement Legend are no longer required in order to maintain compliance with the Securities Act.

Upon satisfaction of the conditions of any of the subparagraphs in this Section 2.06(d)(ii), the Trustee shall cancel the Definitive Notes and increase or cause to be increased the aggregate principal amount of the Unrestricted Global Note.

(iii) Unrestricted Definitive Notes to Beneficial Interests in Unrestricted Global Notes. A Holder of an Unrestricted Definitive Note may exchange such Note for a beneficial interest in an Unrestricted Global Note or transfer such Definitive Notes to a Person who takes delivery thereof in the form of a beneficial interest in an Unrestricted Global Note at any time. Upon receipt of a request for such an exchange or transfer, the Trustee shall cancel the applicable Unrestricted Definitive Note and increase or cause to be increased the aggregate principal amount of one of the Unrestricted Global Notes.

If any such exchange or transfer from a Definitive Note to a beneficial interest is effected pursuant to subparagraphs (ii)(B), (ii)(D) or (iii) above at a time when an Unrestricted Global Note has not yet been issued, the Company shall issue and, upon receipt of an Authentication Order in accordance with Section 2.02 hereof, the Trustee shall authenticate one or more Unrestricted Global Notes in an aggregate principal amount equal to the principal amount of Definitive Notes so transferred.

(e) Transfer and Exchange of Definitive Notes for Definitive Notes.

Upon request by a Holder of Definitive Notes and such Holder's compliance with the provisions of this Section 2.06(e), the Registrar shall register the transfer or exchange of Definitive Notes. Prior to such registration of transfer or exchange, the requesting Holder shall present or surrender to the Registrar the Definitive Notes duly endorsed or accompanied by a written instruction of transfer in form satisfactory to the Registrar duly executed by such Holder or by its attorney, duly authorized in writing. In addition, the requesting Holder shall provide any additional certifications, documents and information, as applicable, required pursuant to the following provisions of this Section 2.06(e).

(i) Restricted Definitive Notes to Restricted Definitive Notes. Any Restricted Definitive Note may be transferred to and registered in the name of Persons who take delivery thereof in the form of a Restricted Definitive Note if the Registrar receives the following:

(A) if the transfer will be made pursuant to Rule 144A under the Securities Act, then the transferor must deliver a certificate in the form of Exhibit B hereto, including the certifications in item (1) thereof;

(B) if the transfer will be made pursuant to Rule 903 or Rule 904, then the transferor must deliver a certificate in the form of Exhibit B hereto, including the certifications in item (2) thereof; and

(C) if the transfer will be made pursuant to any other exemption from the registration requirements of the Securities Act, then the transferor must deliver a certificate in the form of Exhibit B hereto, including the certifications, certificates and Opinion of Counsel required by item (3) thereof, if applicable.

(ii) Restricted Definitive Notes to Unrestricted Definitive Notes. Any Restricted Definitive Note may be exchanged by the Holder thereof for an Unrestricted Definitive Note or transferred to a Person or Persons who take delivery thereof in the form of an Unrestricted Definitive Note if:

(A) such exchange or transfer is effected pursuant to the Exchange Offer in accordance with the Registration Rights Agreement and the Holder, in the case of an exchange, or the transferee, in the case of a transfer, certifies in the applicable Letter of Transmittal that it is not (1) a broker-dealer, (2) a Person participating in the distribution of the Exchange Notes or (3) a Person who is an affiliate (as defined in Rule 144) of the Company;

(B) any such transfer is effected pursuant to the Shelf Registration Statement in accordance with the Registration Rights Agreement;

(C) any such transfer is effected by a Broker-Dealer pursuant to the Exchange Offer Registration Statement in accordance with the Registration Rights Agreement; or

(D) the Registrar receives the following:

(1) if the Holder of such Restricted Definitive Notes proposes to exchange such Notes for an Unrestricted Definitive Note, a certificate from such Holder in the form of Exhibit C hereto, including the certifications in item (1)(d) thereof; or

(2) if the Holder of such Restricted Definitive Notes proposes to transfer such Notes to a Person who shall take delivery thereof in the form of an Unrestricted Definitive Note, a certificate from such Holder in the form of Exhibit B hereto, including the certifications in item (4) thereof;

and, in each such case set forth in this subparagraph (D), if the Registrar so requests, an Opinion of Counsel in form reasonably acceptable to the Company to the effect that such exchange or transfer is in compliance with the Securities Act and that the restrictions on transfer contained herein and in the Private Placement Legend are no longer required in order to maintain compliance with the Securities Act.

(iii) Unrestricted Definitive Notes to Unrestricted Definitive Notes. A Holder of Unrestricted Definitive Notes may transfer such Notes to a Person who takes delivery thereof in the form of an Unrestricted Definitive Note. Upon receipt of a request to register such a transfer, the Registrar shall register the Unrestricted Definitive Notes pursuant to the instructions from the Holder thereof.

(f) Exchange Offer. Upon the occurrence of the Exchange Offer in accordance with the Registration Rights Agreement, the Company shall issue and, upon receipt of an Authentication Order in accordance with Section 2.02, the Trustee shall authenticate (i) one or more Unrestricted Global Notes in an aggregate principal amount equal to the principal amount of the beneficial interests in the Restricted Global Notes tendered for acceptance by Persons that certify in the applicable Letters of Transmittal that (x) they are not broker-dealers, (y) they are not participating in a distribution of the Exchange Notes and (z) they are not affiliates (as defined in Rule 144) of the Company, and accepted for exchange in the Exchange Offer and (ii) Definitive Notes in an aggregate principal amount equal to the principal amount of the Restricted

Definitive Notes accepted for exchange in the Exchange Offer. Concurrently with the issuance of such Notes, the Trustee shall cause the aggregate principal amount of the applicable Restricted Global Notes to be reduced accordingly, and the Company shall execute and the Trustee shall authenticate and deliver to the Persons designated by the Holders of Definitive Notes so accepted Definitive Notes in the appropriate principal amount.

(g) Legends. The following legends shall appear on the face of all Global Notes and Definitive Notes issued under this Indenture unless specifically stated otherwise in the applicable provisions of this Indenture.

(i) Private Placement Legend.

(A) Except as permitted by subparagraph (B) below, each Global Note and each Definitive Note (and all Notes issued in exchange therefor or substitution thereof) shall bear the legend in substantially the following form:

"THE NOTES EVIDENCED HEREBY HAVE NOT BEEN REGISTERED UNDER THE UNITED STATES SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), AND MAY NOT BE OFFERED, SOLD, PLEDGED OR OTHERWISE TRANSFERRED EXCEPT (A) (1) TO A PERSON WHO THE SELLER REASONABLY BELIEVES IS A QUALIFIED INSTITUTIONAL BUYER WITHIN THE MEANING OF RULE 144A UNDER THE SECURITIES ACT PURCHASING FOR ITS OWN ACCOUNT OR FOR THE ACCOUNT OF A QUALIFIED INSTITUTIONAL BUYER IN A TRANSACTION MEETING THE REQUIREMENTS OF RULE 144A, (2) IN AN OFFSHORE TRANSACTION COMPLYING WITH RULE 903 OR RULE 904 OF REGULATION S UNDER THE SECURITIES ACT, (3) PURSUANT TO AN EXEMPTION FROM REGISTRATION UNDER THE SECURITIES ACT PROVIDED BY RULE 144 THEREUNDER (IF AVAILABLE), (4) TO AN INSTITUTIONAL ACCREDITED INVESTOR IN A TRANSACTION EXEMPT FROM THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT OR (5) PURSUANT TO AN EFFECTIVE REGISTRATION STATEMENT UNDER THE SECURITIES ACT AND (B) IN ACCORDANCE WITH ALL APPLICABLE SECURITIES LAWS OF THE STATES OF THE UNITED STATES."

(B) Notwithstanding the foregoing, any Global Note or Definitive Note issued pursuant to subparagraphs (b)(iv), (c)(ii), (c)(iii), (d)(ii), (d)(iii), (e)(ii), (e)(iii) or (f) to this Section 2.06 (and all Notes issued in exchange therefor or substitution thereof) shall not bear the Private Placement Legend.

(ii) Global Note Legend. Each Global Note shall bear a legend in substantially the following form:

"THIS GLOBAL NOTE IS HELD BY THE DEPOSITARY (AS DEFINED IN THE INDENTURE GOVERNING THIS NOTE) OR ITS NOMINEE IN CUSTODY FOR THE BENEFIT OF THE BENEFICIAL OWNERS HEREOF, AND IS NOT TRANSFERABLE TO ANY PERSON UNDER ANY CIRCUMSTANCES EXCEPT THAT (I) THE TRUSTEE MAY MAKE SUCH NOTATIONS HEREON AS MAY BE REQUIRED PURSUANT TO SECTION 2.07 OF THE INDENTURE, (II) THIS GLOBAL NOTE MAY BE EXCHANGED IN WHOLE BUT NOT IN PART PURSUANT TO SECTION 2.06(a) OF THE INDENTURE, (III) THIS GLOBAL NOTE MAY BE DELIVERED TO THE TRUSTEE FOR CANCELLATION PURSUANT TO SECTION 2.11 OF THE INDENTURE AND (IV) THIS GLOBAL NOTE MAY BE TRANSFERRED TO A SUCCESSOR DEPOSITARY WITH THE PRIOR WRITTEN CONSENT OF OFFICE DEPOT, INC."

(h) Cancellation and/or Adjustment of Global Notes. At such time as all beneficial interests in a particular Global Note have been exchanged for Definitive Notes or a particular Global Note has been redeemed, repurchased or canceled in whole and not in part, each such Global Note shall be returned to or retained and canceled by the Trustee in accordance with Section 2.11 hereof. At any time prior to such cancellation, if any beneficial interest in a Global Note is exchanged for or transferred to a Person who will take delivery thereof in the form of a beneficial interest in another Global Note or for Definitive Notes, the principal amount of Notes represented by such Global Note shall be reduced accordingly and an endorsement shall be made on such Global Note by the Trustee or by the Depositary at the direction of the Trustee to reflect such reduction; and if the beneficial interest is being exchanged for or transferred to a Person who will take delivery thereof in the form of a beneficial interest in another Global Note, such other Global Note shall be increased accordingly and an endorsement shall be made on such Global Note by the Trustee or by the Depositary at the direction of the Trustee to reflect such increase.

(i) General Provisions Relating to Transfers and Exchanges.

(i) To permit registrations of transfers and exchanges, the Company shall execute and the Trustee shall authenticate Global Notes and Definitive Notes upon the Company's order or at the Registrar's request.

(ii) No service charge shall be made to a Holder of a beneficial interest in a Global Note or to a Holder of a Definitive Note for any registration of transfer or exchange, but the Company may require payment of a sum sufficient to cover any transfer tax or similar governmental charge payable in connection therewith (other than any such transfer taxes or similar governmental charge payable upon exchange or transfer pursuant to Sections 2.10, 3.06, 3.09, 4.10, 4.14 and 9.05 hereof).

(iii) The Registrar shall not be required to register the transfer of or exchange any Note selected for redemption in whole or in part, except the unredeemed portion of any Note being redeemed in part.

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

(v) The Company shall not be required (A) to issue, to register the transfer of or to exchange any Notes during a period beginning at the opening of business 15 days before the day of any selection of Notes for redemption under Section 3.02 hereof and ending at the close of business on the day of selection, (B) to register the transfer of or to exchange any Note so selected for redemption in whole or in part, except the unredeemed portion of any Note being redeemed in part or (C) to register the transfer of or to exchange a Note between a record date and the next succeeding Interest Payment Date.

(vi) Prior to due presentment for the registration of a transfer of any Note, the Trustee, any Agent and the Company may deem and treat the Person in whose name any Note is registered as the absolute owner of such Note for the purpose of receiving payment of principal of and interest on such Notes and for all other purposes, and none of the Trustee, any Agent or the Company shall be affected by notice to the contrary.

(vii) The Trustee shall authenticate Global Notes and Definitive Notes in accordance with the provisions of Section 2.02 hereof.



(viii) All certifications, certificates and Opinions of Counsel required to be submitted to the Registrar pursuant to this Section 2.06 to effect a registration of transfer or exchange may be submitted by facsimile.

Section 2.07. Replacement Notes.

If any mutilated Note is surrendered to the Trustee or the Company and the Trustee receives evidence to its satisfaction of the destruction, loss or theft of any Note, the Company shall issue and the Trustee, upon receipt of an Authentication Order, shall authenticate a replacement Note if the Trustee's requirements are met. If required by the Trustee or the Company, an indemnity bond must be supplied by the Holder that is sufficient in the judgment of the Trustee and the Company to protect the Company, the Trustee, any Agent and any authenticating agent from any loss that any of them may suffer if a Note is replaced. The Company may charge for its expenses in replacing a Note.

Every replacement Note is an additional obligation of the Company and shall be entitled to all of the benefits of this Indenture equally and proportionately with all other Notes duly issued hereunder.

Section 2.08. Outstanding Notes.

The Notes outstanding at any time are all the Notes authenticated by the Trustee except for those canceled by it, those delivered to it for cancellation, those reductions in the interest in a Global Note effected by the Trustee in accordance with the provisions hereof, and those described in this Section as not outstanding. Except as set forth in Section 2.09 hereof, a Note does not cease to be outstanding because the Company or an Affiliate of the Company holds the Note.

If a Note is replaced pursuant to Section 2.07 hereof, it ceases to be outstanding unless the Trustee receives proof satisfactory to it that the replaced Note is held by a bona fide purchaser.

If the principal amount of any Note is considered paid under Section 4.01 hereof, it ceases to be outstanding and interest on it ceases to accrue.

If the Paying Agent (other than the Company, a Subsidiary or an Affiliate of any thereof) holds, on a redemption date or maturity date, money sufficient to pay Notes payable on that date, then on and after that date such Notes shall be deemed to be no longer outstanding and shall cease to accrue interest.

Section 2.09. Treasury Notes.

In determining whether the Holders of the required principal amount of Notes have concurred in any direction, waiver or consent, Notes owned by the Company, or by any Person directly or indirectly controlling or controlled by or under direct or indirect common control with the Company, shall be considered as though not outstanding, except that for the purposes of determining whether the Trustee shall be protected in relying on any such direction, waiver or consent, only Notes that the Trustee knows are so owned shall be so disregarded.

Section 2.10. Temporary Notes.

Until certificates representing Notes are ready for delivery, the Company may prepare and the Trustee, upon receipt of an Authentication Order, shall authenticate temporary Notes. Temporary Notes shall be substantially in the form of certificated Notes but may have variations that the Company considers appropriate for temporary Notes and as shall be reasonably acceptable

to the Trustee. Without unreasonable delay, the Company shall prepare and the Trustee shall authenticate definitive Notes in exchange for temporary Notes.

Holder of temporary Notes shall be entitled to all of the benefits of this Indenture.

Section 2.11. Cancellation.

The Company at any time may deliver Notes to the Trustee for cancellation. The Registrar and Paying Agent shall forward to the Trustee any Notes surrendered to them for registration of transfer, exchange or payment. The Trustee and no one else shall cancel all Notes surrendered for registration of transfer, exchange, payment, replacement or cancellation and shall destroy canceled Notes (subject to the record retention requirement of the Exchange Act). Certification of the destruction of all canceled Notes shall be delivered to the Company. The Company may not issue new Notes to replace Notes that it has paid or that have been delivered to the Trustee for cancellation.

Section 2.12. Defaulted Interest.

If the Company defaults in a payment of interest on the Notes, it shall pay the defaulted interest in any lawful manner plus, to the extent lawful, interest payable on the defaulted interest, to the Persons who are Holders on a subsequent special record date, in each case at the rate provided in the Notes and in Section 4.01 hereof. The Company shall notify the Trustee in writing of the amount of defaulted interest proposed to be paid on each Note and the date of the proposed payment. The Company shall fix or cause to be fixed each such special record date and payment date, provided that no such special record date shall be less than 10 days prior to the related payment date for such defaulted interest. At least 15 days before the special record date, the Company (or, upon the written request of the Company, the Trustee in the name and at the expense of the Company) shall mail or cause to be mailed to Holders a notice that states the special record date, the related payment date and the amount of such interest to be paid.

ARTICLE 3.  
REDEMPTION AND PREPAYMENT

Section 3.01. Notices to Trustee.

If the Company elects to redeem Notes pursuant to the optional redemption provision of Section 3.07 hereof, it shall furnish to the Trustee, at least 30 days but not more than 60 days before a redemption date, an Officers' Certificate setting forth (i) the clause of this Indenture pursuant to which the redemption shall occur, (ii) the redemption date, (iii) the principal amount of Notes to be redeemed and (iv) the redemption price.

Section 3.02. Selection of Notes to Be Redeemed.

If less than all of the Notes are to be redeemed or purchased in an offer to purchase at any time, the Trustee shall select the Notes to be redeemed or purchased among the Holders of the Notes in compliance with the requirements of the principal national securities exchange, if any, on which the Notes are listed or, if the Notes are not so listed, on a pro rata basis, by lot or in accordance with any other method the Trustee considers fair and appropriate. In the event of partial redemption by lot, the particular Notes to be redeemed shall be selected, unless otherwise provided herein, not less than 30 nor more than 60 days prior to the redemption date by the Trustee from the outstanding Notes not previously called for redemption.

The Trustee shall promptly notify the Company in writing of the Notes selected for redemption and, in the case of any Note selected for partial redemption, the principal amount thereof to be redeemed. Notes and portions of Notes selected shall be in amounts of \$1,000 or whole multiples of \$1,000; except that if all of the Notes of a Holder are to be redeemed, the entire outstanding amount of Notes held by such Holder, even if not a multiple of \$1,000, shall be redeemed. Except as provided in the preceding sentence, provisions of this Indenture that apply to Notes called for redemption also apply to portions of Notes called for redemption.

Section 3.03. Notice of Redemption.

Subject to the provisions of Section 3.09 hereof, at least 30 days but not more than 60 days before a redemption date, the Company shall mail or cause to be mailed, by first class mail, a notice of redemption to each Holder whose Notes are to be redeemed at its registered address.

The notice shall identify the Notes to be redeemed and shall state:

- (a) the redemption date;
- (b) the redemption price;

(c) if any Note is being redeemed in part, the portion of the principal amount of such Note to be redeemed and that, after the redemption date upon surrender of such Note, a new Note or Notes in principal amount equal to the unredeemed portion shall be issued upon cancellation of the original Note;

(d) the name and address of the Paying Agent;

(e) that Notes called for redemption must be surrendered to the Paying Agent to collect the redemption price;

(f) that, unless the Company defaults in making such redemption payment, interest on Notes called for redemption ceases to accrue on and after the redemption date;

(g) the paragraph of the Notes and/or Section of this Indenture pursuant to which the Notes called for redemption are being redeemed; and

(h) that no representation is made as to the correctness or accuracy of the CUSIP number, if any, listed in such notice or printed on the Notes.

At the Company's request, the Trustee shall give the notice of redemption in the Company's name and at its expense; provided, however, that the Company shall have delivered to the Trustee, at least 45 days prior to the redemption date, an Officers' Certificate requesting that the Trustee give such notice and setting forth the information to be stated in such notice as provided in the preceding paragraph.

Notwithstanding the foregoing, a redemption notice may be mailed more than 60 days prior to the redemption date if the notice is issued in connection with a defeasance of the Notes or satisfaction and discharge of this Indenture.

Section 3.04. Effect of Notice of Redemption.

Once notice of redemption is mailed in accordance with Section 3.03 hereof, Notes called for redemption become irrevocably due and payable on the redemption date at the redemption price. A notice of redemption may not be conditional.

Section 3.05. Deposit of Redemption Price.

One Business Day prior to the redemption date, the Company shall deposit with the Trustee or with the Paying Agent money sufficient to pay the redemption price of and accrued interest on all Notes to be redeemed on that date. The Trustee or the Paying Agent shall promptly return to the Company any money deposited with the Trustee or the Paying Agent by the Company in excess of the amounts necessary to pay the redemption price of, and accrued interest on, all Notes to be redeemed.

If the Company complies with the provisions of the preceding paragraph, on and after the redemption date, interest shall cease to accrue on the Notes or the portions of Notes called for redemption. If a Note is redeemed on or after an interest record date but on or prior to the related interest payment date, then any accrued and unpaid interest shall be paid to the Person in whose name such Note was registered at the close of business on such record date. If any Note called for redemption shall not be so paid upon surrender for redemption because of the failure of the Company to comply with the preceding paragraph, interest shall be paid on the unpaid principal, from the redemption date until such principal is paid, and to the extent lawful on any interest not paid on such unpaid principal, in each case at the rate provided in the Notes and in Section 4.01 hereof.

Section 3.06. Notes Redeemed in Part.

Upon surrender of a Note that is redeemed in part, the Company shall issue and, upon the Company's written request, the Trustee shall authenticate for the Holder at the expense of the Company a new Note equal in principal amount to the unredeemed portion of the Note surrendered.

Section 3.07. Optional Redemption.

(a) Except as set forth in clause (b) of this Section 3.07, the Company shall not have the option to redeem the Notes.

(b) The Notes may be redeemed, in whole or in part, at any time at the option of the Company upon not less than 30 nor more than 60 days prior notice mailed by first-class mail to each Holder's registered address, at a redemption price equal to the greater of (i) 100% of the principal amount thereof or (ii) as determined by an Independent Investment Banker, the sum of the present values of the Remaining Scheduled Payments discounted to the redemption date on a semiannual basis (assuming a 360-day year consisting of twelve 30-day months) at the Adjusted Treasury Rate, plus, in each case, accrued and unpaid interest and Special Interest, if any, to the date of redemption.

(c) Any redemption pursuant to this Section 3.07 shall be made pursuant to the provisions of Section 3.01 through 3.06 hereof.

Section 3.08. Mandatory Redemption.

The Company shall not be required to make mandatory redemption payments with respect to the Notes.

Section 3.09. Offer to Purchase by Application of Excess Proceeds.

In the event that, pursuant to Section 4.10 hereof, the Company shall be required to commence an offer to all Holders to purchase Notes (an "Asset Sale Offer"), it shall follow the procedures specified below.

The Asset Sale Offer shall remain open for a period of 20 Business Days following its commencement and no longer, except to the extent that a longer period is required by applicable law (the "Offer Period"). No later than five Business Days after the termination of the Offer Period (the "Purchase Date"), the Company shall purchase the principal amount of Notes required to be purchased pursuant to Section 4.10 hereof (the "Offer Amount") or, if less than the Offer Amount has been tendered, all Notes tendered in response to the Asset Sale Offer. Payment for any Notes so purchased shall be made in the same manner as interest payments are made.

If the Purchase Date is on or after an interest record date and on or before the related interest payment date, any accrued and unpaid interest shall be paid to the Person in whose name a Note is registered at the close of business on such record date, and no additional interest shall be payable to Holders who tender Notes pursuant to the Asset Sale Offer.

Upon the commencement of an Asset Sale Offer, the Company shall send, by first class mail, a notice to the Trustee and each of the Holders, with a copy to the Trustee. The notice shall contain all instructions and materials necessary to enable such Holders to tender Notes pursuant to the Asset Sale Offer. The Asset Sale Offer shall be made to all Holders. The notice, which shall govern the terms of the Asset Sale Offer, shall state:

(a) that the Asset Sale Offer is being made pursuant to this Section 3.09 and Section 4.10 hereof and the length of time the Asset Sale Offer shall remain open;

(b) the Offer Amount, the purchase price and the Purchase Date;

(c) that any Note not tendered or accepted for payment shall continue to accrete or accrue interest;

(d) that, unless the Company defaults in making such payment, any Note accepted for payment pursuant to the Asset Sale Offer shall cease to accrete or accrue interest after the Purchase Date;

(e) that Holders electing to have a Note purchased pursuant to an Asset Sale Offer may elect to have Notes purchased in integral multiples of \$1,000 only;

(f) that Holders electing to have a Note purchased pursuant to any Asset Sale Offer shall be required to surrender the Note, with the form entitled "Option of Holder to Elect Purchase" on the reverse of the Note completed, or transfer by book-entry transfer, to the Company, a depository, if appointed by the Company, or a Paying Agent at the address specified in the notice at least three days before the Purchase Date;

(g) that Holders shall be entitled to withdraw their election if the Company, the depository or the Paying Agent, as the case may be, receives, not later than the expiration of the Offer Period, a telegram, telex, facsimile transmission or letter setting forth the name of the Holder, the principal amount of the Note the Holder delivered for purchase and a statement that such Holder is withdrawing his election to have such Note purchased;

(h) that, if the aggregate principal amount of Notes surrendered by Holders exceeds the Offer Amount, the Company shall select the Notes to be purchased on a pro rata basis (with such adjustments as may be deemed appropriate by the Company so that only Notes in denominations of \$1,000, or integral multiples thereof, shall be purchased); and

(i) that Holders whose Notes were purchased only in part shall be issued new Notes equal in principal amount to the unpurchased portion of the Notes surrendered (or transferred by book-entry transfer).

On or before the Purchase Date, the Company shall, to the extent lawful, accept for payment, on a pro rata basis to the extent necessary, the Offer Amount of Notes or portions thereof tendered pursuant to the Asset Sale Offer, or if less than the Offer Amount has been tendered, all Notes tendered, and shall deliver to the Trustee an Officers' Certificate stating that such Notes or portions thereof were accepted for payment by the Company in accordance with the terms of this Section 3.09. The Company, the Depositary or the Paying Agent, as the case may be, shall promptly (but in any case not later than five days after the Purchase Date) mail or deliver to each tendering Holder an amount equal to the purchase price of the Notes tendered by such Holder and accepted by the Company for purchase, and the Company shall promptly issue a new Note, and the Trustee, upon written request from the Company, shall authenticate and mail or deliver such new Note to such Holder, in a principal amount equal to any unpurchased portion of the Note surrendered. Any Note not so accepted shall be promptly mailed or delivered by the Company to the Holder thereof. The Company shall publicly announce the results of the Asset Sale Offer on the Purchase Date.

Other than as specifically provided in this Section 3.09, any purchase pursuant to this Section 3.09 shall be made pursuant to the provisions of Sections 3.01 through 3.06 hereof.

#### ARTICLE 4. COVENANTS

##### Section 4.01. Payment of Notes.

The Company shall pay or cause to be paid the principal of, premium, if any, and interest on the Notes on the dates and in the manner provided in the Notes. Principal, premium, if any, and interest shall be considered paid on the date due if the Paying Agent, if other than the Company or a Subsidiary thereof, holds as of 10:00 a.m. Eastern Time on the due date money deposited by the Company in immediately available funds and designated for and sufficient to pay all principal, premium, if any, and interest then due. The Company shall pay all Special Interest, if any, in the same manner on the dates and in the amounts set forth in the Registration Rights Agreement.

The Company shall pay interest (including post-petition interest in any proceeding under any Bankruptcy Law) on overdue principal at the rate equal to 1% per annum in excess of the then applicable interest rate on the Notes to the extent lawful; it shall pay interest (including post-petition interest in any proceeding under any Bankruptcy Law) on overdue installments of interest and Special Interest (without regard to any applicable grace period) at the same rate to the extent lawful.

##### Section 4.02. Maintenance of Office or Agency.

The Company shall maintain in the Borough of Manhattan, the City of New York, an office or agency (which may be an office of the Trustee or an affiliate of the Trustee, Registrar or co-registrar) where Notes may be surrendered for registration of transfer or for exchange and where notices and demands to or upon the Company in respect of the Notes and this Indenture may be served. The

Company shall give prompt written notice to the Trustee of the location, and any change in the location, of such office or agency. If at any time the Company shall fail to maintain any such required office or agency or shall fail to furnish the Trustee with the address thereof, such presentations, surrenders, notices and demands may be made or served at the Corporate Trust Office of the Trustee.

The Company may also from time to time designate one or more other offices or agencies where the Notes may be presented or surrendered for any or all such purposes and may from time to time rescind such designations; provided, however, that no such designation or rescission shall in any manner relieve the Company of its obligation to maintain an office or agency in the Borough of Manhattan, the City of New York for such purposes. The Company shall give prompt written notice to the Trustee of any such designation or rescission and of any change in the location of any such other office or agency.

The Company hereby designates the Corporate Trust Office of the Trustee as one such office or agency of the Company in accordance with Section 2.03.

#### Section 4.03. Reports.

(a) Whether or not required by the rules and regulations of the SEC, so long as any Notes are outstanding, the Company shall furnish to the Holders of Notes (i) all quarterly and annual financial information that would be required to be contained in a filing with the SEC on Forms 10-Q and 10-K if the Company were required to file such forms, including a "Management's Discussion and Analysis of Financial Condition and Results of Operations" and, with respect to the annual information only, a report on thereon by the Company's certified independent accountants; and (ii) all current reports that would be required to be filed with the SEC on Form 8-K if the Company were required to file such reports, in each case, within the time periods specified in the SEC's rules and regulations.

(b) In addition, following consummation of the Exchange Offer, whether or not required by the rules and regulations of the SEC, the Company shall file a copy of all such information and reports with the SEC for public availability within the time periods specified in the SEC's rules and regulations (unless the SEC will not accept such a filing) and make such information available to securities analysts and prospective investors upon request. The Company shall at all times comply with TIA ss. 314(a). In addition, the Company has agreed that, for so long as any Notes remain outstanding, it shall furnish to the Holders and to securities analysts and prospective investors, upon their request, the information required to be delivered pursuant to Rule 144A(d) (4) under the Securities Act.

(c) If the Company has designated any of its Subsidiaries as Unrestricted Subsidiaries, then the quarterly and annual financial information required by the preceding paragraph shall include a reasonably detailed presentation, either on the face of the financial statements or in the footnotes thereto, and in Management's Discussion and Analysis of Financial Condition and Results of Operations, of the financial condition and results of operations of the Company and its Restricted Subsidiaries separate from the financial condition and results of operations of the Unrestricted Subsidiaries of the Company.

#### Section 4.04. Compliance Certificate.

(a) The Company shall deliver to the Trustee, within 90 days after the end of each fiscal year, an Officers' Certificate stating that a review of the activities of the Company and its Subsidiaries during the preceding fiscal year has been made under the supervision of the signing Officers with a view to determining whether the Company has kept, observed, performed and fulfilled its obligations under this Indenture, and further stating, as to each such Officer signing such certificate, that to the best of his or her knowledge the Company has kept, observed, performed and fulfilled each and every covenant contained in this Indenture and is not in default in the performance or observance of any of the terms, provisions and conditions of this Indenture (or, if a Default or

Event of Default shall have occurred, describing all such Defaults or Events of Default of which he or she may have knowledge and what action the Company is taking or proposes to take with respect thereto) and that to the best of his or her knowledge no event has occurred and remains in existence by reason of which payments on account of the principal of or interest, if any, on the Notes is prohibited or if such event has occurred, a description of the event and what action the Company is taking or proposes to take with respect thereto.

(b) So long as not contrary to the then current recommendations of the American Institute of Certified Public Accountants, the year-end financial statements delivered pursuant to Section 4.03(a) above shall be accompanied by a written statement of the Company's independent public accountants (who shall be a firm of established national reputation) that in making the examination necessary for certification of such financial statements, nothing has come to their attention that would lead them to believe that the Company has violated any provisions of Article 4 or Article 5 hereof or, if any such violation has occurred, specifying the nature and period of existence thereof, it being understood that such accountants shall not be liable directly or indirectly to any Person for any failure to obtain knowledge of any such violation.

(c) The Company shall, so long as any of the Notes are outstanding, deliver to the Trustee, forthwith upon any Officer becoming aware of any Default or Event of Default, an Officers' Certificate specifying such Default or Event of Default and what action the Company is taking or proposes to take with respect thereto.

#### Section 4.05. Taxes.

The Company shall pay, and shall cause each of its Subsidiaries to pay, prior to delinquency, all material taxes, assessments, and governmental levies except such as are contested in good faith and by appropriate proceedings or where the failure to effect such payment is not adverse in any material respect to the Holders of the Notes.

#### Section 4.06. Stay, Extension and Usury Laws.

The Company covenants (to the extent that it may lawfully do so) that it shall not at any time insist upon, plead, or in any manner whatsoever claim or take the benefit or advantage of, any stay, extension or usury law wherever enacted, now or at any time hereafter in force, that may affect the covenants or the performance of this Indenture; and the Company (to the extent that it may lawfully do so) hereby expressly waives all benefit or advantage of any such law, and covenants that it shall not, by resort to any such law, hinder, delay or impede the execution of any power herein granted to the Trustee, but shall suffer and permit the execution of every such power as though no such law has been enacted.

#### Section 4.07. Restricted Payments.

(a) The Company shall not, and shall not permit any of its Restricted Subsidiaries to, directly or indirectly: (i) declare or pay any dividend or make any other payment or distribution on account of the Company's or any of its Restricted Subsidiaries' Equity Interests (including, without limitation, any payment in connection with any merger or consolidation involving the Company or any of its Restricted Subsidiaries) or to the direct or indirect holders of the Company's or any of its Restricted Subsidiaries' Equity Interests in their capacity as such (other than dividends or distributions payable in Equity Interests (other than Disqualified Stock) of the Company or to the Company or a Restricted Subsidiary of the Company); (ii) purchase, redeem or otherwise acquire or retire for value (including, without limitation, in connection with any merger or consolidation involving the Company) any Equity Interests of the Company or any direct or indirect parent of the Company; (iii) make any payment on or with respect to, or purchase, redeem, defease or otherwise acquire or



retire for value any Indebtedness that is subordinated to the Notes, except a payment of interest or principal at the Stated Maturity thereof; or (iv) make any Restricted Investment (all such payments and other actions set forth in these clauses (i) through (iv) above being collectively referred to as "Restricted Payments"), unless, at the time of and after giving effect to such Restricted Payment:

(i) no Default or Event of Default shall have occurred and be continuing or would occur as a consequence of such Restricted Payment; and

(ii) the Company would, at the time of such Restricted Payment and after giving pro forma effect thereto as if such Restricted Payment had been made at the beginning of the applicable four-quarter period, have been permitted to incur at least \$1.00 of additional Indebtedness pursuant to the Fixed Charge Coverage Ratio test set forth in Section 4.09(i); and

(iii) such Restricted Payment, together with the aggregate amount of all other Restricted Payments made by the Company and its Restricted Subsidiaries after the date of this Indenture (excluding Restricted Payments permitted by clauses (ii), (iii) and (iv) of Section 4.07(b)), is less than the sum, without duplication, of:

(A) 50% of the Consolidated Net Income of the Company for the period (taken as one accounting period) from the beginning of the first fiscal quarter commencing after the date of this Indenture to the end of the Company's most recently ended fiscal quarter for which internal financial statements are available at the time of such Restricted Payment (or, if such Consolidated Net Income for such period is a deficit, less 100% of such deficit), plus

(B) 100% of the aggregate net cash proceeds received by the Company since the date of this Indenture as a contribution to its common equity capital or from the issue or sale of Equity Interests of the Company (other than Disqualified Stock) or from the issue or sale of convertible or exchangeable Disqualified Stock or convertible or exchangeable debt securities of the Company that have been converted into or exchanged for such Equity Interests (other than Equity Interests (or Disqualified Stock or debt securities) sold to a Subsidiary of the Company), plus

(C) to the extent that any Restricted Investment that was made after the date of this Indenture is sold for cash or otherwise liquidated or repaid for cash, the lesser of (i) the cash return of capital with respect to such Restricted Investment (less the cost of disposition, if any) and (ii) the initial amount of such Restricted Investment.

(b) So long as no Default has occurred and is continuing or would be caused thereby, the preceding provisions shall not prohibit (i) the payment of any dividend within 60 days after the date of declaration of the dividend, if at the date of declaration the dividend payment would have complied with the provisions of this Indenture, (ii) the redemption, repurchase, retirement, defeasance or other acquisition of any subordinated Indebtedness of the Company or of any Equity Interests of the Company in exchange for, or out of the net cash proceeds of the substantially concurrent sale (other than to a Subsidiary of the Company) of, Equity Interests of the Company (other than Disqualified Stock); provided that the amount of any such net cash proceeds that are utilized for any such redemption, repurchase, retirement, defeasance or other acquisition shall be excluded from clause (iii)(B) of the preceding paragraph, (iii) the defeasance, redemption, repurchase or other acquisition of subordinated Indebtedness of the Company with the net cash proceeds from an incurrence of Permitted Refinancing Indebtedness, (iv) the payment of any dividend by a Restricted Subsidiary of the Company to the holders of its Equity Interests on a

pro rata basis, (v) the repurchase, redemption or other acquisition or retirement for value of any Equity Interests of the Company or any Restricted Subsidiary of the Company held by any member of the Company's (or any of its Restricted Subsidiaries') management pursuant to any management equity subscription agreement, stock option agreement or similar agreement; provided that the aggregate price paid for all such repurchased, redeemed, acquired or retired Equity Interests shall not exceed \$15.0 million in any twelve-month period; (vi) repayment of LYONS; or (vii) other Restricted Payments in an amount not to exceed \$50.0 million.

(c) The amount of all Restricted Payments (other than cash) shall be the fair market value on the date of the Restricted Payment of the asset(s) or securities proposed to be transferred or issued by the Company or such Restricted Subsidiary, as the case may be, pursuant to the Restricted Payment. The fair market value of any assets or securities that are required to be valued by this Section 4.07 shall be determined by the Board of Directors whose resolution with respect thereto shall be delivered to the Trustee. The Board of Directors' determination must be based upon an opinion or appraisal issued by an accounting, appraisal or investment banking firm of national standing if the fair market value exceeds \$25.0 million. Not later than the date of making any Restricted Payment, the Company shall deliver to the Trustee an Officers' Certificate stating that such Restricted Payment is permitted and setting forth the basis upon which the calculations required by this Section 4.07 were computed, together with a copy of any fairness opinion or appraisal required by this Indenture.

Section 4.08. Dividend and Other Payment Restrictions Affecting Subsidiaries.

The Company shall not, and shall not permit any of its Restricted Subsidiaries to, directly or indirectly, create or permit to exist or become effective any consensual encumbrance or restriction on the ability of any Restricted Subsidiary to (i) pay dividends or make any other distributions on its Capital Stock to the Company or any of its Restricted Subsidiaries, or with respect to any other interest or participation in, or measured by, its profits, or pay any Indebtedness owed to the Company or any of its Restricted Subsidiaries, (ii) make loans or advances to the Company or any of its Restricted Subsidiaries; or (iii) transfer any of its properties or assets to the Company or any of its Restricted Subsidiaries.

However, the preceding restrictions shall not apply to encumbrances or restrictions existing under or by reason of: (i) agreements governing Existing Indebtedness and Credit Facilities as in effect on the date of this Indenture and any amendments, modifications, restatements, renewals, increases, supplements, refundings, replacements or refinancings of those agreements, provided that the amendments, modifications, restatements, renewals, increases, supplements, refundings, replacement or refinancings are no more restrictive, taken as a whole, with respect to such dividend and other payment restrictions than those contained in those agreements on the date of this Indenture, (ii) this Indenture and the Notes, (iii) applicable law, (iv) any instrument governing Indebtedness or Capital Stock of a Person acquired by the Company or any of its Restricted Subsidiaries as in effect at the time of such acquisition (except to the extent such Indebtedness or Capital Stock was incurred in connection with or in contemplation of such acquisition), which encumbrance or restriction is not applicable to any Person, or the properties or assets of any Person, other than the Person, or the property or assets of the Person, so acquired, provided that, in the case of Indebtedness, such Indebtedness was permitted by the terms of this Indenture to be incurred, (v) customary non-assignment provisions in leases entered into in the ordinary course of business and consistent with past practices, (vi) purchase money obligations for property acquired in the ordinary course of business that impose restrictions on that property of the nature described in clause (iii) of the preceding paragraph, (vii) any agreement for the sale or other disposition of a Restricted Subsidiary that restricts distributions by that Restricted Subsidiary pending its sale or other disposition, (viii) Permitted Refinancing Indebtedness, provided that the restrictions contained in the agreements governing such Permitted Refinancing Indebtedness are no more restrictive, taken as a whole, than those contained in the agreements governing the Indebtedness being refinanced, (ix) Liens securing Indebtedness otherwise permitted to be incurred

under the provisions of Section 4.12 hereof that limit the right of the debtor to dispose of the assets subject to such Liens, (x) provisions with respect to the disposition or distribution of assets or property in joint venture agreements, assets sale agreements, stock sale agreements and other similar agreements entered into in the ordinary course of business, (xi) Indebtedness or other contractual requirements of a Receivables Subsidiary in connection with a Qualified Receivables Transaction, provided that such restrictions apply only to such Receivables Subsidiary or the receivables which are subject to the Qualified Receivables Transaction and (xii) restrictions on cash or other deposits or net worth imposed by customers under contracts entered into in the ordinary course of business.

Section 4.09. Incurrence of Indebtedness and Issuance of Preferred Stock.

The Company shall not, and shall not permit any of its Subsidiaries to, directly or indirectly, create, incur, issue, assume, guarantee or otherwise become directly or indirectly liable, contingently or otherwise, with respect to (collectively, "incur") any Indebtedness (including Acquired Debt), and the Company shall not issue any Disqualified Stock and shall not permit any of its Subsidiaries to issue any shares of preferred stock; provided, however, that the Company may incur Indebtedness (including Acquired Debt) or issue Disqualified Stock, if the Fixed Charge Coverage Ratio for the Company's most recently ended four full fiscal quarters for which internal financial statements are available immediately preceding the date on which such additional Indebtedness is incurred or such Disqualified Stock is issued would have been at least 2.0 to 1, determined on a pro forma basis (including a pro forma application of the net proceeds therefrom), as if the additional Indebtedness had been incurred or the Disqualified Stock had been issued, as the case may be, at the beginning of such four-quarter period.

The first paragraph of this Section 4.09 shall not prohibit the incurrence of any of the following items of Indebtedness (collectively, "Permitted Debt"):

(i) the incurrence by the Company of additional Indebtedness and letters of credit under Credit Facilities in an aggregate principal amount at any one time outstanding under this clause (i) (with letters of credit being deemed to have a principal amount equal to the maximum potential liability of the Company and its Restricted Subsidiaries thereunder) not to exceed \$600.0 million;

(ii) the incurrence by the Company and its Restricted Subsidiaries of the Existing Indebtedness;

(iii) the incurrence by the Company of Indebtedness represented by the Notes to be issued on the date of this Indenture and the Exchange Notes to be issued pursuant to the Registration Rights Agreement;

(iv) the incurrence by the Company or any of its Restricted Subsidiaries of Indebtedness represented by Capital Lease Obligations, mortgage financings or purchase money obligations, in each case, incurred for the purpose of financing all or any part of the purchase price or cost of construction or improvement of property, plant or equipment used in the business of the Company or such Restricted Subsidiary, in an aggregate principal amount, including all Permitted Refinancing Indebtedness incurred to refund, refinance or replace any Indebtedness incurred pursuant to this clause (iv), not to exceed \$100.0 million at any time outstanding;

(v) the incurrence by the Company or any of its Restricted Subsidiaries of Permitted Refinancing Indebtedness in exchange for, or the net proceeds of which are used to refund, refinance or replace Indebtedness (other than intercompany Indebtedness) that was permitted by this Indenture to be incurred under the first paragraph of this

Section 4.09 or clauses (ii), (iii), (iv), (v), (ix) or (xii) of this paragraph;

(vi) the incurrence by the Company or any of its Restricted Subsidiaries of intercompany Indebtedness between or among the Company and any of its Restricted Subsidiaries; provided, however, that:

(A) if the Company is the obligor on such Indebtedness, such Indebtedness must be expressly subordinated to the prior payment in full in cash of all Obligations with respect to the Notes and

(B) (a) any subsequent issuance or transfer of Equity Interests that results in any such Indebtedness being held by a Person other than the Company or a Restricted Subsidiary of the Company and (b) any sale or other transfer of any such Indebtedness to a Person that is not either the Company or a Restricted Subsidiary of the Company; shall be deemed, in each case, to constitute an incurrence of such Indebtedness by the Company or such Restricted Subsidiary, as the case may be, that was not permitted by this clause (vi);

(vii) the incurrence by the Company or any of its Restricted Subsidiaries of Hedging Obligations that are incurred for the purpose of fixing or hedging interest rate risk with respect to any floating rate Indebtedness that is permitted by the terms of this Indenture to be outstanding or Hedging Obligations with respect to foreign currency translations;

(viii) the incurrence by the Company's Unrestricted Subsidiaries of Non-Recourse Debt; provided, however, that if any such Indebtedness ceases to be Non-Recourse Debt of an Unrestricted Subsidiary, such event shall be deemed to constitute an incurrence of Indebtedness by a Restricted Subsidiary of the Company that was not permitted by this clause (viii);

(ix) the incurrence by the Company's Subsidiaries of Indebtedness of up to 10.4 billion yen under the Yen Credit Facility and the Guarantee of such Indebtedness by the Company;

(x) the guarantee by the Company of Indebtedness of a Restricted Subsidiary of the Company that was permitted to be incurred by another provision of this Section 4.09;

(xi) the incurrence by a Receivables Subsidiary of Indebtedness in a Qualified Receivables Transaction that is without recourse to the Company or to any other Subsidiary of the Company or their assets (other than such Receivables Subsidiary and its assets and, as to the Company or any Subsidiary of the Company, other than pursuant to representations, warranties, covenants and indemnities customary for such transactions) and is not guaranteed by any such Person; and

(xii) the incurrence by the Company or any of its Restricted Subsidiaries of additional Indebtedness in an aggregate principal amount (or accreted value, as applicable) at any time outstanding, including all Permitted Refinancing Indebtedness incurred to refund, refinance or replace any Indebtedness incurred pursuant to this clause (xii), not to exceed \$175.0 million.

The accrual of interest, the accretion or amortization of original issue discount, the payment of interest on any Indebtedness in the form of additional Indebtedness with the same terms, and the payment of dividends on Disqualified Stock in the form of additional shares of the same class of Disqualified Stock shall not be deemed to be an incurrence of Indebtedness or an

issuance of Disqualified Stock for purposes of this covenant; provided, in each such case, that the amount thereof is included in Fixed Charges of the Company as accrued.

For purposes of determining compliance with this Section 4.09 in the event that an item of proposed Indebtedness meets the criteria of more than one of the categories of Permitted Debt described in clauses (i) through (xii) above, or is entitled to be incurred pursuant to the first paragraph of this Section 4.09, the Company shall be permitted to classify such item of Indebtedness on the date of its incurrence, or later reclassify all or a portion of such item of Indebtedness, in any manner that complies with this Section 4.09. Indebtedness under Credit Facilities outstanding on the date on which Notes are first issued and authenticated under this Indenture shall be deemed to have been incurred on such date in reliance on the exception provided by clause (i) of the definition of Permitted Debt.

Section 4.10. Asset Sales.

The Company shall not, and shall not permit any of its Restricted Subsidiaries to, consummate an Asset Sale unless (i) the Company (or the Restricted Subsidiary, as the case may be) receives consideration at the time of the Asset Sale at least equal to the fair market value of the assets or Equity Interests issued or sold or otherwise disposed of, (ii) the fair market value is determined by the Company's Board of Directors and evidenced by a resolution of the Board of Directors set forth in an Officers' Certificate delivered to the Trustee and (iii) at least 75% of the consideration received in the Asset Sale by the Company or such Restricted Subsidiary is in the form of cash. For purposes of this provision (iii), each of the following shall be deemed to be cash:

(A) any liabilities, as shown on the Company's or such Restricted Subsidiary's most recent balance sheet, of the Company or any Restricted Subsidiary (other than contingent liabilities and liabilities that are by their terms subordinated to the Notes) that are assumed by the transferee of any such assets and such transferee expressly releases the Company or such Restricted Subsidiary from further liability;

(B) any securities, notes or other obligations received by the Company or any such Restricted Subsidiary from such transferee that are delivered within 20 days of the sale, subject to ordinary settlement periods, converted by the Company or such Restricted Subsidiary into cash, to the extent of the cash received in that conversion; and

(C) any payment of Senior Debt secured by the assets sold in the Asset Sale.

Within 360 days after the receipt of any Net Proceeds from an Asset Sale, the Company may apply those Net Proceeds at its option (i) to repay Senior Debt, (ii) to acquire all or substantially all of the assets of, or a majority of the Voting Stock of, another Permitted Business, (iii) to make a capital expenditure or (iv) to acquire other long-term assets that are used or useful in a Permitted Business.

Pending the final application of any Net Proceeds, the Company may temporarily reduce revolving credit borrowings or otherwise invest the Net Proceeds in any manner that is not prohibited by this Indenture.

Any Net Proceeds from Asset Sales that are not applied or invested as provided in the preceding paragraph shall constitute "Excess Proceeds." When the aggregate amount of Excess Proceeds exceeds \$25.0 million, the Company shall make an Asset Sale Offer to all Holders of Notes and all holders of other Indebtedness that is pari passu with the Notes containing provisions similar to those set forth in this Indenture with respect to offers to purchase or redeem with the proceeds of sales of assets to purchase the maximum principal amount of

Notes and such other pari passu Indebtedness that may be purchased out of the Excess Proceeds. The offer price in any Asset Sale Offer shall be equal to 100% of principal amount plus accrued and unpaid interest and Special Interest, if any, to the date of purchase, and shall be payable in cash. If any Excess Proceeds remain after consummation of an Asset Sale Offer, the Company may use those Excess Proceeds for any purpose not otherwise prohibited by this Indenture. If the aggregate principal amount of Notes and other pari passu Indebtedness tendered into such Asset Sale Offer exceeds the amount of Excess Proceeds, the Trustee shall select the Notes and such other pari passu Indebtedness to be purchased on a pro rata basis. Upon completion of each Asset Sale Offer, the amount of Excess Proceeds shall be reset at zero.

Section 4.11. Transactions with Affiliates.

The Company shall not, and shall not permit any of its Restricted Subsidiaries to, directly or indirectly, enter into or permit to occur any transaction or series of related transactions (including, without limitation, the purchase, sale, lease or exchange of any property or the rendering of any service) with, or for the benefit of, any of its Affiliates (an "Affiliate Transaction"), other than Affiliate Transactions on terms that are not materially less favorable than those that might reasonably have been obtained in a comparable transaction at such time on an arm's-length basis from a Person that is not an Affiliate of the Company or such Restricted Subsidiary; provided, however, that for an Affiliate Transaction with an aggregate value of \$25.0 million or more, at the Company's option, either:

(i) a majority of the disinterested members of the Board of Directors of the Company shall determine in good faith that such Affiliate Transaction is on terms that are not materially less favorable than those that might reasonably have been obtained in a comparable transaction at such time on an arm's-length basis from a Person that is not an Affiliate of the Company; or

(ii) the Board of Directors of the Company or any such Restricted Subsidiary to such Affiliate Transaction shall obtain an opinion from a nationally recognized investment banking, appraisal or accounting firm that such Affiliate Transaction is on terms that are not materially less favorable than those that might reasonably have been obtained in a comparable transaction at such time on an arm's-length basis from a Person that is not an Affiliate of the Company.

The items that shall not be deemed to be Affiliate Transactions and, therefore, shall not be subject to the provisions of the prior paragraph are (i) any employment agreement entered into by the Company or any of its Restricted Subsidiaries in the ordinary course of business and consistent with the past practice of the Company or such Restricted Subsidiary, (ii) transactions between or among the Company and/or its Restricted Subsidiaries, (iii) transactions with a Person that is an Affiliate of the Company solely because the Company owns an Equity Interest in, or controls, such Person, (iv) payment of reasonable directors fees to Persons who are not otherwise Affiliates of the Company, (v) sales of Equity Interests (other than Disqualified Stock) to Affiliates of the Company, (vi) transactions between or among the Company and/or its Restricted Subsidiaries or transactions between a Receivables Subsidiary and any Person in which the Receivables Subsidiary has an Investment or (vii) Restricted Payments that are permitted by the provisions of Section 4.07 hereof.

Section 4.12. Liens.

The Company shall not, and shall not permit any of its Subsidiaries to, directly or indirectly, create, incur, assume or suffer to exist any Lien of any kind securing Indebtedness or trade payables on any asset now owned or hereafter acquired, except Permitted Liens.

Section 4.13. Corporate Existence.

Subject to Article 5 hereof, the Company shall do or cause to be done all things necessary to preserve and keep in full force and effect (i) its corporate existence, and the corporate, partnership or other existence of each of its Subsidiaries, in accordance with the respective organizational documents (as the same may be amended from time to time) of the Company or any such Subsidiary and (ii) the rights (charter and statutory), licenses and franchises of the Company and its Subsidiaries; provided, however, that the Company shall not be required to preserve any such right, license or franchise, or the corporate, partnership or other existence of any of its Subsidiaries, if the Board of Directors shall determine that the preservation thereof is no longer desirable in the conduct of the business of the Company and its Subsidiaries, taken as a whole, and that the loss thereof is not adverse in any material respect to the Holders of the Notes.

Section 4.14. Offer to Repurchase Upon Change of Control.

(a) Upon the occurrence of a Change of Control, the Company shall make an offer (a "Change of Control Offer") to each Holder to repurchase all or any part (equal to \$1,000 or an integral multiple thereof) of each Holder's Notes at a purchase price equal to 101% of the aggregate principal amount thereof plus accrued and unpaid interest and Special Interest thereon, if any, to the date of purchase (the "Change of Control Payment"). Subject to the last paragraph in subsection (b) herein, within 30 days following any Change of Control, the Company shall mail a notice to each Holder describing the transaction or transactions that constitute the Change of Control pursuant to this Section 4.14 and stating: (1) that the Change of Control Offer is being made pursuant to this Section 4.14 and that all Notes tendered will be accepted for payment; (2) the purchase price and the purchase date, which shall be no earlier than 30 Business Days and no later than 60 Business Days from the date such notice is mailed (the "Change of Control Payment Date"); (3) that any Note not tendered will continue to accrue interest; (4) that, unless the Company defaults in the payment of the Change of Control Payment, all Notes accepted for payment pursuant to the Change of Control Offer shall cease to accrue interest after the Change of Control Payment Date; (5) that Holders electing to have any Notes purchased pursuant to a Change of Control Offer will be required to surrender the Notes, with the form entitled "Option of Holder to Elect Purchase" on the reverse of the Notes completed, to the Paying Agent at the address specified in the notice prior to the close of business on the third Business Day preceding the Change of Control Payment Date; (6) that Holders will be entitled to withdraw their election if the Paying Agent receives, not later than the close of business on the second Business Day preceding the Change of Control Payment Date, a telegram, telex, facsimile transmission or letter setting forth the name of the Holder, the principal amount of Notes delivered for purchase, and a statement that such Holder is withdrawing his election to have the Notes purchased; and (7) that Holders whose Notes are being purchased only in part will be issued new Notes equal in principal amount to the unpurchased portion of the Notes surrendered, which unpurchased portion must be equal to \$1,000 in principal amount or an integral multiple thereof. The Company shall comply with the requirements of Rule 14e-1 under the Exchange Act and any other securities laws and regulations thereunder to the extent such laws and regulations are applicable in connection with the repurchase of Notes in connection with a Change of Control. To the extent that the provisions of any securities laws or regulations conflict with the provisions of this Section 4.14, the Company shall comply with the applicable securities laws and regulations and will not be deemed to have breached its obligations of this Section 4.14 by virtue of such conflict.

On the Change of Control Payment Date, the Company shall, to the extent lawful:

(i) accept for payment all Notes or portions of Notes properly tendered pursuant to the Change of Control Offer;

(ii) deposit with the Paying Agent an amount equal to the Change of Control Payment in respect of all Notes or portions of Notes properly tendered; and

(iii) deliver or cause to be delivered to the Trustee the Notes properly accepted together with an Officers' Certificate stating the aggregate principal amount of Notes or portions of Notes being purchased by the Company.

(b) The Paying Agent shall promptly mail to each Holder of Notes properly tendered the Change of Control Payment for such Notes, and the Trustee shall promptly authenticate and mail (or cause to be transferred by book entry) to each Holder a new Note equal in principal amount to any unpurchased portion of the Notes surrendered, if any; provided that each new Note shall be in a principal amount of \$1,000 or an integral multiple of \$1,000.

(c) Prior to complying with any of the provisions of this Section 4.14, but in any event within 90 days following a Change of Control, the Company shall either repay all outstanding Senior Debt or obtain the requisite consents, if any, under all agreements governing outstanding Senior Debt to permit the repurchase of Notes required by this Section 4.14. The Company shall publicly announce the results of the Change of Control Offer on or as soon as practicable after the Change of Control Payment Date.

(d) Notwithstanding anything to the contrary in this Section 4.14, the Company shall not be required to make a Change of Control Offer upon a Change of Control if a third party makes the Change of Control Offer in the manner, at the times and otherwise in compliance with the requirements set forth in this Section 4.14 and Section 3.09 hereof and all other provisions of this Indenture applicable to a Change of Control Offer made by the Company and purchases all Notes validly tendered and not withdrawn under such Change of Control Offer.

#### Section 4.15. Anti-Layering.

The Company shall not incur, create, issue, assume, Guarantee or otherwise become liable for any Indebtedness that is subordinate or junior in right of payment to any Senior Debt of the Company and senior in any respect in right of payment to the Notes.

#### Section 4.16. Payments for Consent.

The Company shall not, and shall not permit any of its Subsidiaries to, directly or indirectly, pay or cause to be paid any consideration to or for the benefit of any Holder of Notes for or as an inducement to any consent, waiver or amendment of any of the terms or provisions of this Indenture or the Notes unless such consideration is offered to be paid and is paid to all Holders of the Notes that consent, waive or agree to amend in the time frame set forth in the solicitation documents relating to such consent, waiver or agreement.

#### Section 4.17. Designation of Restricted and Unrestricted Subsidiaries

The Board of Directors may designate any Restricted Subsidiary to be an Unrestricted Subsidiary if that designation would not cause a Default. If a Restricted Subsidiary is designated as an Unrestricted Subsidiary, the aggregate fair market value of all outstanding Investments owned by the Company and its Restricted Subsidiaries in the Subsidiary properly designated shall be deemed to be an Investment made as of the time of the designation and shall reduce the amount available for Restricted Payments under the first paragraph of Section 4.07 hereof or Permitted Investments, as determined by the Company. That designation shall only be permitted if the Investment would be permitted at that time and if the Restricted Subsidiary otherwise meets the definition of an Unrestricted Subsidiary. The Board of Directors may redesignate any Unrestricted



Subsidiary to be a Restricted Subsidiary if the redesignation would not cause a Default.

Section 4.18. Changes in Covenants when Notes Rated Investment Grade

Following the first date upon which the Notes are rated Baa3 or better by Moody's Investors Service, Inc. ("Moody's") and BBB- or better by Standard & Poor's Ratings Group ("S&P") (or, in either case, if such person ceases to rate the Notes for reasons outside of the control of the Company, the equivalent investment grade credit rating from any other "nationally recognized statistical rating organization" (within the meaning of Rule 15c3-1(c)(2)(vi)(F) under the Exchange Act) selected by the Company as a replacement agency) and neither Moody's nor S&P attaches any "negative outlook" or "negative credit watch" to such rating of the Notes (the "Rating Event Date") (and provided no Event of Default or event that with notice or the passage of time would constitute an Event of Default shall exist on the Rating Event Date), Sections 4.07, 4.08, 4.09, 4.10, 4.11, 4.14 and 4.17 hereof, and clause (a)(D) of Section 5.01 hereof shall no longer be applicable to the Notes.

ARTICLE 5.  
SUCCESSORS

Section 5.01. Merger, Consolidation, or Sale of Assets.

(a) The Company shall not, directly or indirectly: (i) consolidate or merge with or into another Person (whether or not the Company is the surviving corporation); or (ii) sell, assign, transfer, convey or otherwise dispose of all or substantially all of the properties or assets of the Company and its Restricted Subsidiaries taken as a whole, in one or more related transactions, to another Person, unless:

(A) either: (1) the Company is the surviving corporation; or (2) the Person formed by or surviving any such consolidation or merger (if other than the Company) or to which such sale, assignment, transfer, conveyance or other disposition shall have been made is a corporation organized or existing under the laws of the United States, any state of the United States or the District of Columbia;

(B) the Person formed by or surviving any such consolidation or merger (if other than the Company) or the Person to which such sale, assignment, transfer, conveyance or other disposition shall have been made assumes all the obligations of the Company under the Notes, this Indenture and the Registration Rights Agreement pursuant to agreements reasonably satisfactory to the Trustee;

(C) immediately after such transaction, no Default or Event of Default exists; and

(D) the Company or the Person formed by or surviving any such consolidation or merger (if other than the Company), or to which such sale, assignment, transfer, conveyance or other disposition shall have been made (1) shall have Consolidated Net Worth immediately after the transaction equal to or greater than the Consolidated Net Worth of the Company immediately preceding the transaction, and (2) shall, on the date of such transaction after giving pro forma effect thereto and any related financing transactions as if the same had occurred at the beginning of the applicable four-quarter period, be permitted to incur at least \$1.00 of additional Indebtedness pursuant to the Fixed Charge Coverage Ratio test set forth in the first paragraph of Section 4.09 hereof.

(b) In addition, the Company shall not, directly or indirectly, lease all or substantially all of its properties or assets, in one or more related transactions, to any other Person. The provisions of this Section 5.01 shall not be applicable to a sale, assignment, transfer, conveyance or other disposition of assets between or among the Company and any of its Restricted Subsidiaries.

Section 5.02. Successor Corporation Substituted.

Upon any consolidation or merger, or any sale, assignment, transfer, lease, conveyance or other disposition of all or substantially all of the assets of the Company in accordance with Section 5.01 hereof, the successor corporation formed by such consolidation or into or with which the Company is merged or to which such sale, assignment, transfer, lease, conveyance or other disposition is made shall succeed to, and be substituted for (so that from and after the date of such consolidation, merger, sale, lease, conveyance or other disposition, the provisions of this Indenture referring to the "Company" shall refer instead to the successor corporation and not to the Company), and may exercise every right and power of the Company under this Indenture with the same effect as if such successor Person had been named as the Company herein; provided, however, that the predecessor Company shall not be relieved from the obligation to pay the principal of and interest on the Notes except in the case of a sale, assignment, transfer, conveyance or other disposition of all of the Company's assets that meets the requirements of Section 5.01 hereof.

ARTICLE 6.  
DEFAULTS AND REMEDIES

Section 6.01. Events of Default.

An "Event of Default" occurs if:

(a) the Company defaults in the payment when due of interest on, or Special Interest with respect to, the Notes and such default continues for a period of 30 days, whether or not prohibited by Article 10 hereof;

(b) the Company defaults in the payment when due of principal of or premium, if any, on the Notes when the same becomes due and payable at maturity, upon redemption (including in connection with an offer to purchase) or otherwise, whether or not prohibited by Article 10 hereof;

(c) the Company or any of its Subsidiaries fails to comply with any of the provisions of Section 4.07, 4.09, 4.10, 4.14 or 5.01 hereof;

(d) the Company or any of its Subsidiaries fails to observe or perform any other covenant, representation, warranty or other agreement in this Indenture or the Notes for 60 days after notice to the Company by the Trustee or the Holders of at least 25% in aggregate principal amount of the Notes then outstanding voting as a single class;

(e) a default occurs under any mortgage, indenture or instrument under which there may be issued or by which there may be secured or evidenced any Indebtedness for money borrowed by the Company or any of its Subsidiaries (or the payment of which is guaranteed by the Company or any of its Subsidiaries) whether such Indebtedness or Guarantee now exists, or is created after the date of this Indenture, if such default is (i) caused by a failure to pay principal of, or interest or premium, if any, on such Indebtedness prior to the expiration of the grace period provided in such Indebtedness on the date of such default (a "Payment Default"); or (ii) results in the acceleration of such Indebtedness prior to its express maturity; and, in each case, the principal amount of such

Indebtedness, together with the principal amount of any other such Indebtedness the maturity of which has been so accelerated, aggregates \$35 million or more;

(f) a final judgment or final judgments for the payment of money are entered by a court or courts of competent jurisdiction against the Company or any of its Subsidiaries and such judgment or judgments remain undischarged for a period (during which execution shall not be effectively stayed) of 60 days, provided that the aggregate of all such undischarged judgments exceeds \$35.0 million;

(g) the Company or any of its Significant Subsidiaries or any group of Subsidiaries that, taken as a whole, would constitute a Significant Subsidiary pursuant to or within the meaning of Bankruptcy Law:

(i) commences a voluntary case,

(ii) consents to the entry of an order for relief against it in an involuntary case,

(iii) consents to the appointment of a custodian of it or for all or substantially all of its property,

(iv) makes a general assignment for the benefit of its creditors, or

(v) generally is not paying its debts as they become due; or

(h) a court of competent jurisdiction enters an order or decree under any Bankruptcy Law that:

(i) is for relief against the Company or any of its Significant Subsidiaries or any group of Subsidiaries that, taken as a whole, would constitute a Significant Subsidiary in an involuntary case;

(ii) appoints a custodian of the Company or any of its Significant Subsidiaries or any group of Subsidiaries that, taken as a whole, would constitute a Significant Subsidiary or for all or substantially all of the property of the Company or any of its Significant Subsidiaries or any group of Subsidiaries that, taken as a whole, would constitute a Significant Subsidiary; or

(iii) orders the liquidation of the Company or any of its Significant Subsidiaries or any group of Subsidiaries that, taken as a whole, would constitute a Significant Subsidiary;

and the order or decree remains unstayed and in effect for 60 consecutive days.

#### Section 6.02. Acceleration.

If any Event of Default (other than an Event of Default specified in clause (g) or (h) of Section 6.01 hereof with respect to the Company, any Significant Subsidiary or any group of Significant Subsidiaries that, taken as a whole, would constitute a Significant Subsidiary) occurs and is continuing, the Trustee or the Holders of at least 25% in principal amount of the then outstanding Notes may declare all the Notes to be due and payable immediately. Upon any such declaration, the Notes shall become due and payable immediately. Notwithstanding the foregoing, if an Event of Default specified in clause (g) or (h) of Section 6.01 hereof occurs with respect to the Company, any of its Significant Subsidiaries or any group of Subsidiaries that, taken as a whole, would constitute a Significant Subsidiary, all outstanding Notes shall be due and payable immediately without further action or notice. The Holders of a majority in aggregate principal amount of the then outstanding Notes by written

notice to the Trustee may on behalf of all of the Holders rescind an acceleration and its consequences if the rescission would not conflict with any judgment or decree and if all existing Events of Default (except nonpayment of principal, interest or premium that has become due solely because of the acceleration) have been cured or waived.

In the case of any Event of Default occurring by reason of any willful action or inaction taken or not taken by or on behalf of the Company with the intention of avoiding payment of the premium that the Company would have had to pay if the Company then had elected to redeem the Notes pursuant to the optional redemption provisions of this Indenture, an equivalent premium shall also become and be immediately due and payable to the extent permitted by law upon the acceleration of the Notes.

#### Section 6.03. Other Remedies.

If an Event of Default occurs and is continuing, the Trustee may pursue any available remedy to collect the payment of principal, premium, Special Interest, if any, and interest on the Notes or to enforce the performance of any provision of the Notes or this Indenture.

The Trustee may withhold from Holders of the Notes notice of any continuing Default or Event of Default if it determines that withholding Notes is in the Holders' interest, unless such Default or Event of Default relates to the payment of principal, premium, Special Interest, if any or interest on the Notes.

The Trustee may maintain a proceeding even if it does not possess any of the Notes or does not produce any of them in the proceeding. A delay or omission by the Trustee or any Holder of a Note in exercising any right or remedy accruing upon an Event of Default shall not impair the right or remedy or constitute a waiver of or acquiescence in the Event of Default. All remedies are cumulative to the extent permitted by law.

#### Section 6.04. Waiver of Past Defaults.

Holders of not less than a majority in aggregate principal amount of the then outstanding Notes by notice to the Trustee may on behalf of the Holders of all of the Notes waive an existing Default or Event of Default and its consequences hereunder, except a continuing Default or Event of Default in the payment of the principal of, premium and Special Interest, if any, or interest on, the Notes (including in connection with an offer to purchase) (provided, however, that the Holders of a majority in aggregate principal amount of the then outstanding Notes may rescind an acceleration and its consequences, including any related payment default that resulted from such acceleration). Upon any such waiver, such Default shall cease to exist, and any Event of Default arising therefrom shall be deemed to have been cured for every purpose of this Indenture; but no such waiver shall extend to any subsequent or other Default or impair any right consequent thereon.

#### Section 6.05. Control by Majority.

Holders of a majority in principal amount of the then outstanding Notes may direct the time, method and place of conducting any proceeding for exercising any remedy available to the Trustee or exercising any trust or power conferred on it. However, the Trustee may refuse to follow any direction that conflicts with law or this Indenture that the Trustee determines may be unduly prejudicial to the rights of other Holders of Notes or that may involve the Trustee in personal liability.

Section 6.06. Limitation on Suits.

A Holder of a Note may pursue a remedy with respect to this Indenture or the Notes only if:

(a) the Holder of a Note gives to the Trustee written notice of a continuing Event of Default;

(b) the Holders of at least 25% in principal amount of the then outstanding Notes make a written request to the Trustee to pursue the remedy;

(c) such Holder of a Note or Holders of Notes offer and, if requested, provide to the Trustee indemnity satisfactory to the Trustee against any loss, liability or expense;

(d) the Trustee does not comply with the request within 60 days after receipt of the request and the offer and, if requested, the provision of indemnity; and

(e) during such 60-day period the Holders of a majority in principal amount of the then outstanding Notes do not give the Trustee a direction inconsistent with the request.

A Holder of a Note may not use this Indenture to prejudice the rights of another Holder of a Note or to obtain a preference or priority over another Holder of a Note.

Section 6.07. Rights of Holders of Notes to Receive Payment.

Notwithstanding any other provision of this Indenture, the right of any Holder of a Note to receive payment of principal, premium and Special Interest, if any, and interest on the Note, on or after the respective due dates expressed in the Note (including in connection with an offer to purchase), or to bring suit for the enforcement of any such payment on or after such respective dates, shall not be impaired or affected without the consent of such Holder.

Section 6.08. Collection Suit by Trustee.

If an Event of Default specified in Section 6.01(a) or (b) occurs and is continuing, the Trustee is authorized to recover judgment in its own name and as trustee of an express trust against the Company for the whole amount of principal of, premium and Special Interest, if any, and interest remaining unpaid on the Notes and interest on overdue principal and, to the extent lawful, interest and such further amount as shall be sufficient to cover the costs and expenses of collection, including the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel.

Section 6.09. Trustee May File Proofs of Claim.

The Trustee is authorized to file such proofs of claim and other papers or documents as may be necessary or advisable in order to have the claims of the Trustee (including any claim for the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel) and the Holders of the Notes allowed in any judicial proceedings relative to the Company (or any other obligor upon the Notes), its creditors or its property and shall be entitled and empowered to collect, receive and distribute any money or other property payable or deliverable on any such claims and any custodian in any such judicial proceeding is hereby authorized by each Holder to make such payments to the Trustee, and in the event that the Trustee shall consent to the making of such payments directly to the Holders, to pay to the Trustee any amount due to it for the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel, and any other amounts due the Trustee under Section 7.07 hereof. To the extent that the payment of any such compensation, expenses, disbursements and advances of the Trustee, its agents and counsel, and

any other amounts due the Trustee under Section 7.07 hereof out of the estate in any such proceeding, shall be denied for any reason, payment of the same shall be secured by a Lien on, and shall be paid out of, any and all distributions, dividends, money, securities and other properties that the Holders may be entitled to receive in such proceeding whether in liquidation or under any plan of reorganization or arrangement or otherwise. Nothing herein contained shall be deemed to authorize the Trustee to authorize or consent to or accept or adopt on behalf of any Holder any plan of reorganization, arrangement, adjustment or composition affecting the Notes or the rights of any Holder, or to authorize the Trustee to vote in respect of the claim of any Holder in any such proceeding.

Section 6.10. Priorities.

If the Trustee collects any money pursuant to this Article, it shall pay out the money in the following order:

First: to the Trustee, its agents and attorneys for amounts due under Section 7.07 hereof, including payment of all compensation, expense and liabilities incurred, and all advances made, by the Trustee and the costs and expenses of collection;

Second: to Holders of Notes for amounts due and unpaid on the Notes for principal, premium and Special Interest, if any, and interest, ratably, without preference or priority of any kind, according to the amounts due and payable on the Notes for principal, premium and Special Interest, if any and interest, respectively; and

Third: to the Company or to such party as a court of competent jurisdiction shall direct.

The Trustee may fix a record date and payment date for any payment to Holders of Notes pursuant to this Section 6.10.

Section 6.11. Undertaking for Costs.

In any suit for the enforcement of any right or remedy under this Indenture or in any suit against the Trustee for any action taken or omitted by it as a Trustee, a court in its discretion may require the filing by any party litigant in the suit of an undertaking to pay the costs of the suit, and the court in its discretion may assess reasonable costs, including reasonable attorneys' fees, against any party litigant in the suit, having due regard to the merits and good faith of the claims or defenses made by the party litigant. This Section does not apply to a suit by the Trustee, a suit by a Holder of a Note pursuant to Section 6.07 hereof, or a suit by Holders of more than 10% in principal amount of the then outstanding Notes.

ARTICLE 7.  
TRUSTEE

Section 7.01. Duties of Trustee.

(a) If an Event of Default has occurred and is continuing, the Trustee shall exercise such of the rights and powers vested in it by this Indenture, and use the same degree of care and skill in its exercise, as a prudent person would exercise or use under the circumstances in the conduct of such person's own affairs.

(b) Except during the continuance of an Event of Default:

(i) the duties of the Trustee shall be determined solely by the express provisions of this Indenture and the Trustee need perform only those duties that are specifically set forth in this Indenture and no others, and no implied covenants or obligations shall be read into this Indenture against the Trustee; and

(ii) in the absence of bad faith on its part, the Trustee may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon certificates or opinions furnished to the Trustee and conforming to the requirements of this Indenture. However, the Trustee shall examine the certificates and opinions to determine whether or not they conform to the requirements of this Indenture.

(c) The Trustee may not be relieved from liabilities for its own negligent action, its own negligent failure to act, or its own willful misconduct, except that:

(i) this paragraph does not limit the effect of paragraph (b) of this Section;

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

(iii) the Trustee shall not be liable with respect to any action it takes or omits to take in good faith in accordance with a direction received by it pursuant to Section 6.05 hereof.

(d) Whether or not therein expressly so provided, every provision of this Indenture that in any way relates to the Trustee is subject to paragraphs (a), (b), and (c) of this Section.

(e) No provision of this Indenture shall require the Trustee to expend or risk its own funds or incur any liability. The Trustee shall be under no obligation to exercise any of its rights and powers under this Indenture at the request of any Holders, unless such Holder shall have offered to the Trustee security and indemnity satisfactory to it against any loss, liability or expense.

(f) The Trustee shall not be liable for interest on any money received by it except as the Trustee may agree in writing with the Company. Money held in trust by the Trustee need not be segregated from other funds except to the extent required by law.

#### Section 7.02. Rights of Trustee.

(a) The Trustee may conclusively rely upon any document believed by it to be genuine and to have been signed or presented by the proper Person. The Trustee need not investigate any fact or matter stated in the document.

(b) Before the Trustee acts or refrains from acting, it may require an Officers' Certificate or an Opinion of Counsel or both. The Trustee shall not be liable for any action it takes or omits to take in good faith in reliance on such Officers' Certificate or Opinion of Counsel. The Trustee may consult with counsel of its selection and the written advice of such counsel or any Opinion of Counsel shall be full and complete authorization and protection from liability in respect of any action taken, suffered or omitted by it hereunder in good faith and in reliance thereon.

(c) The Trustee may act through its attorneys and agents and shall not be responsible for the misconduct or negligence of any agent appointed with due care.

(d) The Trustee shall not be liable for any action it takes or omits to take in good faith that it believes to be authorized or within the rights or powers conferred upon it by this Indenture.

(e) Unless otherwise specifically provided in this Indenture, any demand, request, direction or notice from the Company shall be sufficient if signed by an Officer of the Company.

(f) The Trustee shall be under no obligation to exercise any of the rights or powers vested in it by this Indenture at the request or direction of any of the Holders unless such Holders shall have offered to the Trustee reasonable security or indemnity against the costs, expenses and liabilities that might be incurred by it in compliance with such request or direction.

#### Section 7.03. Individual Rights of Trustee.

The Trustee in its individual or any other capacity may become the owner or pledgee of Notes and may otherwise deal with the Company or any Affiliate of the Company with the same rights it would have if it were not Trustee. However, in the event that the Trustee acquires any conflicting interest it must eliminate such conflict within 90 days, apply to the SEC for permission to continue as trustee or resign. Any Agent may do the same with like rights and duties. The Trustee is also subject to Sections 7.10 and 7.11 hereof.

#### Section 7.04. Trustee's Disclaimer.

The Trustee shall not be responsible for and makes no representation as to the validity or adequacy of this Indenture or the Notes, it shall not be accountable for the Company's use of the proceeds from the Notes or any money paid to the Company or upon the Company's direction under any provision of this Indenture, it shall not be responsible for the use or application of any money received by any Paying Agent other than the Trustee, and it shall not be responsible for any statement or recital herein or any statement in the Notes or any other document in connection with the sale of the Notes or pursuant to this Indenture other than its certificate of authentication.

#### Section 7.05. Notice of Defaults.

If a Default or Event of Default occurs and is continuing and if it is known to the Trustee, the Trustee shall mail to Holders of Notes a notice of the Default or Event of Default within 90 days after it occurs. Except in the case of a Default or Event of Default in payment of principal of, premium, if any, or interest on any Note, the Trustee may withhold the notice if and so long as a committee of its Responsible Officers in good faith determines that withholding the notice is in the interests of the Holders of the Notes.

#### Section 7.06. Reports by Trustee to Holders of the Notes.

Within 60 days after each May 15 beginning with the May 15 following the date of this Indenture, and for so long as Notes remain outstanding, the Trustee shall mail to the Holders of the Notes a brief report dated as of such reporting date that complies with TIA ss. 313(a) (but if no event described in TIA ss. 313(a) has occurred within the twelve months preceding the reporting date, no report need be transmitted). The Trustee also shall comply with TIA ss. 313(b)(2). The Trustee shall also transmit by mail all reports as required by TIA ss. 313(c).

A copy of each report at the time of its mailing to the Holders of Notes shall be mailed to the Company and filed with the SEC and each stock exchange on which the Notes are listed in accordance with TIA ss. 313(d). The



Company shall promptly notify the Trustee when the Notes are listed on any stock exchange.

Section 7.07. Compensation and Indemnity.

The Company shall pay to the Trustee from time to time reasonable compensation for its acceptance of this Indenture and services hereunder. The Trustee's compensation shall not be limited by any law on compensation of a trustee of an express trust. The Company shall reimburse the Trustee promptly upon request for all reasonable disbursements, advances and expenses incurred or made by it in addition to the compensation for its services. Such expenses shall include the reasonable compensation, disbursements and expenses of the Trustee's agents and counsel.

The Company shall indemnify the Trustee against any and all losses, liabilities or expenses incurred by it arising out of or in connection with the acceptance or administration of its duties under this Indenture, including the costs and expenses of enforcing this Indenture against the Company (including this Section 7.07) and defending itself against any claim (whether asserted by the Company or any Holder or any other person) or liability in connection with the exercise or performance of any of its powers or duties hereunder, except to the extent any such loss, liability or expense may be attributable to its negligence or bad faith. The Trustee shall notify the Company promptly of any claim for which it may seek indemnity. Failure by the Trustee to so notify the Company shall not relieve the Company of its obligations hereunder. The Company shall defend the claim and the Trustee shall cooperate in the defense. The Trustee may have separate counsel and the Company shall pay the reasonable fees and expenses of such counsel. The Company need not pay for any settlement made without its consent, which consent shall not be unreasonably withheld.

The obligations of the Company under this Section 7.07 shall survive the satisfaction and discharge of this Indenture.

To secure the Company's payment obligations in this Section, the Trustee shall have a Lien prior to the Notes on all money or property held or collected by the Trustee, except that held in trust to pay principal and interest on particular Notes. Such Lien shall survive the satisfaction and discharge of this Indenture.

When the Trustee incurs expenses or renders services after an Event of Default specified in Section 6.01(g) or (h) hereof occurs, the expenses and the compensation for the services (including the fees and expenses of its agents and counsel) are intended to constitute expenses of administration under any Bankruptcy Law.

The Trustee shall comply with the provisions of TIA ss. 313(b)(2) to the extent applicable.

Section 7.08. Replacement of Trustee.

A resignation or removal of the Trustee and appointment of a successor Trustee shall become effective only upon the successor Trustee's acceptance of appointment as provided in this Section.

The Trustee may resign in writing at any time and be discharged from the trust hereby created by so notifying the Company. The Holders of a majority in principal amount of the then outstanding Notes may remove the Trustee by so notifying the Trustee and the Company in writing. The Company may remove the Trustee if:

- (a) the Trustee fails to comply with Section 7.10 hereof;

(b) the Trustee is adjudged a bankrupt or an insolvent or an order for relief is entered with respect to the Trustee under any Bankruptcy Law;

(c) a custodian or public officer takes charge of the Trustee or its property; or

(d) the Trustee becomes incapable of acting.

If the Trustee resigns or is removed or if a vacancy exists in the office of Trustee for any reason, the Company shall promptly appoint a successor Trustee. Within one year after the successor Trustee takes office, the Holders of a majority in principal amount of the then outstanding Notes may appoint a successor Trustee to replace the successor Trustee appointed by the Company.

If a successor Trustee does not take office within 60 days after the retiring Trustee resigns or is removed, the retiring Trustee, the Company, or the Holders of at least 10% in principal amount of the then outstanding Notes may petition any court of competent jurisdiction for the appointment of a successor Trustee.

If the Trustee, after written request by any Holder who has been a Holder for at least six months, fails to comply with Section 7.10, such Holder may petition any court of competent jurisdiction for the removal of the Trustee and the appointment of a successor Trustee.

A successor Trustee shall deliver a written acceptance of its appointment to the retiring Trustee and to the Company. Thereupon, the resignation or removal of the retiring Trustee shall become effective, and the successor Trustee shall have all the rights, powers and duties of the Trustee under this Indenture. The successor Trustee shall mail a notice of its succession to Holders. The retiring Trustee shall promptly transfer all property held by it as Trustee to the successor Trustee, provided all sums owing to the Trustee hereunder have been paid and subject to the Lien provided for in Section 7.07 hereof. Notwithstanding replacement of the Trustee pursuant to this Section 7.08, the Company's obligations under Section 7.07 hereof shall continue for the benefit of the retiring Trustee.

Section 7.09. Successor Trustee by Merger, etc.

If the Trustee consolidates, merges or converts into, or transfers all or substantially all of its corporate trust business to, another corporation, the successor corporation without any further act shall be the successor Trustee.

Section 7.10. Eligibility; Disqualification.

There shall at all times be a Trustee hereunder that is a corporation organized and doing business under the laws of the United States of America or of any state thereof that is authorized under such laws to exercise corporate trustee power, that is subject to supervision or examination by federal or state authorities and that has a combined capital and surplus of at least \$100 million as set forth in its most recent published annual report of condition.

This Indenture shall always have a Trustee who satisfies the requirements of TIA ss. 310(a)(1), (2) and (5). The Trustee is subject to TIA ss. 310(b).

Section 7.11. Preferential Collection of Claims Against Company.

The Trustee is subject to TIA ss. 311(a), excluding any creditor relationship listed in TIA ss. 311(b). A Trustee who has resigned or been removed shall be subject to TIA ss. 311(a) to the extent indicated therein.

ARTICLE 8.  
LEGAL DEFEASANCE AND COVENANT DEFEASANCE

Section 8.01. Option to Effect Legal Defeasance or Covenant Defeasance.

The Company may, at the option of its Board of Directors evidenced by a resolution set forth in an Officers' Certificate, at any time, elect to have either Section 8.02 or 8.03 hereof be applied to all outstanding Notes upon compliance with the conditions set forth below in this Article Eight.

Section 8.02. Legal Defeasance and Discharge.

Upon the Company's exercise under Section 8.01 hereof of the option applicable to this Section 8.02, the Company shall, subject to the satisfaction of the conditions set forth in Section 8.04 hereof, be deemed to have been discharged from its obligations with respect to all outstanding Notes on the date the conditions set forth below are satisfied (hereinafter, "Legal Defeasance"). For this purpose, Legal Defeasance means that the Company shall be deemed to have paid and discharged the entire Indebtedness represented by the outstanding Notes, which shall thereafter be deemed to be "outstanding" only for the purposes of Section 8.05 hereof and the other Sections of this Indenture referred to in (a) and (b) below, and to have satisfied all its other obligations under such Notes and this Indenture (and the Trustee, on demand of and at the expense of the Company, shall execute proper instruments acknowledging the same), except for the following provisions which shall survive until otherwise terminated or discharged hereunder: (a) the rights of Holders of outstanding Notes to receive solely from the trust fund described in Section 8.04 hereof, and as more fully set forth in such Section, payments in respect of the principal of, premium, Special Interest, if any, and interest on such Notes when such payments are due, (b) the Company's obligations with respect to such Notes under Article 2 and Section 4.02 hereof, (c) the rights, powers, trusts, duties and immunities of the Trustee hereunder and the Company's obligations in connection therewith and (d) this Article Eight. Subject to compliance with this Article Eight, the Company may exercise its option under this Section 8.02 notwithstanding the prior exercise of its option under Section 8.03 hereof.

Section 8.03. Covenant Defeasance.

Upon the Company's exercise under Section 8.01 hereof of the option applicable to this Section 8.03, the Company shall, subject to the satisfaction of the conditions set forth in Section 8.04 hereof, be released from its obligations under the covenants contained in Sections 4.07, 4.08, 4.09, 4.10, 4.11, 4.12, 4.14, 4.15, 4.16 and 4.17, hereof and Section 5.01(a)(D) hereof with respect to the outstanding Notes on and after the date the conditions set forth in Section 8.04 are satisfied (hereinafter, "Covenant Defeasance"), and the Notes shall thereafter be deemed not "outstanding" for the purposes of any direction, waiver, consent or declaration or act of Holders (and the consequences of any thereof) in connection with such covenants, but shall continue to be deemed "outstanding" for all other purposes hereunder (it being understood that such Notes shall not be deemed outstanding for accounting purposes). For this purpose, Covenant Defeasance means that, with respect to the outstanding Notes, the Company may omit to comply with and shall have no liability in respect of any term, condition or limitation set forth in any such covenant, whether directly or indirectly, by reason of any reference elsewhere herein to any such covenant or by reason of any reference in any such covenant to any other provision herein or in any other document and such omission to

comply shall not constitute a Default or an Event of Default under Section 6.01 hereof, but, except as specified above, the remainder of this Indenture and such Notes shall be unaffected thereby. In addition, upon the Company's exercise under Section 8.01 hereof of the option applicable to this Section 8.03 hereof, subject to the satisfaction of the conditions set forth in Section 8.04 hereof, Sections 6.01(c) through 6.01(f) hereof shall not constitute Events of Default.

Section 8.04. Conditions to Legal or Covenant Defeasance.

The following shall be the conditions to the application of either Section 8.02 or 8.03 hereof to the outstanding Notes:

In order to exercise either Legal Defeasance or Covenant Defeasance:

(a) the Company must irrevocably deposit with the Trustee, in trust, for the benefit of the Holders, cash in United States dollars, non-callable Government Securities, or a combination thereof, in such amounts as shall be sufficient, in the opinion of a nationally recognized firm of independent public accountants, to pay the principal of, premium and Special Interest, if any, and interest on the outstanding Notes on the stated date for payment thereof or on the applicable redemption date, as the case may be, and the Company must specify whether the Notes are being defeased to maturity or to a particular redemption date;

(b) in the case of an election under Section 8.02 hereof, the Company shall have delivered to the Trustee an Opinion of Counsel in the United States reasonably acceptable to the Trustee confirming that (A) the Company has received from, or there has been published by, the Internal Revenue Service a ruling or (B) since the date of this Indenture, there has been a change in the applicable federal income tax law, in either case to the effect that, and based thereon such Opinion of Counsel shall confirm that, the Holders of the outstanding Notes shall not recognize income, gain or loss for federal income tax purposes as a result of such Legal Defeasance and shall be subject to federal income tax on the same amounts, in the same manner and at the same times as would have been the case if such Legal Defeasance had not occurred;

(c) in the case of an election under Section 8.03 hereof, the Company shall have delivered to the Trustee an Opinion of Counsel in the United States reasonably acceptable to the Trustee confirming that the Holders of the outstanding Notes shall not recognize income, gain or loss for federal income tax purposes as a result of such Covenant Defeasance and shall be subject to federal income tax on the same amounts, in the same manner and at the same times as would have been the case if such Covenant Defeasance had not occurred;

(d) no Default or Event of Default shall have occurred and be continuing on the date of such deposit (other than a Default or Event of Default resulting from the incurrence of Indebtedness all or a portion of the proceeds of which shall be used to defease the Notes pursuant to this Article Eight concurrently with such incurrence);

(e) such Legal Defeasance or Covenant Defeasance shall not result in a breach or violation of, or constitute a default under, any material agreement or instrument (other than this Indenture) to which the Company or any of its Subsidiaries is a party or by which the Company or any of its Subsidiaries is bound;

(f) the Company shall have delivered to the Trustee an Officers' Certificate stating that the deposit was not made by the Company with the intent of preferring the Holders over any other creditors of the Company or with the

intent of defeating, hindering, delaying or defrauding any other creditors of the Company; and

(g) the Company shall have delivered to the Trustee an Officers' Certificate and an Opinion of Counsel, each stating that all conditions precedent provided for or relating to the Legal Defeasance or the Covenant Defeasance have been complied with.

Section 8.05. Deposited Money and Government Securities to be Held in Trust; Other Miscellaneous Provisions.

Subject to Section 8.06 hereof, all money and non-callable Government Securities (including the proceeds thereof) deposited with the Trustee (or other qualifying trustee, collectively for purposes of this Section 8.05, the "Trustee") pursuant to Section 8.04 hereof in respect of the outstanding Notes shall be held in trust and applied by the Trustee, in accordance with the provisions of such Notes and this Indenture, to the payment, either directly or through any Paying Agent (including the Company acting as Paying Agent) as the Trustee may determine, to the Holders of such Notes of all sums due and to become due thereon in respect of principal, premium, if any, and interest, but such money need not be segregated from other funds except to the extent required by law.

The Company shall pay and indemnify the Trustee against any tax, fee or other charge imposed on or assessed against the cash or non-callable Government Securities deposited pursuant to Section 8.04 hereof or the principal and interest received in respect thereof other than any such tax, fee or other charge which by law is for the account of the Holders of the outstanding Notes.

Anything in this Article Eight to the contrary notwithstanding, the Trustee shall deliver or pay to the Company from time to time upon the request of the Company any money or non-callable Government Securities held by it as provided in Section 8.04 hereof which, in the opinion of a nationally recognized firm of independent public accountants expressed in a written certification thereof delivered to the Trustee (which may be the opinion delivered under Section 8.04(a) hereof), are in excess of the amount thereof that would then be required to be deposited to effect an equivalent Legal Defeasance or Covenant Defeasance.

Section 8.06. Repayment to Company.

Any money deposited with the Trustee or any Paying Agent, or then held by the Company, in trust for the payment of the principal of, premium, if any, or interest on any Note and remaining unclaimed for two years after such principal, and premium, if any, or interest has become due and payable shall be paid to the Company on its request or (if then held by the Company) shall be discharged from such trust; and the Holder of such Note shall thereafter look only to the Company for payment thereof, and all liability of the Trustee or such Paying Agent with respect to such trust money, and all liability of the Company as trustee thereof, shall thereupon cease; provided, however, that the Trustee or such Paying Agent, before being required to make any such repayment, may at the expense of the Company cause to be published once, in the New York Times and The Wall Street Journal (national edition), notice that such money remains unclaimed and that, after a date specified therein, which shall not be less than 30 days from the date of such notification or publication, any unclaimed balance of such money then remaining shall be repaid to the Company.

Section 8.07. Reinstatement.

If the Trustee or Paying Agent is unable to apply any United States dollars or non-callable Government Securities in accordance with Section 8.02 or 8.03 hereof, as the case may be, by reason of any order or judgment of any court

or governmental authority enjoining, restraining or otherwise prohibiting such application, then the Company's obligations under this Indenture and the Notes shall be revived and reinstated as though no deposit had occurred pursuant to Section 8.02 or 8.03 hereof until such time as the Trustee or Paying Agent is permitted to apply all such money in accordance with Section 8.02 or 8.03 hereof, as the case may be; provided, however, that, if the Company makes any payment of principal of, premium, if any, or interest on any Note following the reinstatement of its obligations, the Company shall be subrogated to the rights of the Holders of such Notes to receive such payment from the money held by the Trustee or Paying Agent.

ARTICLE 9.  
AMENDMENT, SUPPLEMENT AND WAIVER

Section 9.01. Without Consent of Holders of Notes.

Notwithstanding Section 9.02 of this Indenture, the Company and the Trustee may amend or supplement this Indenture or the Notes without the consent of any Holder of a Note:

(a) to cure any ambiguity, defect or inconsistency;

(b) to provide for uncertificated Notes in addition to or in place of certificated Notes or to alter the provisions of Article 2 hereof (including the related definitions) in a manner that does not materially adversely affect any Holder;

(c) to provide for the assumption of the Company's obligations to the Holders of the Notes by a successor to the Company pursuant to Article 5 hereof;

(d) to make any change that would provide any additional rights or benefits to the Holders of the Notes or that does not adversely affect the legal rights hereunder of any Holder of the Note; or

(e) to comply with requirements of the SEC in order to effect or maintain the qualification of this Indenture under the TIA.

Upon the request of the Company accompanied by a resolution of its Board of Directors authorizing the execution of any such amended or supplemental Indenture, and upon receipt by the Trustee of the documents described in Section 7.02 hereof, the Trustee shall join with the Company in the execution of any amended or supplemental Indenture authorized or permitted by the terms of this Indenture and to make any further appropriate agreements and stipulations that may be therein contained, but the Trustee shall not be obligated to enter into such amended or supplemental Indenture that affects its own rights, duties or immunities under this Indenture or otherwise.

Section 9.02. With Consent of Holders of Notes.

Except as provided below in this Section 9.02, the Company and the Trustee may amend or supplement this Indenture (including Section 4.14 hereof) and the Notes with the consent of the Holders of at least a majority in principal amount of the Notes then outstanding voting as a single class (including consents obtained in connection with a tender offer or exchange offer for, or purchase of, the Notes), and, subject to Sections 6.04 and 6.07 hereof, any existing Default or Event of Default (other than a Default or Event of Default in the payment of the principal of, premium, if any, or interest on the Notes, except a payment default resulting from an acceleration that has been rescinded) or compliance with any provision of this Indenture or the Notes may be waived with the consent of the Holders of a majority in principal amount of the then outstanding Notes voting as a single class (including consents obtained in connection with a tender offer or exchange offer for, or purchase of, the

Notes. Section 2.08 hereof shall determine which Notes are considered to be "outstanding" for purposes of this Section 9.02.

Upon the request of the Company accompanied by a resolution of its Board of Directors authorizing the execution of any such amended or supplemental Indenture, and upon the filing with the Trustee of evidence satisfactory to the Trustee of the consent of the Holders of Notes as aforesaid, and upon receipt by the Trustee of the documents described in Section 7.02 hereof, the Trustee shall join with the Company in the execution of such amended or supplemental Indenture unless such amended or supplemental Indenture directly affects the Trustee's own rights, duties or immunities under this Indenture or otherwise, in which case the Trustee may in its discretion, but shall not be obligated to, enter into such amended or supplemental Indenture.

It shall not be necessary for the consent of the Holders of Notes under this Section 9.02 to approve the particular form of any proposed amendment or waiver, but it shall be sufficient if such consent approves the substance thereof.

After an amendment, supplement or waiver under this Section becomes effective, the Company shall mail to the Holders of Notes affected thereby a notice briefly describing the amendment, supplement or waiver. Any failure of the Company to mail such notice, or any defect therein, shall not, however, in any way impair or affect the validity of any such amended or supplemental Indenture or waiver. Subject to Sections 6.04 and 6.07 hereof, the Holders of a majority in aggregate principal amount of the Notes then outstanding voting as a single class may waive compliance in a particular instance by the Company with any provision of this Indenture or the Notes. However, without the consent of each Holder affected, an amendment or waiver under this Section 9.02 may not (with respect to any Notes held by a non-consenting Holder):

(a) reduce the principal amount of Notes whose Holders must consent to an amendment, supplement or waiver;

(b) reduce the principal of or change the fixed maturity of any Note or alter or waive any of the provisions with respect to the redemption of the Notes, except as provided above with respect to Section 4.14 hereof;

(c) reduce the rate of or change the time for payment of interest, including default interest, on any Note;

(d) waive a Default or Event of Default in the payment of principal of, premium or Special Interest, if any, or interest on the Notes (except a rescission of acceleration of the Notes by the Holders of at least a majority in aggregate principal amount of the then outstanding Notes and a waiver of the payment default that resulted from such acceleration);

(e) make any Note payable in money other than that stated in the Notes;

(f) make any change in the provisions of this Indenture relating to waivers of past Defaults or the rights of Holders of Notes to receive payments of principal of, or interest or premium or Special Interest, if any, on the Notes; or

(g) make any change in Section 6.04 or 6.07 hereof or in the foregoing amendment and waiver provisions.

Section 9.03. Compliance with Trust Indenture Act.

Every amendment or supplement to this Indenture or the Notes shall be set forth in an amended or supplemental Indenture that complies with the TIA as then in effect.

Section 9.04. Revocation and Effect of Consents.

Until an amendment, supplement or waiver becomes effective, a consent to it by a Holder of a Note is a continuing consent by the Holder of a Note and every subsequent Holder of a Note or portion of a Note that evidences the same debt as the consenting Holder's Note, even if notation of the consent is not made on any Note. However, any such Holder of a Note or subsequent Holder of a Note may revoke the consent as to its Note if the Trustee receives written notice of revocation before the date the waiver, supplement or amendment becomes effective. An amendment, supplement or waiver becomes effective in accordance with its terms and thereafter binds every Holder.

Section 9.05. Notation on or Exchange of Notes.

The Trustee may place an appropriate notation about an amendment, supplement or waiver on any Note thereafter authenticated. The Company in exchange for all Notes may issue and the Trustee shall, upon receipt of an Authentication Order, authenticate new Notes that reflect the amendment, supplement or waiver.

Failure to make the appropriate notation or issue a new Note shall not affect the validity and effect of such amendment, supplement or waiver.

Section 9.06. Trustee to Sign Amendments, etc.

The Trustee shall sign any amended or supplemental Indenture authorized pursuant to this Article Nine if the amendment or supplement does not adversely affect the rights, duties, liabilities or immunities of the Trustee. The Company may not sign an amendment or supplemental Indenture until the Board of Directors approves it. In executing any amended or supplemental indenture, the Trustee shall be entitled to receive and (subject to Section 7.01 hereof) shall be fully protected in relying upon, in addition to the documents required by Section 12.04 hereof, an Officer's Certificate and an Opinion of Counsel stating that the execution of such amended or supplemental indenture is authorized or permitted by this Indenture.

ARTICLE 10.  
SUBORDINATION

Section 10.01. Agreement to Subordinate.

The Company agrees, and each Holder by accepting a Note agrees, that the Indebtedness evidenced by the Notes is subordinated in right of payment, to the extent and in the manner provided in this Article 10, to the prior payment in full of all Senior Debt (whether outstanding on the date hereof or hereafter created, incurred, assumed or guaranteed), and that the subordination is for the benefit of the holders of Senior Debt.

Section 10.02. Certain Definitions.

"Designated Senior Debt" means (i) any Indebtedness outstanding under the Existing Credit Facilities and (ii) after payment in full of all Obligations under the Existing Credit Facilities, any other Senior Debt permitted under this



Indenture the principal amount of which is \$25.0 million or more and that has been designated by the Company as "Designated Senior Debt."

"Permitted Junior Securities" means (i) Equity Interests in the Company or (ii) debt securities that are subordinated to all Senior Debt and any debt securities issued in exchange for Senior Debt to substantially the same extent as, or to a greater extent than, the Notes are subordinated to Senior Debt under this Indenture.

"Representative" means the indenture trustee or other trustee, agent or representative for any Senior Debt.

"Senior Debt" means:

- (i) all Indebtedness of the Company outstanding under Credit Facilities and all Hedging Obligations with respect thereto;
- (ii) any other Indebtedness of the Company permitted to be incurred under the terms of this Indenture, unless the instrument under which such Indebtedness is incurred expressly provides that it is on a parity with or subordinated in right of payment to the Notes; and
- (iii) all Obligations with respect to the items listed in the preceding clauses (i) and (ii).

Notwithstanding anything to the contrary in the preceding, Senior Debt shall not include:

- (i) any liability for federal, state, local or other taxes owed or owing by the Company;
- (ii) any intercompany Indebtedness of the Company or any of its Subsidiaries to the Company or any of its Affiliates;
- (iii) any trade payables; or
- (iv) the portion of any Indebtedness that is incurred in violation of this Indenture.

Section 10.03. Liquidation; Dissolution; Bankruptcy.

Upon any distribution to creditors of the Company in a liquidation or dissolution of the Company or in a bankruptcy, reorganization, insolvency, receivership or similar proceeding relating to the Company or its property, in an assignment for the benefit of creditors or any marshaling of the Company's assets and liabilities:

(i) holders of Senior Debt shall be entitled to receive payment in full of all Obligations due in respect of such Senior Debt (including interest after the commencement of any such proceeding at the rate specified in the applicable Senior Debt) before Holders of the Notes shall be entitled to receive any payment with respect to the Notes (except that Holders may receive (A) Permitted Junior Securities and (B) payments and other distributions made from any defeasance trust created pursuant to Section 8.01 hereof); and

(ii) until all Obligations with respect to Senior Debt (as provided in clause (i) above) are paid in full, any distribution to which Holders would be entitled but for this Article 10 shall be made to holders of Senior Debt (except that Holders of Notes may receive (A) Permitted Junior Securities and (B) payments and other distributions

made from any defeasance trust created pursuant to Section 8.01 hereof), as their interests may appear.

Section 10.04. Default on Designated Senior Debt.

(a) The Company may not make any payment or distribution to the Trustee or any Holder in respect of Obligations with respect to the Notes and may not acquire from the Trustee or any Holder any Notes for cash or property (other than (A) Permitted Junior Securities and (B) payments and other distributions made from any defeasance trust created pursuant to Section 8.01 hereof) until all principal and other Obligations with respect to the Senior Debt have been paid in full if:

(i) a default in the payment of any principal or other Obligations with respect to Designated Senior Debt occurs and is continuing beyond any applicable grace period in the agreement, indenture or other document governing such Designated Senior Debt; or

(ii) a default, other than a payment default, on Designated Senior Debt occurs and is continuing that then permits holders of the Designated Senior Debt to accelerate its maturity and the Trustee receives a notice of the default (a "Payment Blockage Notice") from a Person who may give it pursuant to Section 10.12 hereof. If the Trustee receives any such Payment Blockage Notice, no subsequent Payment Blockage Notice shall be effective for purposes of this Section unless and until (A) at least 360 days shall have elapsed since the effectiveness of the immediately prior Payment Blockage Notice and (B) all scheduled payments of principal, premium, if any, and interest on the Permitted Junior Securities that have come due have been paid in full in cash. No nonpayment default that existed or was continuing on the date of delivery of any Payment Blockage Notice to the Trustee shall be, or be made, the basis for a subsequent Payment Blockage Notice.

(b) The Company may and shall resume payments on and distributions in respect of the Notes and may acquire them upon the earlier of:

(i) the date upon which the default referred to in clause (i) or (ii) of Section 10.04(a) hereof is cured or waived, or

(ii) in the case of a default referred to in clause (ii) of Section 10.04(a) hereof, 179 days pass after notice is received if the maturity of such Designated Senior Debt has not been accelerated,

if this Article 10 otherwise permits the payment, distribution or acquisition at the time of such payment or acquisition.

Section 10.05. Acceleration of Permitted Junior Securities.

If payment of the Permitted Junior Securities is accelerated because of an Event of Default, the Company shall promptly notify holders of Senior Debt of the acceleration.

Section 10.06. When Distribution Must Be Paid Over.

In the event that the Trustee or any Holder receives any payment of any Obligations with respect to the Notes at a time when the Trustee or such Holder, as applicable, has actual knowledge that such payment is prohibited by Section 10.04 hereof, such payment shall be held by the Trustee or such Holder, in trust for the benefit of, and shall be paid forthwith over and delivered, upon written request, to, the holders of Senior Debt as their interests may appear or their

Representative under this Indenture or other agreement (if any) pursuant to which Senior Debt may have been issued, as their respective interests may appear, for application to the payment of all Obligations with respect to Senior Debt remaining unpaid to the extent necessary to pay such Obligations in full in accordance with their terms, after giving effect to any concurrent payment or distribution to or for the holders of Senior Debt.

With respect to the holders of Senior Debt, the Trustee undertakes to perform only such obligations on the part of the Trustee as are specifically set forth in this Article 10, and no implied covenants or obligations with respect to the holders of Senior Debt shall be read into this Indenture against the Trustee. The Trustee shall not be deemed to owe any fiduciary duty to the holders of Senior Debt, and shall not be liable to any such holders if the Trustee shall pay over or distribute to or on behalf of Holders or the Company or any other Person money or assets to which any holders of Senior Debt shall be entitled by virtue of this Article 10, except if such payment is made as a result of the willful misconduct or gross negligence of the Trustee.

Section 10.07. Notice by Company.

The Company shall promptly notify the Trustee and the Paying Agent of any facts known to the Company that would cause a payment of any Obligations with respect to the Notes to violate this Article 10, but failure to give such notice shall not affect the subordination of the Notes to the Senior Debt as provided in this Article 10.

Section 10.08. Subrogation.

After all Senior Debt is paid in full and until the Notes are paid in full, Holders of Notes shall be subrogated (equally and ratably with all other Indebtedness *pari passu* with the Notes) to the rights of Holders of Senior Debt to receive distributions applicable to Senior Debt to the extent that distributions otherwise payable to the Holders of Notes have been applied to the payment of Senior Debt. A distribution made under this Article 10 to holders of Senior Debt that otherwise would have been made to Holders of Notes is not, as between the Company and Holders, a payment by the Company on the Notes.

Section 10.09. Relative Rights.

This Article 10 defines the relative rights of Holders of Notes and Holders of Senior Debt. Nothing in this Indenture shall:

(i) impair, as between the Company and Holders of Notes, the obligation of the Company, which is absolute and unconditional, to pay principal of and interest on the Notes in accordance with their terms;

(ii) affect the relative rights of Holders of Notes and creditors of the Company other than their rights in relation to holders of Senior Debt; or

(iii) prevent the Trustee or any Holder of Notes from exercising its available remedies upon a Default or Event of Default, subject to the rights of holders and owners of Senior Debt to receive distributions and payments otherwise payable to Holders of Notes.

If the Company fails because of this Article 10 to pay principal of or interest on a Note on the due date, the failure is still a Default or Event of Default.

Section 10.10. Subordination May Not Be Impaired by Company.

No right of any holder of Senior Debt to enforce the subordination of the Indebtedness evidenced by the Notes shall be impaired by any act or failure to act by the Company or any Holder or by the failure of the Company or any Holder to comply with this Indenture.

Section 10.11. Distribution or Notice to Representative.

Whenever a distribution is to be made or a notice given to holders of Senior Debt, the distribution may be made and the notice given to their Representative.

Upon any payment or distribution of assets of the Company referred to in this Article 10, the Trustee and the Holders of Notes shall be entitled to rely upon any order or decree made by any court of competent jurisdiction or upon any certificate of such Representative or of the liquidating trustee or agent or other Person making any distribution to the Trustee or to the Holders of Notes for the purpose of ascertaining the Persons entitled to participate in such distribution, the holders of the Senior Debt and other Indebtedness of the Company, the amount thereof or payable thereon, the amount or amounts paid or distributed thereon and all other facts pertinent thereto or to this Article 10.

Section 10.12. Rights of Trustee and Paying Agent.

Notwithstanding the provisions of this Article 10 or any other provision of this Indenture, the Trustee shall not be charged with knowledge of the existence of any facts that would prohibit the making of any payment or distribution by the Trustee, and the Trustee and the Paying Agent may continue to make payments on the Notes, unless the Trustee shall have received at its Corporate Trust Office at least five Business Days prior to the date of such payment written notice of facts that would cause the payment of any Obligations with respect to the Notes to violate this Article 10. Only the Company or a Representative may give the notice. Nothing in this Article 10 shall impair the claims of, or payments to, the Trustee under or pursuant to Section 7.07 hereof.

The Trustee in its individual or any other capacity may hold Senior Debt with the same rights it would have if it were not Trustee. Any Agent may do the same with like rights.

Section 10.13. Authorization to Effect Subordination.

Each Holder of Notes, by the Holder's acceptance thereof, authorizes and directs the Trustee on such Holder's behalf to take such action as may be necessary or appropriate to effectuate the subordination as provided in this Article 10, and appoints the Trustee to act as such Holder's attorney-in-fact for any and all such purposes. If the Trustee does not file a proper proof of claim or proof of debt in the form required in any proceeding referred to in Section 6.09 hereof at least 30 days before the expiration of the time to file such claim, the Representatives are hereby authorized to file an appropriate claim for and on behalf of the Holders of the Notes.

Section 10.14. Amendments.

The provisions of this Article 10 shall not be amended or modified without the written consent of the holders of all Senior Debt.

ARTICLE 11.  
SATISFACTION AND DISCHARGE

Section 11.01. Satisfaction and Discharge.

This Indenture shall be discharged and shall cease to be of further effect as to all Notes issued hereunder, when:

- (1) either:
- (a) all Notes that have been authenticated (except lost, stolen or destroyed Notes that have been replaced or paid and Notes for whose payment money has theretofore been deposited in trust and thereafter repaid to the Company) have been delivered to the Trustee for cancellation; or
  - (b) all Notes that have not been delivered to the Trustee for cancellation have become due and payable by reason of the making of a notice of redemption or otherwise or shall become due and payable within one year and the Company has irrevocably deposited or caused to be deposited with the Trustee as trust funds in trust solely for the benefit of the Holders, cash in U.S. dollars, non-callable Government Securities, or a combination thereof, in such amounts as shall be sufficient without consideration of any reinvestment of interest, to pay and discharge the entire indebtedness on the Notes not delivered to the Trustee for cancellation for principal, premium and Special Interest, if any, and accrued interest to the date of maturity or redemption;
- (2) no Default or Event of Default shall have occurred and be continuing on the date of such deposit or shall occur as a result of such deposit and such deposit shall not result in a breach or violation of, or constitute a default under, any other instrument to which the Company is a party or by which the Company is bound;
- (3) the Company has paid or caused to be paid all sums payable by it under this Indenture; and
- (4) the Company has delivered irrevocable instructions to the Trustee under this Indenture to apply the deposited money toward the payment of the Notes at maturity or the redemption date, as the case may be.

In addition, the Company must deliver an Officers' Certificate and an Opinion of Counsel to the Trustee stating that all conditions precedent to satisfaction and discharge have been satisfied.

Notwithstanding the satisfaction and discharge of this Indenture, if money shall have been deposited with the Trustee pursuant to subclause (b) of clause (1) of this Section, the provisions of Section 11.02 and Section 8.06 shall survive.

Section 11.02. Application of Trust Money.

Subject to the provisions of Section 8.06, all money deposited with the Trustee pursuant to Section 11.01 shall be held in trust and applied by it, in accordance with the provisions of the Notes and this Indenture, to the payment, either directly or through any Paying Agent (including the Company acting as its own Paying Agent) as the Trustee may determine, to the Persons entitled thereto, of the principal, premium, Special Interest, if any, and interest for whose

payment such money has been deposited with the Trustee; but such money need not be segregated from other funds except to the extent required by law.

If the Trustee or Paying Agent is unable to apply any money or Government Securities in accordance with Section 11.01 by reason of any legal proceeding or by reason of any order or judgment of any court or governmental authority enjoining, restraining or otherwise prohibiting such application, the Company's obligations under this Indenture and the Notes shall be revived and reinstated as though no deposit had occurred pursuant to Section 11.01; provided that if the Company has made any payment of principal of, premium, Special Interest, if any, or interest on any Notes because of the reinstatement of its obligations, the Company shall be subrogated to the rights of the Holders of such Notes to receive such payment from the money or Government Securities held by the Trustee or Paying Agent.

ARTICLE 12.  
MISCELLANEOUS

Section 12.01. Trust Indenture Act Controls.

If any provision of this Indenture limits, qualifies or conflicts with the duties imposed by TIA ss.318(c), the imposed duties shall control.

Section 12.02. Notices.

Any notice or communication by the Company or the Trustee to the others is duly given if in writing and delivered in Person or mailed by first class mail (registered or certified, return receipt requested), telex, telecopier or overnight air courier guaranteeing next day delivery, to the others' address:

If to the Company:

Office Depot, Inc.  
2200 Old Germantown Road  
Delray Beach, FL 33445  
Telecopier No.: (561) 438-4464  
Attention: David Fannin, Esq., General Counsel

With a copy to:  
McDermott, Will & Emory  
227 West Monroe St.  
Chicago, IL 60606  
Telecopier No.: (312) 984-7700  
Attention: Scott N. Gierke, Esq.

If to the Trustee:  
SunTrust Bank  
Corporate Trust Division  
777 Brickell Avenue  
Miami, FL 33131  
Telecopier No.: (305) 579-7017  
Attention: Bond Administration

The Company or the Trustee, by notice to the others may designate additional or different addresses for subsequent notices or communications.

All notices and communications (other than those sent to Holders) shall be deemed to have been duly given: at the time delivered by hand, if personally delivered; five Business Days after being deposited in the mail, postage prepaid, if mailed; when answered back, if telexed; when receipt acknowledged, if telecopied; and the next Business Day after timely delivery to the courier, if sent by overnight air courier guaranteeing next day delivery.

Any notice or communication to a Holder shall be mailed by first class mail, certified or registered, return receipt requested, or by overnight air courier guaranteeing next day delivery to its address shown on the register kept by the Registrar. Any notice or communication shall also be so mailed to any Person described in TIA ss. 313(c), to the extent required by the TIA. Failure to mail a notice or communication to a Holder or any defect in it shall not affect its sufficiency with respect to other Holders.

If a notice or communication is mailed in the manner provided above within the time prescribed, it is duly given, whether or not the addressee receives it.

If the Company mails a notice or communication to Holders, it shall mail a copy to the Trustee and each Agent at the same time.

Section 12.03. Communication by Holders of Notes with Other Holders of Notes.

Holders may communicate pursuant to TIA ss. 312(b) with other Holders with respect to their rights under this Indenture or the Notes. The Company, the Trustee, the Registrar and anyone else shall have the protection of TIA ss. 312(c).

Section 12.04. Certificate and Opinion as to Conditions Precedent.

Upon any request or application by the Company to the Trustee to take any action under this Indenture, the Company shall furnish to the Trustee:

(a) an Officers' Certificate in form and substance reasonably satisfactory to the Trustee (which shall include the statements set forth in Section 12.05 hereof) stating that, in the opinion of the signers, all conditions precedent and covenants, if any, provided for in this Indenture relating to the proposed action have been satisfied; and

(b) an Opinion of Counsel in form and substance reasonably satisfactory to the Trustee (which shall include the statements set forth in Section 12.05 hereof) stating that, in the opinion of such counsel, all such conditions precedent and covenants have been satisfied.

Section 12.05. Statements Required in Certificate or Opinion.

Each certificate or opinion with respect to compliance with a condition or covenant provided for in this Indenture (other than a certificate provided pursuant to TIA ss. 314(a)(4)) shall comply with the provisions of TIA ss. 314(e) and shall include:

(c) a statement that the Person making such certificate or opinion has read such covenant or condition;

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

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

(f) a statement as to whether or not, in the opinion of such Person, such condition or covenant has been satisfied.

Section 12.06. Rules by Trustee and Agents.

The Trustee may make reasonable rules for action by or at a meeting of Holders. The Registrar or Paying Agent may make reasonable rules and set reasonable requirements for its functions.

Section 12.07. No Personal Liability of Directors, Officers, Employees and Stockholders.

No past, present or future director, officer, employee, incorporator or stockholder of the Company, as such, shall have any liability for any obligations of the Company under the Notes, this Indenture or for any claim based on, in respect of, or by reason of, such obligations or their creation. Each Holder by accepting a Note waives and releases all such liability. The waiver and release are part of the consideration for issuance of the Notes.

Section 12.08. Governing Law.

THE INTERNAL LAW OF THE STATE OF NEW YORK SHALL GOVERN AND BE USED TO CONSTRUE THIS INDENTURE AND THE NOTES, WITHOUT GIVING EFFECT TO APPLICABLE PRINCIPLES OF CONFLICTS OF LAW TO THE EXTENT THAT THE APPLICATION OF THE LAWS OF ANOTHER JURISDICTION WOULD BE REQUIRED THEREBY.

Section 12.09. No Adverse Interpretation of Other Agreements.

This Indenture may not be used to interpret any other indenture, loan or debt agreement of the Company or its Subsidiaries or of any other Person. Any such indenture, loan or debt agreement may not be used to interpret this Indenture.

Section 12.10. Successors.

All agreements of the Company in this Indenture and the Notes shall bind its successors. All agreements of the Trustee in this Indenture shall bind its successors.

Section 12.11. Severability.

In case any provision in this Indenture or in the Notes shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

Section 12.12. Counterpart Originals.

The parties may sign any number of copies of this Indenture. Each signed copy shall be an original, but all of them together represent the same agreement.



Section 12.13. Table of Contents, Headings, etc.

The Table of Contents, Cross-Reference Table and Headings of the Articles and Sections of this Indenture have been inserted for convenience of reference only, are not to be considered a part of this Indenture and shall in no way modify or restrict any of the terms or provisions hereof.

[Signatures on following page]

SIGNATURES

Dated as of July 2, 2001

Office Depot, Inc.

By:

-----  
Name:  
Title:

Attest:

-----  
Name:  
Title:

SunTrust Bank

By:

-----  
Name:  
Title:

Attest:

-----  
Authorized Signatory  
Date:

-----  
CUSIP/CINS \_\_\_\_\_

10% Senior Subordinated Notes due 2008

No. 1 \$ \_\_\_\_\_

OFFICE DEPOT, INC.

promises to pay to Cede & Co. or registered assigns, the principal sum of \_\_\_\_\_ Dollars on July 15, 2008.

Interest Payment Dates: January 15 and July 15

Record Dates: January 1 and July 1

Dated: July 2, 2001

OFFICE DEPOT, INC.

By: \_\_\_\_\_  
Name:  
Title:

This is one of the Notes referred to in the within-mentioned Indenture:

SUNTRUST BANK,  
as Trustee

By: \_\_\_\_\_  
Authorized Signatory

[Insert the Global Note Legend, if applicable pursuant to the provisions of the Indenture]

[Insert the Private Placement Legend, if applicable pursuant to the provisions of the Indenture]

Capitalized terms used herein shall have the meanings assigned to them in the Indenture referred to below unless otherwise indicated.

1. INTEREST. Office Depot, Inc., a Delaware corporation (the "Company"), promises to pay interest on the principal amount of this Note at 10% per annum from July 2, 2001 until maturity and shall pay the Special Interest payable pursuant to Section 2 of the Registration Rights Agreement referred to below. The Company shall pay interest and Special Interest semi-annually in arrears on January 15 and July 15 of each year, or if any such day is not a Business Day, on the next succeeding Business Day (each an "Interest Payment Date"). Interest on the Notes shall accrue from the most recent date to which interest has been paid or, if no interest has been paid, from the date of issuance; provided that if there is no existing Default in the payment of interest, and if this Note is authenticated between a record date referred to on the face hereof and the next succeeding Interest Payment Date, interest shall accrue from such next succeeding Interest Payment Date; provided, further, that the first Interest Payment Date shall be January 15, 2002. The Company shall pay interest (including post-petition interest in any proceeding under any Bankruptcy Law) on overdue principal and premium, if any, from time to time on demand at a rate that is 1% per annum in excess of the rate then in effect; it shall pay interest (including post-petition interest in any proceeding under any Bankruptcy Law) on overdue installments of interest and Special Interest (without regard to any applicable grace periods) from time to time on demand at the same rate to the extent lawful. Interest shall be computed on the basis of a 360-day year of twelve 30-day months.

2. METHOD OF PAYMENT. The Company shall pay interest on the Notes (except defaulted interest) and Special Interest to the Persons who are registered Holders of Notes at the close of business on the January 1 or July 1 next preceding the Interest Payment Date, even if such Notes are canceled after such record date and on or before such Interest Payment Date, except as provided in Section 2.12 of the Indenture with respect to defaulted interest. The Notes shall be payable as to principal, premium and Special Interest, if any, and interest at the office or agency of the Company maintained for such purpose within or without the City and State of New York, or, at the option of the Company, payment of interest and Special Interest may be made by check mailed to the Holders at their addresses set forth in the register of Holders, and provided that payment by wire transfer of immediately available funds shall be required with respect to principal of and interest, premium and Special Interest on, all Global Notes and all other Notes the Holders of which shall have provided wire transfer instructions to the Company or the Paying Agent. Such payment shall be in such coin or currency of the United States of America as at the time of payment is legal tender for payment of public and private debts.

3. PAYING AGENT AND REGISTRAR. Initially, SunTrust Bank, the Trustee under the Indenture, shall act as Paying Agent and Registrar. The Company may change any Paying Agent or Registrar without notice to any Holder. The Company or any of its Subsidiaries may act in any such capacity.

4. INDENTURE. The Company issued the Notes under an Indenture dated as of July 2, 2001 ("Indenture") between the Company and the Trustee. The terms of the Notes include those stated in the Indenture and those made part of the Indenture by reference to the Trust Indenture Act of 1939, as amended (15 U.S. Code ss.ss. 77aaa-77bbb). The Notes are subject to all such terms, and Holders are referred to the Indenture and such Act for a statement of such terms. To the extent any provision of this Note conflicts with the express provisions of the Indenture, the provisions of the Indenture shall govern and be controlling. The

Notes are obligations of the Company limited to \$250.0 million in aggregate principal amount, plus amounts, if any, issued to pay Special Interest on outstanding Notes as set forth in Paragraph 2 hereof.

#### 5. OPTIONAL REDEMPTION.

(a) The Notes are not be redeemable at the option of the Company except as set forth in the following paragraph.

(b) The Notes may be redeemed, in whole or in part, at any time at the option of the Company upon not less than 30 nor more than 60 days prior notice mailed by first-class mail to each Holder's registered address, at a redemption price equal to the greater of (i) 100% of the principal amount thereof or (ii) as determined by an Independent Investment Banker, the sum of the present values of the Remaining Scheduled Payments discounted to the redemption date on a semiannual basis (assuming a 360-day year consisting of twelve 30-day months) at the Adjusted Treasury Rate, plus, in each case, accrued and unpaid interest and Special Interest, if any, to the date of redemption.

(c) Unless the Company defaults in payment of the redemption price, on and after the redemption date, interest will cease to accrue on the Notes or portion thereof called for redemption.

#### 6. MANDATORY REDEMPTION.

Except as set forth in paragraph 7 below, the Company shall not be required to make mandatory redemption payments with respect to the Notes.

#### 7. REPURCHASE AT OPTION HOLDER.

(a) If there is a Change of Control, the Company shall be required to make an offer (a "Change of Control Offer") to repurchase all or any part (equal to \$1,000 or an integral multiple thereof) of each Holder's Notes at a purchase price equal to 101% of the aggregate principal amount thereof plus accrued and unpaid interest and Special Interest thereon, if any, to the date of purchase (the "Change of Control Payment"). Within 30 days following any Change of Control, the Company shall mail a notice to each Holder setting forth the procedures governing the Change of Control Offer as required by the Indenture.

(b) If the Company or a Subsidiary consummates any Asset Sales, within 5 days of each date on which the aggregate amount of Excess Proceeds exceeds \$25.0 million, the Company shall commence an offer to all Holders of Notes (an "Asset Sale Offer") pursuant to Section 3.09 of the Indenture to purchase the maximum principal amount of Notes that may be purchased out of the Excess Proceeds at an offer price in cash in an amount equal to 100% of the principal amount thereof plus accrued and unpaid interest and Special Interest thereon, if any, to the date fixed for the closing of such offer in accordance with the procedures set forth in the Indenture. To the extent that the aggregate amount of Notes tendered pursuant to an Asset Sale Offer is less than the Excess Proceeds, the Company (or such Subsidiary) may use such deficiency for general corporate purposes. If the aggregate principal amount of Notes surrendered by Holders thereof exceeds the amount of Excess Proceeds, the Trustee shall select the Notes to be purchased on a pro rata basis. Holders of Notes that are the subject of an offer to purchase shall receive an Asset Sale Offer from the Company prior to any related purchase date and may elect to have such Notes purchased by completing the form entitled "Option of Holder to Elect Purchase" on the reverse of the Notes.

8. NOTICE OF REDEMPTION. Notice of redemption shall be mailed at least 30 days but not more than 60 days before the redemption date to each Holder whose Notes are to be redeemed at its registered address. Notes in denominations

larger than \$1,000 may be redeemed in part but only in whole multiples of \$1,000, unless all of the Notes held by a Holder are to be redeemed. On and after the redemption date interest ceases to accrue on Notes or portions thereof called for redemption.

9. DENOMINATIONS, TRANSFER, EXCHANGE. The Notes are in registered form without coupons in denominations of \$1,000 and integral multiples of \$1,000. The transfer of Notes may be registered and Notes may be exchanged as provided in the Indenture. The Registrar and the Trustee may require a Holder, among other things, to furnish appropriate endorsements and transfer documents and the Company may require a Holder to pay any taxes and fees required by law or permitted by the Indenture. The Company need not exchange or register the transfer of any Note or portion of a Note selected for redemption, except for the unredeemed portion of any Note being redeemed in part. Also, the Company need not exchange or register the transfer of any Notes for a period of 15 days before a selection of Notes to be redeemed or during the period between a record date and the corresponding Interest Payment Date.

10. PERSONS DEEMED OWNERS. The registered Holder of a Note may be treated as its owner for all purposes.

11. AMENDMENT, SUPPLEMENT AND WAIVER. Subject to certain exceptions, the Indenture or the Notes may be amended or supplemented with the consent of the Holders of at least a majority in principal amount of the then outstanding Notes voting as a single class, and any existing default or compliance with any provision of the Indenture or the Notes may be waived with the consent of the Holders of a majority in principal amount of the then outstanding Notes voting as a single class. Without the consent of any Holder of a Note, the Indenture or the Notes may be amended or supplemented to cure any ambiguity, defect or inconsistency, to provide for uncertificated Notes in addition to or in place of certificated Notes, to provide for the assumption of the Company's obligations to Holders of the Notes in case of a merger or consolidation, to make any change that would provide any additional rights or benefits to the Holders of the Notes or that does not adversely affect the legal rights under the Indenture of any such Holder, or to comply with the requirements of the SEC in order to effect or maintain the qualification of the Indenture under the Trust Indenture Act.

12. DEFAULTS AND REMEDIES. Events of Default include: (i) default for 30 days in the payment when due of interest or Special Interest on the Notes; (ii) default in payment when due of principal of or premium, if any, on the Notes when the same becomes due and payable at maturity, upon redemption (including in connection with an offer to purchase) or otherwise, (iii) failure by the Company to comply with Section 4.07, 4.09, 4.10, 4.14 or 5.01 of the Indenture; (iv) failure by the Company for 60 days after notice to the Company by the Trustee or the Holders of at least 25% in principal amount of the Notes then outstanding voting as a single class to comply with certain other agreements in the Indenture or the Notes; (v) default under certain other agreements relating to Indebtedness of the Company which default results in the acceleration of such Indebtedness prior to its express maturity; (vi) certain final judgments for the payment of money that remain undischarged for a period of 60 days; and (vii) certain events of bankruptcy or insolvency with respect to the Company or any of its Significant Subsidiaries. If any Event of Default occurs and is continuing, the Trustee or the Holders of at least 25% in principal amount of the then outstanding Notes may declare all the Notes to be due and payable. Notwithstanding the foregoing, in the case of an Event of Default arising from certain events of bankruptcy or insolvency, all outstanding Notes shall become due and payable without further action or notice. Holders may not enforce the Indenture or the Notes except as provided in the Indenture. Subject to certain limitations, Holders of a majority in principal amount of the then outstanding Notes may direct the Trustee in its exercise of any trust or power. The Trustee may withhold from Holders of the Notes notice of any continuing Default or Event of Default (except a Default or Event of Default relating to the payment of principal or interest) if it determines that withholding notice is in their interest. The Holders of a majority in aggregate principal amount of the Notes then outstanding by notice to the Trustee may on behalf of the Holders of all of the Notes waive any existing Default or Event of

Default and its consequences under the Indenture except a continuing Default or Event of Default in the payment of interest on, or the principal of, the Notes. The Company is required to deliver to the Trustee annually a statement regarding compliance with the Indenture, and the Company is required upon becoming aware of any Default or Event of Default, to deliver to the Trustee a statement specifying such Default or Event of Default.

13. TRUSTEE DEALINGS WITH COMPANY. The Trustee, in its individual or any other capacity, may make loans to, accept deposits from, and perform services for the Company or its Affiliates, and may otherwise deal with the Company or its Affiliates, as if it were not the Trustee.

14. NO RECOURSE AGAINST OTHERS. A director, officer, employee, incorporator or stockholder of the Company, as such, shall not have any liability for any obligations of the Company under the Notes or the Indenture or for any claim based on, in respect of, or by reason of, such obligations or their creation. Each Holder by accepting a Note waives and releases all such liability. The waiver and release are part of the consideration for the issuance of the Notes.

15. AUTHENTICATION. This Note shall not be valid until authenticated by the manual signature of the Trustee or an authenticating agent.

16. ABBREVIATIONS. Customary abbreviations may be used in the name of a Holder or an assignee, such as: TEN COM (= tenants in common), TEN ENT (= tenants by the entireties), JT TEN (= joint tenants with right of survivorship and not as tenants in common), CUST (= Custodian), and U/G/M/A (= Uniform Gifts to Minors Act).

17. ADDITIONAL RIGHTS OF HOLDERS OF RESTRICTED GLOBAL NOTES AND RESTRICTED DEFINITIVE NOTES. In addition to the rights provided to Holders of Notes under the Indenture, Holders of Restricted Global Notes and Restricted Definitive Notes shall have all the rights set forth in the A/B Exchange Registration Rights Agreement dated as of July 2, 2001, between the Company and the parties named on the signature pages thereof (the "Registration Rights Agreement").

18. CUSIP NUMBERS. Pursuant to a recommendation promulgated by the Committee on Uniform Security Identification Procedures, the Company has caused CUSIP numbers to be printed on the Notes and the Trustee may use CUSIP numbers in notices of redemption as a convenience to Holders. No representation is made as to the accuracy of such numbers either as printed on the Notes or as contained in any notice of redemption and reliance may be placed only on the other identification numbers placed thereon.

The Company shall furnish to any Holder upon written request and without charge a copy of the Indenture and/or the Registration Rights Agreement. Requests may be made to:

Office Depot, Inc.  
2200 Old Germantown Road  
Delray Beach, FL 33445

Attention: General Counsel

ASSIGNMENT FORM

To assign this Note, fill in the form below:

(I) or (we) assign and transfer this Note to:

-----  
(Insert assignee's legal name)

-----  
(Insert assignee's soc. sec. or tax I.D. no.)  
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(Print or type assignee's name, address and zip code)

and irrevocably appoint

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to transfer this Note on the books of the Company. The agent may substitute  
another to act for him.

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

Your Signature: \_\_\_\_\_

(Sign exactly as your name appears on the face of this Note)

Signature Guarantee\*: \_\_\_\_\_

\* Participant in a recognized Signature Guarantee Medallion Program (or other  
signature guarantor acceptable to the Trustee).



OPTION OF HOLDER TO ELECT PURCHASE

If you want to elect to have this Note purchased by the Company pursuant to Section 4.10 or 4.14 of the Indenture, check the appropriate box below:

Section 4.10                      Section 4.14

If you want to elect to have only part of the Note purchased by the Company pursuant to Section 4.10 or Section 4.14 of the Indenture, state the amount you elect to have purchased:

\$-----

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

Your Signature: \_\_\_\_\_

(Sign exactly as your name appears on the face of this Note)

Tax Identification No.: \_\_\_\_\_

Signature Guarantee\*: \_\_\_\_\_

\* Participant in a recognized Signature Guarantee Medallion Program (or other signature guarantor acceptable to the Trustee).

SCHEDULE OF EXCHANGES OF INTERESTS IN THE GLOBAL NOTE

The following exchanges of a part of this Global Note for an interest in another Global Note or for a Definitive Note, or exchanges of a part of another Global Note or Definitive Note for an interest in this Global Note, have been made:

Date of Exchange -----	Amount of decrease in Principal Amount of this Global Note -----	Amount of increase in Principal Amount of this Global Note -----	Principal Amount of this Global Note following such decrease (or increase) -----	Signature of authorized officer of Trustee or Note Custodian -----
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## FORM OF CERTIFICATE OF TRANSFER

Office Depot, Inc.  
2200 Old Germantown Road  
Delray Beach, FL 33445

Attention: General Counsel

Re: 10% Senior Subordinated Notes due 2008  
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Reference is hereby made to the Indenture, dated as of July 2, 2001 (the "Indenture"), between Office Depot, Inc., as issuer (the "Company"), and SunTrust Bank, as trustee. Capitalized terms used but not defined herein shall have the meanings given to them in the Indenture.

\_\_\_\_\_, (the "Transferor") owns and proposes to transfer the Note[s] or interest in such Note[s] specified in Annex A hereto, in the principal amount of \$\_\_\_\_\_ in such Note[s] or interests (the "Transfer"), to \_\_\_\_\_ (the "Transferee"), as further specified in Annex A hereto. In connection with the Transfer, the Transferor hereby certifies that:

[CHECK ALL THAT APPLY]

1. // CHECK IF TRANSFEREE SHALL TAKE DELIVERY OF A BENEFICIAL INTEREST IN THE 144A GLOBAL NOTE OR A DEFINITIVE NOTE PURSUANT TO RULE 144A. The Transfer is being effected pursuant to and in accordance with Rule 144A under the United States Securities Act of 1933, as amended (the "Securities Act"), and, accordingly, the Transferor hereby further certifies that the beneficial interest or Definitive Note is being transferred to a Person that the Transferor reasonably believed and believes is purchasing the beneficial interest or Definitive Note for its own account, or for one or more accounts with respect to which such Person exercises sole investment discretion, and such Person and each such account is a "qualified institutional buyer" within the meaning of Rule 144A in a transaction meeting the requirements of Rule 144A and such Transfer is in compliance with any applicable blue sky securities laws of any state of the United States. Upon consummation of the proposed Transfer in accordance with the terms of the Indenture, the transferred beneficial interest or Definitive Note shall be subject to the restrictions on transfer enumerated in the Private Placement Legend printed on the 144A Global Note and/or the Definitive Note and in the Indenture and the Securities Act.

2. // CHECK IF TRANSFEREE SHALL TAKE DELIVERY OF A BENEFICIAL INTEREST IN THE REGULATION S GLOBAL NOTE OR A DEFINITIVE NOTE PURSUANT TO REGULATION S. The Transfer is being effected pursuant to and in accordance with Rule 903 or Rule 904 under the Securities Act and, accordingly, the Transferor hereby further certifies that (i) the Transfer is not being made to a person in the United States and (x) at the time the buy order was originated, the Transferee was outside the United States or such Transferor and any Person acting on its behalf reasonably believed and believes that the Transferee was outside the United States or (y) the transaction was executed in, on or through the facilities of a designated offshore securities market and neither such Transferor nor any Person acting on its behalf knows that the transaction was prearranged with a buyer in the United States, (ii) no directed selling efforts have been made in contravention of the requirements of Rule 903(b) or Rule 904(b) of Regulation S under the Securities Act, (iii) the transaction is not part of a plan or scheme to evade the registration requirements of the Securities Act and (iv) if the proposed transfer is being made prior to the expiration of the Restricted Period, the transfer is not being made to a U.S. Person or for the account or benefit of a U.S. Person (other than an Initial Purchaser). Upon consummation of the proposed transfer in accordance with the terms of the Indenture, the transferred beneficial interest or Definitive Note shall be subject to the restrictions on Transfer enumerated in the Private

Placement Legend printed on the Regulation S Global Note and/or the Definitive Note and in the Indenture and the Securities Act.

3. // CHECK AND COMPLETE IF TRANSFEREE SHALL TAKE DELIVERY OF A BENEFICIAL INTEREST IN THE IAI GLOBAL NOTE OR A DEFINITIVE NOTE PURSUANT TO ANY PROVISION OF THE SECURITIES ACT OTHER THAN RULE 144A OR REGULATION S. The Transfer is being effected in compliance with the transfer restrictions applicable to beneficial interests in Restricted Global Notes and Restricted Definitive Notes and pursuant to and in accordance with the Securities Act and any applicable blue sky securities laws of any state of the United States, and accordingly the Transferor hereby further certifies that (check one):

(a) // such Transfer is being effected pursuant to and in accordance with Rule 144 under the Securities Act;

or

(b) // such Transfer is being effected to the Company or a subsidiary thereof;

or

(c) // such Transfer is being effected pursuant to an effective registration statement under the Securities Act and in compliance with the prospectus delivery requirements of the Securities Act;

or

(d) // such Transfer is being effected to an Institutional Accredited Investor and pursuant to an exemption from the registration requirements of the Securities Act other than Rule 144A, Rule 144 or Rule 904, and the Transferor hereby further certifies that it has not engaged in any general solicitation within the meaning of Regulation D under the Securities Act and the Transfer complies with the transfer restrictions applicable to beneficial interests in a Restricted Global Note or Restricted Definitive Notes and the requirements of the exemption claimed, which certification is supported by (1) a certificate executed by the Transferee in the form of Exhibit D to the Indenture and (2) if such Transfer is in respect of a principal amount of Notes at the time of transfer of less than \$250,000, an Opinion of Counsel provided by the Transferor or the Transferee (a copy of which the Transferor has attached to this certification), to the effect that such Transfer is in compliance with the Securities Act. Upon consummation of the proposed transfer in accordance with the terms of the Indenture, the transferred beneficial interest or Definitive Note shall be subject to the restrictions on transfer enumerated in the Private Placement Legend printed on the IAI Global Note and/or the Definitive Notes and in the Indenture and the Securities Act.

4. // CHECK IF TRANSFEREE SHALL TAKE DELIVERY OF A BENEFICIAL INTEREST IN AN UNRESTRICTED GLOBAL NOTE OR OF AN UNRESTRICTED DEFINITIVE NOTE.

(a) // CHECK IF TRANSFER IS PURSUANT TO RULE 144. (i) The Transfer is being effected pursuant to and in accordance with Rule 144 under the Securities Act and in compliance with the transfer restrictions contained in the Indenture and any applicable blue sky securities laws of any state of the United States and (ii) the restrictions on transfer contained in the Indenture and the Private Placement Legend are not required in order to maintain compliance with the Securities Act. Upon consummation of the proposed Transfer in accordance with the terms of the Indenture, the transferred beneficial interest or Definitive Note shall no longer be subject to the restrictions on transfer enumerated in

the Private Placement Legend printed on the Restricted Global Notes, on Restricted Definitive Notes and in the Indenture.

(b) // CHECK IF TRANSFER IS PURSUANT TO REGULATION S. (i) The Transfer is being effected pursuant to and in accordance with Rule 903 or Rule 904 under the Securities Act and in compliance with the transfer restrictions contained in the Indenture and any applicable blue sky securities laws of any state of the United States and (ii) the restrictions on transfer contained in the Indenture and the Private Placement Legend are not required in order to maintain compliance with the Securities Act. Upon consummation of the proposed Transfer in accordance with the terms of the Indenture, the transferred beneficial interest or Definitive Note shall no longer be subject to the restrictions on transfer enumerated in the Private Placement Legend printed on the Restricted Global Notes, on Restricted Definitive Notes and in the Indenture.

(c) // CHECK IF TRANSFER IS PURSUANT TO OTHER EXEMPTION. (i) The Transfer is being effected pursuant to and in compliance with an exemption from the registration requirements of the Securities Act other than Rule 144, Rule 903 or Rule 904 and in compliance with the transfer restrictions contained in the Indenture and any applicable blue sky securities laws of any State of the United States and (ii) the restrictions on transfer contained in the Indenture and the Private Placement Legend are not required in order to maintain compliance with the Securities Act. Upon consummation of the proposed Transfer in accordance with the terms of the Indenture, the transferred beneficial interest or Definitive Note shall not be subject to the restrictions on transfer enumerated in the Private Placement Legend printed on the Restricted Global Notes or Restricted Definitive Notes and in the Indenture.

This certificate and the statements contained herein are made for your benefit and the benefit of the Company.

-----  
[Insert Name of Transferor]

By: \_\_\_\_\_  
Name:  
Title:

Dated: \_\_\_\_\_

ANNEX A TO CERTIFICATE OF TRANSFER

1. The Transferor owns and proposes to transfer the following:

[CHECK ONE OF (a) OR (b)]

(a) / / a beneficial interest in the:

(i) / / 144A Global Note (CUSIP \_\_\_\_\_), or

(ii) / / Regulation S Global Note (CUSIP \_\_\_\_\_), or

(iii) / / IAI Global Note (CUSIP \_\_\_\_\_); or

(b) / / a Restricted Definitive Note.

2. After the Transfer the Transferee shall hold:

[CHECK ONE]

(a) / / a beneficial interest in the:

(i) / / 144A Global Note (CUSIP \_\_\_\_\_), or

(ii) / / Regulation S Global Note (CUSIP \_\_\_\_\_), or

(iii) / / IAI Global Note (CUSIP \_\_\_\_\_); or

(iv) / / Unrestricted Global Note (CUSIP \_\_\_\_\_); or

(b) / / a Restricted Definitive Note; or

(c) / / an Unrestricted Definitive Note,

in accordance with the terms of the Indenture.

## FORM OF CERTIFICATE OF EXCHANGE

Office Depot, Inc.  
 2200 Old Germantown Road  
 Delray Beach, FL 33445  
 Attention: General Counsel

Re: 10% Senior Subordinated Notes due 2008  
 -----

(CUSIP \_\_\_\_\_)

Reference is hereby made to the Indenture, dated as of July 2, 2001 (the "Indenture"), between Office Depot, Inc., as issuer (the "Company"), and SunTrust Bank, as trustee. Capitalized terms used but not defined herein shall have the meanings given to them in the Indenture.

\_\_\_\_\_, (the "Owner") owns and proposes to exchange the Note[s] or interest in such Note[s] specified herein, in the principal amount of \$\_\_\_\_\_ in such Note[s] or interests (the "Exchange"). In connection with the Exchange, the Owner hereby certifies that:

1. EXCHANGE OF RESTRICTED DEFINITIVE NOTES OR BENEFICIAL INTERESTS IN A RESTRICTED GLOBAL NOTE FOR UNRESTRICTED DEFINITIVE NOTES OR BENEFICIAL INTERESTS IN AN UNRESTRICTED GLOBAL NOTE

(a) // CHECK IF EXCHANGE IS FROM BENEFICIAL INTEREST IN A RESTRICTED GLOBAL NOTE TO BENEFICIAL INTEREST IN AN UNRESTRICTED GLOBAL NOTE. In connection with the Exchange of the Owner's beneficial interest in a Restricted Global Note for a beneficial interest in an Unrestricted Global Note in an equal principal amount, the Owner hereby certifies (i) the beneficial interest is being acquired for the Owner's own account without transfer, (ii) such Exchange has been effected in compliance with the transfer restrictions applicable to the Global Notes and pursuant to and in accordance with the United States Securities Act of 1933, as amended (the "Securities Act"), (iii) the restrictions on transfer contained in the Indenture and the Private Placement Legend are not required in order to maintain compliance with the Securities Act and (iv) the beneficial interest in an Unrestricted Global Note is being acquired in compliance with any applicable blue sky securities laws of any state of the United States.

(b) // CHECK IF EXCHANGE IS FROM BENEFICIAL INTEREST IN A RESTRICTED GLOBAL NOTE TO UNRESTRICTED DEFINITIVE NOTE. In connection with the Exchange of the Owner's beneficial interest in a Restricted Global Note for an Unrestricted Definitive Note, the Owner hereby certifies (i) the Definitive Note is being acquired for the Owner's own account without transfer, (ii) such Exchange has been effected in compliance with the transfer restrictions applicable to the Restricted Global Notes and pursuant to and in accordance with the Securities Act, (iii) the restrictions on transfer contained in the Indenture and the Private Placement Legend are not required in order to maintain compliance with the Securities Act and (iv) the Definitive Note is being acquired in compliance with any applicable blue sky securities laws of any state of the United States.

(c) // CHECK IF EXCHANGE IS FROM RESTRICTED DEFINITIVE NOTE TO BENEFICIAL INTEREST IN AN UNRESTRICTED GLOBAL NOTE. In connection with the Owner's Exchange of a Restricted Definitive Note for a beneficial interest in an Unrestricted Global Note, the Owner hereby certifies (i) the beneficial interest is being acquired for the Owner's own account without transfer, (ii) such Exchange has been effected in compliance with the transfer restrictions applicable to Restricted Definitive Notes and pursuant to and in accordance with the Securities Act, (iii) the restrictions on transfer contained in the Indenture and the Private Placement Legend are not required in order to maintain

compliance with the Securities Act and (iv) the beneficial interest is being acquired in compliance with any applicable blue sky securities laws of any state of the United States.

(d) // CHECK IF EXCHANGE IS FROM RESTRICTED DEFINITIVE NOTE TO UNRESTRICTED DEFINITIVE NOTE. In connection with the Owner's Exchange of a Restricted Definitive Note for an Unrestricted Definitive Note, the Owner hereby certifies (i) the Unrestricted Definitive Note is being acquired for the Owner's own account without transfer, (ii) such Exchange has been effected in compliance with the transfer restrictions applicable to Restricted Definitive Notes and pursuant to and in accordance with the Securities Act, (iii) the restrictions on transfer contained in the Indenture and the Private Placement Legend are not required in order to maintain compliance with the Securities Act and (iv) the Unrestricted Definitive Note is being acquired in compliance with any applicable blue sky securities laws of any state of the United States.

2. EXCHANGE OF RESTRICTED DEFINITIVE NOTES OR BENEFICIAL INTERESTS IN RESTRICTED GLOBAL NOTES FOR RESTRICTED DEFINITIVE NOTES OR BENEFICIAL INTERESTS IN RESTRICTED GLOBAL NOTES

(a) // CHECK IF EXCHANGE IS FROM BENEFICIAL INTEREST IN A RESTRICTED GLOBAL NOTE TO RESTRICTED DEFINITIVE NOTE. In connection with the Exchange of the Owner's beneficial interest in a Restricted Global Note for a Restricted Definitive Note with an equal principal amount, the Owner hereby certifies that the Restricted Definitive Note is being acquired for the Owner's own account without transfer. Upon consummation of the proposed Exchange in accordance with the terms of the Indenture, the Restricted Definitive Note issued shall continue to be subject to the restrictions on transfer enumerated in the Private Placement Legend printed on the Restricted Definitive Note and in the Indenture and the Securities Act.

(b) // CHECK IF EXCHANGE IS FROM RESTRICTED DEFINITIVE NOTE TO BENEFICIAL INTEREST IN A RESTRICTED GLOBAL NOTE. In connection with the Exchange of the Owner's Restricted Definitive Note for a beneficial interest in the [CHECK ONE] 144A Global Note, Regulation S Global Note, IAI Global Note with an equal principal amount, the Owner hereby certifies (i) the beneficial interest is being acquired for the Owner's own account without transfer and (ii) such Exchange has been effected in compliance with the transfer restrictions applicable to the Restricted Global Notes and pursuant to and in accordance with the Securities Act, and in compliance with any applicable blue sky securities laws of any state of the United States. Upon consummation of the proposed Exchange in accordance with the terms of the Indenture, the beneficial interest issued shall be subject to the restrictions on transfer enumerated in the Private Placement Legend printed on the relevant Restricted Global Note and in the Indenture and the Securities Act.

This certificate and the statements contained herein are made for your benefit and the benefit of the Company.

-----  
[Insert Name of Transferor]

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

Name:  
Title:

Dated: \_\_\_\_\_



FORM OF CERTIFICATE FROM  
ACQUIRING INSTITUTIONAL ACCREDITED INVESTOR

Office Depot, Inc.  
2200 Old Germantown Road  
Delray Beach, FL 33445  
Attention: General Counsel

Re: 10 % Senior Subordinated Notes due 2008  
-----

Reference is hereby made to the Indenture, dated as of July 2, 2001 (the "Indenture"), between Office Depot, Inc., as issuer (the "Company"), and SunTrust Bank, as trustee. Capitalized terms used but not defined herein shall have the meanings given to them in the Indenture.

In connection with our proposed purchase of \$\_\_\_\_\_ aggregate principal amount of:

- (a) / / a beneficial interest in a Global Note, or
- (b) / / a Definitive Note,

we confirm that:

1. We understand that any subsequent transfer of the Notes or any interest therein is subject to certain restrictions and conditions set forth in the Indenture and the undersigned agrees to be bound by, and not to resell, pledge or otherwise transfer the Notes or any interest therein except in compliance with, such restrictions and conditions and the United States Securities Act of 1933, as amended (the "Securities Act").

2. We understand that the offer and sale of the Notes have not been registered under the Securities Act, and that the Notes and any interest therein may not be offered or sold except as permitted in the following sentence. We agree, on our own behalf and on behalf of any accounts for which we are acting as hereinafter stated, that if we should sell the Notes or any interest therein, we shall do so only (A) to the Company or any subsidiary thereof, (B) in accordance with Rule 144A under the Securities Act to a "qualified institutional buyer" (as defined therein), (C) to an institutional "accredited investor" (as defined below) that, prior to such transfer, furnishes (or has furnished on its behalf by a U.S. broker-dealer) to you and to the Company a signed letter substantially in the form of this letter and, if such transfer is in respect of a principal amount of Notes, at the time of transfer of less than \$250,000, an Opinion of Counsel in form reasonably acceptable to the Company to the effect that such transfer is in compliance with the Securities Act, (D) outside the United States in accordance with Rule 904 of Regulation S under the Securities Act, (E) pursuant to the provisions of Rule 144(k) under the Securities Act or (F) pursuant to an effective registration statement under the Securities Act, and we further agree to provide to any person purchasing the Definitive Note or beneficial interest in a Global Note from us in a transaction meeting the requirements of clauses (A) through (E) of this paragraph a notice advising such purchaser that resales thereof are restricted as stated herein.

3. We understand that, on any proposed resale of the Notes or beneficial interest therein, we shall be required to furnish to you and the Company such certifications, legal opinions and other information as you and the Company may reasonably require to confirm that the proposed sale complies with

the foregoing restrictions. We further understand that the Notes purchased by us shall bear a legend to the foregoing effect.

4. We are an institutional "accredited investor" (as defined in Rule 501(a)(1), (2), (3) or (7) of Regulation D under the Securities Act) and have such knowledge and experience in financial and business matters as to be capable of evaluating the merits and risks of our investment in the Notes, and we and any accounts for which we are acting are each able to bear the economic risk of our or its investment.

5. We are acquiring the Notes or beneficial interest therein purchased by us for our own account or for one or more accounts (each of which is an institutional "accredited investor") as to each of which we exercise sole investment discretion.

You and the Company are entitled to rely upon this letter and are irrevocably authorized to produce this letter or a copy hereof to any interested party in any administrative or legal proceedings or official inquiry with respect to the matters covered hereby.

-----  
[Insert Name of Accredited Investor]

By:

-----  
Name:  
Title:

Dated: \_\_\_\_\_

OFFICE DEPOT, INC.

10% SENIOR SUBORDINATED NOTES DUE 2008

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EXCHANGE AND REGISTRATION RIGHTS AGREEMENT  
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July 2, 2001

Goldman, Sachs & Co.,  
Banc One Capital Markets, Inc.  
BNP Paribas Securities Corp.  
Fleet Securities, Inc.  
SunTrust Equitable Securities Corporation  
As representatives of the several Purchasers  
named in Schedule I to the Purchase Agreement  
c/o Goldman, Sachs & Co.  
85 Broad Street  
New York, New York 10004

Ladies and Gentlemen:

Office Depot, Inc., a Delaware corporation (the "Company"), proposes to issue and sell to the Purchasers (as defined herein) upon the terms set forth in the Purchase Agreement (as defined herein) its 10% Senior Subordinated Notes due 2008. As an inducement to the Purchasers to enter into the Purchase Agreement and in satisfaction of a condition to the obligations of the Purchasers thereunder, the Company agrees with the Purchasers for the benefit of holders (as defined herein) from time to time of the Registrable Securities (as defined herein) as follows:

1. Certain Definitions. For purposes of this Exchange and Registration Rights Agreement, the following terms shall have the following respective meanings:

"Base Interest" shall mean the interest that would otherwise accrue on the Securities under the terms thereof and the Indenture, without giving effect to the provisions of this Agreement.

The term "broker-dealer" shall mean any broker or dealer registered with the Commission under the Exchange Act.

"Closing Date" shall mean the date on which the Securities are initially issued.

"Commission" shall mean the United States Securities and Exchange Commission, or any other federal agency at the time administering the Exchange Act or the Securities Act, whichever is the relevant statute for the particular purpose.

"Effective Time," in the case of (i) an Exchange Registration, shall mean the time and date as of which the Commission declares the Exchange Registration Statement effective or as of which the Exchange Registration

Statement otherwise becomes effective and (ii) a Shelf Registration, shall mean the time and date as of which the Commission declares the Shelf Registration Statement effective or as of which the Shelf Registration Statement otherwise becomes effective.

"Electing Holder" shall mean any holder of Registrable Securities that has returned a completed and signed Notice and Questionnaire to the Company in accordance with Section 3(d)(ii) or 3(d)(iii) hereof.

"Exchange Act" shall mean the Securities Exchange Act of 1934, or any successor thereto, as the same shall be amended from time to time.

"Exchange Offer" shall have the meaning assigned thereto in Section 2(a) hereof.

"Exchange Registration" shall have the meaning assigned thereto in Section 3(c) hereof.

"Exchange Registration Statement" shall have the meaning assigned thereto in Section 2(a) hereof.

"Exchange Securities" shall have the meaning assigned thereto in Section 2(a) hereof.

The term "holder" shall mean each of the Purchasers and other persons who acquire Registrable Securities from time to time (including any successors or assigns), in each case for so long as such person owns any Registrable Securities.

"Indenture" shall mean the Indenture, dated as of July 2, 2001, between the Company and SunTrust Bank, N.A. as Trustee, as the same shall be amended from time to time.

"Notice and Questionnaire" means a Notice of Registration Statement and Selling Securityholder Questionnaire substantially in the form of Exhibit A hereto.

The term "person" shall mean a corporation, association, partnership, organization, business, individual, government or political subdivision thereof or governmental agency.

"Purchase Agreement" shall mean the Purchase Agreement, dated as of June 27, 2001, between the Purchasers and the Company relating to the Securities.

"Purchasers" shall mean the Purchasers named in Schedule I to the Purchase Agreement.

"Registrable Securities" shall mean the Securities; provided, however, that a Security shall cease to be a Registrable Security when (i) in the circumstances contemplated by Section 2(a) hereof, the Security has been exchanged for an Exchange Security in an Exchange Offer as contemplated in Section 2(a) hereof (provided that any Exchange Security that, pursuant to the last two sentences of Section 2(a), is included in a prospectus for use in connection with resales by broker-dealers shall be deemed to be a Registrable Security with respect to Sections 5, 6 and 9 until resale of such Registrable Security has been effected within the 120-day period referred to in Section 2(a)); (ii) in the circumstances contemplated by Section 2(b) hereof, a Shelf Registration Statement registering such Security under the Securities Act has been declared or becomes effective and such Security has been sold or otherwise transferred by the holder thereof pursuant to and in a manner contemplated by such effective Shelf Registration Statement; (iii) such Security is sold pursuant to Rule 144 under circumstances in which any legend borne by such Security relating to

restrictions on transferability thereof, under the Securities Act or otherwise, is removed by the Company or pursuant to the Indenture; (iv) such Security is eligible to be sold pursuant to paragraph (k) of Rule 144; or (v) such Security shall cease to be outstanding.

"Registration Default" shall have the meaning assigned thereto in Section 2(c) hereof.

"Registration Expenses" shall have the meaning assigned thereto in Section 4 hereof.

"Resale Period" shall have the meaning assigned thereto in Section 2(a) hereof.

"Restricted Holder" shall mean (i) a holder that is an affiliate of the Company within the meaning of Rule 405, (ii) a holder who acquires Exchange Securities outside the ordinary course of such holder's business, (iii) a holder who has arrangements or understandings with any person to participate in the Exchange Offer for the purpose of distributing Exchange Securities and (iv) a holder that is a broker-dealer, but only with respect to Exchange Securities received by such broker-dealer pursuant to an Exchange Offer in exchange for Registrable Securities acquired by the broker-dealer directly from the Company.

"Rule 144," "Rule 405" and "Rule 415" shall mean, in each case, such rule promulgated under the Securities Act (or any successor provision), as the same may be amended from time to time.

"Securities" shall mean, collectively, the 10% Senior Subordinated Notes due 2008 of the Company to be issued and sold to the Purchasers, and securities issued in exchange therefor or in lieu thereof pursuant to the Indenture.

"Securities Act" shall mean the Securities Act of 1933, as amended, or any successor thereto, as the same may be amended from time to time.

"Shelf Registration" shall have the meaning assigned thereto in Section 2(b) hereof.

"Shelf Registration Statement" shall have the meaning assigned thereto in Section 2(b) hereof.

"Special Interest" shall have the meaning assigned thereto in Section 2(c) hereof.

"Trust Indenture Act" shall mean the Trust Indenture Act of 1939, or any successor thereto, and the rules, regulations and forms promulgated thereunder, all as the same may be amended from time to time.

Unless the context otherwise requires, any reference herein to a "Section" or "clause" refers to a Section or clause, as the case may be, of this Exchange and Registration Rights Agreement, and the words "herein," "hereof" and "hereunder" and other words of similar import refer to this Exchange and Registration Rights Agreement as a whole and not to any particular Section or other subdivision.

## 2. Registration Under the Securities Act.

(a) Except as set forth in Section 2(b) below, the Company agrees to file under the Securities Act, as soon as practicable, but no later than 90 days after the Closing Date, a registration statement relating to an offer to exchange (such registration statement, the "Exchange Registration

Statement", and such offer, the "Exchange Offer") any and all of the Securities for a like aggregate principal amount of debt securities issued by the Company, which debt securities are substantially identical to the Securities (and are entitled to the benefits of a trust indenture which is substantially identical to the Indenture or is the Indenture and which has been qualified under the Trust Indenture Act), except that they have been registered pursuant to an effective registration statement under the Securities Act and do not contain provisions for the additional interest contemplated in Section 2(c) below (such new debt securities hereinafter called "Exchange Securities"). The Company agrees to use its best efforts to cause the Exchange Registration Statement to become effective under the Securities Act as soon as practicable, but no later than 180 days after the Closing Date. The Exchange Offer will be registered under the Securities Act on the appropriate form and will comply with all applicable tender offer rules and regulations under the Exchange Act. The Company further agrees to use its best efforts to commence and complete the Exchange Offer promptly, but no later than 45 days after such registration statement has become effective, hold the Exchange Offer open for at least 30 days and exchange Exchange Securities for all Registrable Securities that have been properly tendered and not withdrawn on or prior to the expiration of the Exchange Offer. The Exchange Offer will be deemed to have been "completed" only if the debt securities received by holders other than Restricted Holders in the Exchange Offer for Registrable Securities are, upon receipt, transferable by each such holder without restriction under the Securities Act and the Exchange Act and without material restrictions under the blue sky or securities laws of a substantial majority of the States of the United States of America. The Exchange Offer shall be deemed to have been completed upon the earlier to occur of (i) the Company having exchanged the Exchange Securities for all outstanding Registrable Securities pursuant to the Exchange Offer and (ii) the Company having exchanged, pursuant to the Exchange Offer, Exchange Securities for all Registrable Securities that have been properly tendered and not withdrawn before the expiration of the Exchange Offer, which shall be on a date that is at least 30 days following the commencement of the Exchange Offer. The Company agrees (x) to include in the Exchange Registration Statement a prospectus for use in any resales by any holder of Exchange Securities that is a broker-dealer and (y) to keep such Exchange Registration Statement effective for a period (the "Resale Period") beginning when Exchange Securities are first issued in the Exchange Offer and ending upon the earlier of the expiration of the 180th day after the Exchange Offer has been completed or such time as such broker-dealers no longer own any Registrable Securities. With respect to such Exchange Registration Statement, such holders shall have the benefit of the rights of indemnification and contribution set forth in Sections 6(a), (c), (d) and (e) hereof.

(b) If (i) on or prior to the time the Exchange Offer is completed existing Commission interpretations are changed such that the debt securities received by holders other than Restricted Holders in the Exchange Offer for Registrable Securities are not or would not be, upon receipt, transferable by each such holder without restriction under the Securities Act, (ii) the Exchange Offer has not been completed within 225 days following the Closing Date or (iii) the Exchange Offer is not available to any holder of the Securities, the Company shall, in lieu of (or, in the case of clause (iii), in addition to) conducting the Exchange Offer contemplated by Section 2(a), file under the Securities Act as soon as practicable, but no later than the later of 90 days after the time such obligation to file arises, a "shelf" registration statement providing for the registration of, and the sale on a continuous or delayed basis by the holders of, all of the Registrable Securities, pursuant to Rule 415 or any similar rule that may be adopted by the Commission (such filing, the "Shelf Registration" and such registration statement, the "Shelf Registration Statement"). The Company agrees to use its best efforts (x) to cause the

Shelf Registration Statement to become or be declared effective no later than 180 days after such Shelf Registration Statement is filed and to keep such Shelf Registration Statement continuously effective for a period ending on the earlier of the second anniversary of the Effective Time or such time as there are no longer any Registrable Securities outstanding, provided, however, that no holder shall be entitled to be named as a selling securityholder in the Shelf Registration Statement or to use the prospectus forming a part thereof for resales of Registrable Securities unless such holder is an Electing Holder, and (y) after the Effective Time of the Shelf Registration Statement, promptly upon the request of any holder of Registrable Securities that is not then an Electing Holder, to take any action reasonably necessary to enable such holder to use the prospectus forming a part thereof for resales of Registrable Securities, including, without limitation, any action necessary to identify such holder as a selling securityholder in the Shelf Registration Statement, provided, however, that nothing in this Clause (y) shall relieve any such holder of the obligation to return a completed and signed Notice and Questionnaire to the Company in accordance with Section 3(d)(iii) hereof. The Company further agrees to supplement or make amendments to the Shelf Registration Statement, as and when required by the rules, regulations or instructions applicable to the registration form used by the Company for such Shelf Registration Statement or by the Securities Act or rules and regulations thereunder for shelf registration, and the Company agrees to furnish to each Electing Holder copies of any such supplement or amendment prior to its being used or promptly following its filing with the Commission.

(c) In the event that (i) the Company has not filed the Exchange Registration Statement or Shelf Registration Statement on or before the date on which such registration statement is required to be filed pursuant to Section 2(a) or 2(b), respectively, or (ii) such Exchange Registration Statement or Shelf Registration Statement has not become effective or been declared effective by the Commission on or before the date on which such registration statement is required to become or be declared effective pursuant to Section 2(a) or 2(b), respectively, or (iii) the Exchange Offer has not been completed within 45 days after the initial effective date of the Exchange Registration Statement relating to the Exchange Offer (if the Exchange Offer is then required to be made) or (iv) any Exchange Registration Statement or Shelf Registration Statement required by Section 2(a) or 2(b) hereof is filed and declared effective but shall thereafter either be withdrawn by the Company or shall become subject to an effective stop order issued pursuant to Section 8(d) of the Securities Act suspending the effectiveness of such registration statement (except as specifically permitted herein) without being succeeded immediately by an additional registration statement filed and declared effective (each such event referred to in clauses (i) through (iv), a "Registration Default" and each period during which a Registration Default has occurred and is continuing, a "Registration Default Period"), then, as liquidated damages for such Registration Default, subject to the provisions of Section 9(b), special interest ("Special Interest"), in addition to the Base Interest, shall accrue at a per annum rate of 0.25% for the first 90 days of the Registration Default Period, at a per annum rate of 0.50% for the second 90 days of the Registration Default Period, at a per annum rate of 0.75% for the third 90 days of the Registration Default Period and at a per annum rate of 1.0% thereafter for the remaining portion of the Registration Default Period.

(d) The Company shall take all actions necessary or advisable to be taken by it to ensure that the transactions contemplated herein are effected as so contemplated.

(e) Any reference herein to a registration statement as of any time shall be deemed to include any document incorporated, or deemed to be incorporated, therein by reference as of such time and any reference herein

to to any post-effective amendment to a registration statement as of any time shall be deemed to include any document incorporated, or deemed to be incorporated, therein by reference as of such time.

(f) The Company may suspend the use of the Prospectus for a period not to exceed 30 days in any 60-day period or an aggregate of 60 days in any 12-month period if the Board of Directors of the Company shall have determined in good faith that because of valid business reasons (not including avoidance of the Company's obligations hereunder), including the acquisition or divestiture of assets, pending corporate developments and similar events, it is in the best interests of the Company to suspend such use, and prior to suspending such use the Company provides the holders with written notice of such suspension, which notice need not specify the nature of the event giving rise to such suspension.

### 3. Registration Procedures.

If the Company files a registration statement pursuant to Section 2(a) or Section 2(b), the following provisions shall apply:

(a) At or before the Effective Time of the Exchange Offer or the Shelf Registration, as the case may be, the Company shall qualify the Indenture under the Trust Indenture Act of 1939.

(b) In the event that such qualification would require the appointment of a new trustee under the Indenture, the Company shall appoint a new trustee thereunder pursuant to the applicable provisions of the Indenture.

(c) In connection with the Company's obligations with respect to the registration of Exchange Securities as contemplated by Section 2(a) (the "Exchange Registration"), if applicable, the Company shall, as soon as practicable (or as otherwise specified):

(i) prepare and file with the Commission, as soon as practicable but no later than 90 days after the Closing Date, an Exchange Registration Statement on any form which may be utilized by the Company and which shall permit the Exchange Offer and resales of Exchange Securities by broker-dealers during the Resale Period to be effected as contemplated by Section 2(a), and use its best efforts to cause such Exchange Registration Statement to become effective as soon as practicable thereafter, but no later than 180 days after the Closing Date;

(ii) as soon as practicable prepare and file with the Commission such amendments and supplements to such Exchange Registration Statement and the prospectus included therein as may be necessary to effect and maintain the effectiveness of such Exchange Registration Statement for the periods and purposes contemplated in Section 2(a) hereof and as may be required by the applicable rules and regulations of the Commission and the instructions applicable to the form of such Exchange Registration Statement, and promptly provide each broker-dealer holding Exchange Securities with such number of copies of the prospectus included therein (as then amended or supplemented), in conformity in all material respects with the requirements of the Securities Act and the Trust Indenture Act and the rules and regulations of the Commission thereunder, as such broker-dealer reasonably may request prior to the expiration of the Resale Period, for use in connection with resales of Exchange Securities;



(iii) promptly give written notice to each broker-dealer that has requested or received copies of the prospectus included in such registration statement, and confirm such advice in writing, (A) when such Exchange Registration Statement or the prospectus included therein or any prospectus amendment or supplement or post-effective amendment has been filed, and, with respect to such Exchange Registration Statement or any post-effective amendment, when the same has become effective, (B) of any comments by the Commission and by the blue sky or securities commissioner or regulator of any state with respect thereto or any request by the Commission for amendments or supplements to such Exchange Registration Statement or prospectus or for additional information, (C) of the issuance by the Commission of any stop order suspending the effectiveness of such Exchange Registration Statement or the initiation or threatening of any proceedings for that purpose, (D) if at any time the representations and warranties of the Company contemplated by Section 5 cease to be true and correct in all material respects, (E) of the receipt by the Company of any notification with respect to the suspension of the qualification of the Exchange Securities for sale in any jurisdiction or the initiation or threatening of any proceeding for such purpose, or (F) at any time during the Resale Period when a prospectus is required to be delivered under the Securities Act, that such Exchange Registration Statement, prospectus, prospectus amendment or supplement or post-effective amendment does not conform in all material respects to the applicable requirements of the Securities Act and the Trust Indenture Act and the rules and regulations of the Commission thereunder or contains an untrue statement of a material fact or omits to state any material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances in which they were made, not misleading;

(iv) in the event that the Company would be required, pursuant to Section 3(e)(iii)(F) above, to notify any broker-dealers holding Exchange Securities, without delay prepare and furnish to each such holder a reasonable number of copies of a prospectus supplemented or amended so that, as thereafter delivered to purchasers of such Exchange Securities during the Resale Period, such prospectus shall conform in all material respects to the applicable requirements of the Securities Act and the Trust Indenture Act and the rules and regulations of the Commission thereunder and shall not contain an untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances in which they were made, not misleading;

(v) use its best efforts to obtain the withdrawal of any order suspending the effectiveness of such Exchange Registration Statement or any post-effective amendment thereto at the earliest practicable date;

(vi) use its best efforts to (A) register or qualify the Exchange Securities under the securities laws or blue sky laws of such jurisdictions as are contemplated by Section 2(a) no later than the commencement of the Exchange Offer, (B) keep such registrations or qualifications in effect and comply with such laws so as to permit the continuance of offers, sales and dealings therein in such jurisdictions until the expiration of the Resale Period and (C) take any and all other actions as may be reasonably necessary or advisable to enable each broker-dealer holding Exchange Securities to consummate the disposition thereof in such jurisdictions; provided, however, that the Company shall not be required for any such purpose to (1) qualify as a

foreign corporation in any jurisdiction wherein it would not otherwise be required to qualify but for the requirements of this Section 3(c)(vi), (2) consent to general service of process in any such jurisdiction or (3) make any changes to its certificate of incorporation or by-laws or any agreement between it and its stockholders;

(vii) use its best efforts to obtain the consent or approval of each governmental agency or authority, whether federal, state or local, which may be required to effect the Exchange Registration, the Exchange Offer and the offering and sale of Exchange Securities by broker-dealers during the Resale Period;

(viii) provide a CUSIP number for all Exchange Securities, not later than the applicable Effective Time;

(ix) comply with all applicable rules and regulations of the Commission, and make generally available to its securityholders as soon as practicable but no later than eighteen months after the effective date of such Exchange Registration Statement, an earning statement of the Company and its subsidiaries complying with Section 11(a) of the Securities Act (including, at the option of the Company, Rule 158 thereunder).

(d) In connection with the Company's obligations with respect to the Shelf Registration, if applicable, the Company shall, as soon as practicable (or as otherwise specified):

(i) prepare and file with the Commission, as soon as practicable but in any case within the time periods specified in Section 2(b), a Shelf Registration Statement on any form which may be utilized by the Company and which shall register all of the Registrable Securities for resale by the holders thereof in accordance with such method or methods of disposition as may be specified by such of the holders as, from time to time, may be Electing Holders and use its best efforts to cause such Shelf Registration Statement to become effective as soon as practicable but in any case within the time periods specified in Section 2(b);

(ii) not less than 30 calendar days prior to the Effective Time of the Shelf Registration Statement, mail the Notice and Questionnaire to the holders of Registrable Securities; no holder shall be entitled to be named as a selling securityholder in the Shelf Registration Statement as of the Effective Time, and no holder shall be entitled to use the prospectus forming a part thereof for resales of Registrable Securities at any time, unless such holder has returned a completed and signed Notice and Questionnaire to the Company by the deadline for response set forth therein; provided, however, holders of Registrable Securities shall have at least 28 calendar days from the date on which the Notice and Questionnaire is first mailed to such holders to return a completed and signed Notice and Questionnaire to the Company;

(iii) after the Effective Time of the Shelf Registration Statement, upon the request of any holder of Registrable Securities that is not then an Electing Holder, promptly send a Notice and Questionnaire to such holder; provided that the Company shall not be required to take any action to name such holder as a selling securityholder in the Shelf Registration Statement or to enable such holder to use the prospectus forming a part thereof for resales of Registrable Securities until such holder has returned a completed and signed Notice and Questionnaire to the Company;

(iv) as soon as practicable prepare and file with the Commission such amendments and supplements to such Shelf Registration Statement and the prospectus included therein as may be necessary to effect and maintain the effectiveness of such Shelf Registration Statement for the period specified in Section 2(b) hereof and as may be required by the applicable rules and regulations of the Commission and the instructions applicable to the form of such Shelf Registration Statement, and furnish to the Electing Holders copies of any such supplement or amendment simultaneously with or prior to its being used or filed with the Commission;

(v) comply with the provisions of the Securities Act with respect to the disposition of all of the Registrable Securities covered by such Shelf Registration Statement in accordance with the intended methods of disposition by the Electing Holders provided for in such Shelf Registration Statement;

(vi) provide (A) the Electing Holders, (B) the underwriters (which term, for purposes of this Exchange and Registration Rights Agreement, shall include a person deemed to be an underwriter within the meaning of Section 2(a)(11) of the Securities Act), if any, thereof, (C) any sales or placement agent therefor, (D) counsel for any such underwriter or agent and (E) not more than one counsel for all the Electing Holders the opportunity to participate in the preparation of such Shelf Registration Statement, each prospectus included therein or filed with the Commission and each amendment or supplement thereto;

(vii) for a reasonable period prior to the filing of such Shelf Registration Statement, and throughout the period specified in Section 2(b), make available at reasonable times at the Company's principal place of business or such other reasonable place for inspection by the persons referred to in Section 3(d)(vi) who shall certify to the Company that they have a current intention to sell the Registrable Securities pursuant to the Shelf Registration such financial and other information and books and records of the Company, and cause the officers, employees, counsel and independent certified public accountants of the Company to respond to such inquiries, as shall be reasonably necessary, in the judgment of the respective counsel referred to in such Section, to conduct a reasonable investigation within the meaning of Section 11 of the Securities Act; provided, however, that each such party shall be required to maintain in confidence and not to disclose to any other person any information or records reasonably designated by the Company as being confidential, until such time as (A) such information becomes a matter of public record (whether by virtue of its inclusion in such registration statement or otherwise), or (B) such person shall be required so to disclose such information pursuant to a subpoena or order of any court or other governmental agency or body having jurisdiction over the matter (subject to the requirements of such order, and only after such person shall have given the Company prompt prior written notice of such requirement), or (C) such information is required to be set forth in such Shelf Registration Statement or the prospectus included therein or in an amendment to such Shelf Registration Statement or an amendment or supplement to such prospectus in order that such Shelf Registration Statement, prospectus, amendment or supplement, as the case may be, complies with applicable requirements of the federal securities laws and the rules and regulations of the Commission and does not contain an untrue statement of a material fact or omit to state therein a material

fact required to be stated therein or necessary to make the statements therein, in light of the circumstances in which they were made, not misleading;

(viii) promptly notify each of the Electing Holders, any sales or placement agent therefor and any underwriter thereof (which notification may be made through any managing underwriter that is a representative of such underwriter for such purpose) and confirm such advice in writing, (A) when such Shelf Registration Statement or the prospectus included therein or any prospectus amendment or supplement or post-effective amendment has been filed, and, with respect to such Shelf Registration Statement or any post-effective amendment, when the same has become effective, (B) of any comments by the Commission and by the blue sky or securities commissioner or regulator of any state with respect thereto or any request by the Commission for amendments or supplements to such Shelf Registration Statement or prospectus or for additional information, (C) of the issuance by the Commission of any stop order suspending the effectiveness of such Shelf Registration Statement or the initiation or threatening of any proceedings for that purpose, (D) if at any time the representations and warranties of the Company contemplated by Section 3(d)(xvii) or Section 5 cease to be true and correct in all material respects, (E) of the receipt by the Company of any notification with respect to the suspension of the qualification of the Registrable Securities for sale in any jurisdiction or the initiation or threatening of any proceeding for such purpose, or (F) if at any time when a prospectus is required to be delivered under the Securities Act, that such Shelf Registration Statement, prospectus, prospectus amendment or supplement or post-effective amendment does not conform in all material respects to the applicable requirements of the Securities Act and the Trust Indenture Act and the rules and regulations of the Commission thereunder or contains an untrue statement of a material fact or omits to state any material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances in which they were made, not misleading;

(ix) use its best efforts to obtain the withdrawal of any order suspending the effectiveness of such registration statement or any post-effective amendment thereto at the earliest practicable date;

(x) if requested by any managing underwriter or underwriters, any placement or sales agent or any Electing Holder, promptly incorporate in a prospectus supplement or post-effective amendment such information as is required by the applicable rules and regulations of the Commission and as such managing underwriter or underwriters, such agent or such Electing Holder specifies should be included therein relating to the terms of the sale of such Registrable Securities, including information with respect to the principal amount of Registrable Securities being sold by such Electing Holder or agent or to any underwriters, the name and description of such Electing Holder, agent or underwriter, the offering price of such Registrable Securities and any discount, commission or other compensation payable in respect thereof, the purchase price being paid therefor by such underwriters and with respect to any other terms of the offering of the Registrable Securities to be sold by such Electing Holder or agent or to such underwriters; and make all required filings of such prospectus supplement or post-effective amendment promptly after notification of the matters to be incorporated in such prospectus supplement or post-effective amendment;

(xi) furnish to each Electing Holder, each placement or sales agent, if any, therefor, each underwriter, if any, thereof and the respective counsel referred to in Section 3(d)(vi) an executed copy (or, in the case of an Electing Holder, a conformed copy) of such Shelf Registration Statement, each such amendment and supplement thereto (in each case including all exhibits thereto (in the case of an Electing Holder of Registrable Securities, upon request) and documents incorporated by reference therein) and such number of copies of such Shelf Registration Statement (excluding exhibits thereto and documents incorporated by reference therein unless specifically so requested by such Electing Holder, agent or underwriter, as the case may be) and of the prospectus included in such Shelf Registration Statement (including each preliminary prospectus and any summary prospectus), in conformity in all material respects with the applicable requirements of the Securities Act and the Trust Indenture Act and the rules and regulations of the Commission thereunder, and such other documents, as such Electing Holder, agent, if any, and underwriter, if any, may reasonably request in order to facilitate the offering and disposition of the Registrable Securities owned by such Electing Holder, offered or sold by such agent or underwritten by such underwriter and to permit such Electing Holder, agent and underwriter to satisfy the prospectus delivery requirements of the Securities Act; and the Company hereby consents to the use of such prospectus (including such preliminary and summary prospectus) and any amendment or supplement thereto by each such Electing Holder and by any such agent and underwriter, in each case in the form most recently provided to such person by the Company, in connection with the offering and sale of the Registrable Securities covered by the prospectus (including such preliminary and summary prospectus) or any supplement or amendment thereto;

(xii) use best efforts to (A) register or qualify the Registrable Securities to be included in such Shelf Registration Statement under such securities laws or blue sky laws of such jurisdictions as any Electing Holder and each placement or sales agent, if any, therefor and underwriter, if any, thereof shall reasonably request, (B) keep such registrations or qualifications in effect and comply with such laws so as to permit the continuance of offers, sales and dealings therein in such jurisdictions during the period the Shelf Registration is required to remain effective under Section 2(b) above and for so long as may be necessary to enable any such Electing Holder, agent or underwriter to complete its distribution of Securities pursuant to such Shelf Registration Statement and (C) take any and all other actions as may be reasonably necessary or advisable to enable each such Electing Holder, agent, if any, and underwriter, if any, to consummate the disposition in such jurisdictions of such Registrable Securities; provided, however, that the Company shall not be required for any such purpose to (1) qualify as a foreign corporation in any jurisdiction wherein it would not otherwise be required to qualify but for the requirements of this Section 3(d)(xii), (2) consent to general service of process in any such jurisdiction or (3) make any changes to its certificate of incorporation or by-laws or any agreement between it and its stockholders;

(xiii) use its best efforts to obtain the consent or approval of each governmental agency or authority, whether federal, state or local, which may be required to effect the Shelf Registration or the offering or sale in connection therewith or to enable the selling holder or holders to offer, or to consummate the disposition of, their Registrable Securities;

(xiv) unless any Registrable Securities shall be in book-entry only form, cooperate with the Electing Holders and the managing underwriters, if any, to facilitate the timely preparation and delivery of certificates representing Registrable Securities to be sold, which certificates, if so required by any securities exchange upon which any Registrable Securities are listed, shall be panned, lithographed or engraved, or produced by any combination of such methods, on steel engraved borders, and which certificates shall not bear any restrictive legends; and, in the case of an underwritten offering, enable such Registrable Securities to be in such denominations and registered in such names as the managing underwriters may request at least two business days prior to any sale of the Registrable Securities;

(xv) provide a CUSIP number for all Registrable Securities, not later than the applicable Effective Time;

(xvi) enter into one or more underwriting agreements, engagement letters, agency agreements, "best efforts" underwriting agreements or similar agreements, as appropriate, including customary provisions relating to indemnification and contribution, and take such other actions in connection therewith as any Electing Holders aggregating at least 20% in aggregate principal amount of the Registrable Securities at the time outstanding shall request in order to expedite or facilitate the disposition of such Registrable Securities;

(xvii) whether or not an agreement of the type referred to in Section 3(d)(xvi) hereof is entered into and whether or not any portion of the offering contemplated by the Shelf Registration is an underwritten offering or is made through a placement or sales agent or any other entity, (A) make such representations and warranties to the Electing Holders and the placement or sales agent, if any, therefor and the underwriters, if any, thereof in form, substance and scope as are customarily made in connection with an offering of debt securities pursuant to any appropriate agreement or to a registration statement filed on the form applicable to the Shelf Registration; (B) obtain an opinion of counsel to the Company in customary form and covering such matters, of the type customarily covered by such an opinion, as the managing underwriters, if any, or as any Electing Holders of at least 20% in aggregate principal amount of the Registrable Securities at the time outstanding may reasonably request, addressed to such Electing Holder or Electing Holders and the placement or sales agent, if any, therefor and the underwriters, if any, thereof and dated the effective date of such Shelf Registration Statement (and if such Shelf Registration Statement contemplates an underwritten offering of a part or all of the Registrable Securities, dated the date of the closing under the underwriting agreement relating thereto) (it being agreed that the matters to be covered by such opinion shall include the due incorporation and good standing of the Company and its subsidiaries; the qualification of the Company and its subsidiaries to transact business as foreign corporations; the due authorization, execution and delivery of the relevant agreement of the type referred to in Section 3(d)(xvi) hereof; the due authorization, execution, authentication and issuance, and the validity and enforceability, of the Securities; the absence of material legal or governmental proceedings involving the Company; the absence of a breach by the Company or any of its subsidiaries of, or a default under, material agreements binding upon the Company or any subsidiary of the Company; the absence of governmental approvals required to be obtained in connection with the Shelf Registration, the offering and sale of the Registrable Securities, this Exchange and Registration Rights Agreement or any

agreement of the type referred to in Section 3(d)(xvi) hereof, except such approvals as may be required under state securities or blue sky laws; the material compliance as to form of such Shelf Registration Statement and any documents incorporated by reference therein and of the Indenture with the requirements of the Securities Act and the Trust Indenture Act and the rules and regulations of the Commission thereunder, respectively; and, as of the date of the opinion and of the Shelf Registration Statement or most recent post-effective amendment thereto, as the case may be, the absence from such Shelf Registration Statement and the prospectus included therein, as then amended or supplemented, and from the documents incorporated by reference therein (in each case other than the financial statements and other financial information contained therein) of an untrue statement of a material fact or the omission to state therein a material fact necessary to make the statements therein not misleading (in the case of such documents, in the light of the circumstances existing at the time that such documents were filed with the Commission under the Exchange Act)); (C) obtain a "cold comfort" letter or letters from the independent certified public accountants of the Company addressed to the selling Electing Holders, the placement or sales agent, if any, therefor or the underwriters, if any, thereof, dated (i) the effective date of such Shelf Registration Statement and (ii) the effective date of any prospectus supplement to the prospectus included in such Shelf Registration Statement or post-effective amendment to such Shelf Registration Statement which includes unaudited or audited financial statements as of a date or for a period subsequent to that of the latest such statements included in such prospectus (and, if such Shelf Registration Statement contemplates an underwritten offering pursuant to any prospectus supplement to the prospectus included in such Shelf Registration Statement or post-effective amendment to such Shelf Registration Statement which includes unaudited or audited financial statements as of a date or for a period subsequent to that of the latest such statements included in such prospectus, dated the date of the closing under the underwriting agreement relating thereto), such letter or letters to be in customary form and covering such matters of the type customarily covered by letters of such type; (D) deliver such documents and certificates, including officers' certificates, as may be reasonably requested by any Electing Holders of at least 20% in aggregate principal amount of the Registrable Securities at the time outstanding or the placement or sales agent, if any, therefor and the managing underwriters, if any, thereof to evidence the accuracy of the representations and warranties made pursuant to clause (A) above or those contained in Section 5(a) hereof and the compliance with or satisfaction of any agreements or conditions contained in the underwriting agreement or other agreement entered into by the Company; and (E) undertake such obligations relating to expense reimbursement, indemnification and contribution as are provided in Section 6 hereof;

(xviii) notify in writing each holder of Registrable Securities of any proposal by the Company to amend or waive any provision of this Exchange and Registration Rights Agreement pursuant to Section 9(h) hereof and of any amendment or waiver effected pursuant thereto, each of which notices shall contain the text of the amendment or waiver proposed or effected, as the case may be;

(xix) in the event that any broker-dealer registered under the Exchange Act shall underwrite any Registrable Securities or participate as a member of an underwriting syndicate or selling group or "assist in the distribution" (within the meaning of the Conduct Rules) (the

"Conduct Rules) of the National Association of Securities Dealers, Inc. ("NASD") or any successor thereto, as amended from time to time) thereof, whether as a holder of such Registrable Securities or as an underwriter, a placement or sales agent or a broker or dealer in respect thereof, or otherwise, assist such broker-dealer in complying with the requirements of such Conduct Rules, including by (A) if such Conduct Rules shall so require, engaging a "qualified independent underwriter" (as defined in such Conduct Rules) to participate in the preparation of the Shelf Registration Statement relating to such Registrable Securities, to exercise usual standards of due diligence in respect thereto and, if any portion of the offering contemplated by such Shelf Registration Statement is an underwritten offering or is made through a placement or sales agent, to recommend the yield of such Registrable Securities, (B) indemnifying any such qualified independent underwriter to the extent of the indemnification of underwriters provided in Section 6 hereof (or to such other customary extent as may be requested by such underwriter), and (C) providing such information to such broker-dealer as may be required in order for such broker-dealer to comply with the requirements of the Conduct Rules; and

(xx) comply with all applicable rules and regulations of the Commission, and make generally available to its securityholders as soon as practicable but in any event not later than eighteen months after the effective date of such Shelf Registration Statement, an earning statement of the Company and its subsidiaries complying with Section 11(a) of the Securities Act (including, at the option of the Company, Rule 158 thereunder).

(e) In the event that the Company would be required, pursuant to Section 3(d)(viii)(F) above, to notify the Electing Holders, the placement or sales agent, if any, therefor and the managing underwriters, if any, thereof, the Company shall without delay prepare and furnish to each of the Electing Holders, to each placement or sales agent, if any, and to each such underwriter, if any, a reasonable number of copies of a prospectus supplemented or amended so that, as thereafter delivered to purchasers of Registrable Securities, such prospectus shall conform in all material respects to the applicable requirements of the Securities Act and the Trust Indenture Act and the rules and regulations of the Commission thereunder and shall not contain an untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances in which they were made, not misleading. Each Electing Holder agrees that upon receipt of any notice from the Company pursuant to Section 3(d)(viii)(F) hereof, such Electing Holder shall forthwith discontinue the disposition of Registrable Securities pursuant to the Shelf Registration Statement applicable to such Registrable Securities until such Electing Holder shall have received copies of such amended or supplemented prospectus, and if so directed by the Company, such Electing Holder shall deliver to the Company (at the Company's expense) all copies, other than permanent file copies, then in such Electing Holder's possession of the prospectus covering such Registrable Securities at the time of receipt of such notice.

(f) In the event of a Shelf Registration, in addition to the information required to be provided by each Electing Holder in its Notice Questionnaire, the Company may require such Electing Holder to furnish to the Company such additional information regarding such Electing Holder and such Electing Holder's intended method of distribution of Registrable Securities as may be required in order to comply with the Securities Act. Each such Electing Holder agrees to notify the Company as promptly as practicable of any inaccuracy or change in information previously furnished



by such Electing Holder to the Company or of the occurrence of any event in either case as a result of which any prospectus relating to such Shelf Registration contains or would contain an untrue statement of a material fact regarding such Electing Holder or such Electing Holder's intended method of disposition of such Registrable Securities or omits to state any material fact regarding such Electing Holder or such Electing Holder's intended method of disposition of such Registrable Securities required to be stated therein or necessary to make the statements therein, in light of the circumstances in which they were made, not misleading, and promptly to furnish to the Company any additional information required to correct and update any previously furnished information or required so that such prospectus shall not contain, with respect to such Electing Holder or the disposition of such Registrable Securities, an untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein not misleading in light of the circumstances then existing.

(g) Until the expiration of two years after the Closing Date, the Company will not, and will not permit any of its "affiliates" (as defined in Rule 144) to, resell any of the Securities that have been reacquired by any of them except pursuant to an effective registration statement under the Securities Act.

#### 4. Registration Expenses.

The Company agrees to bear and to pay or cause to be paid promptly all expenses incident to the Company's performance of or compliance with this Exchange and Registration Rights Agreement, including (a) all Commission and any NASD registration, filing and review fees and expenses including fees and disbursements of counsel for the placement or sales agent or underwriters in connection with such registration, filing and review, (b) all fees and expenses in connection with the qualification of the Securities for offering and sale under the State securities and blue sky laws referred to in Section 3(d)(xii) hereof and determination of their eligibility for investment under the laws of such jurisdictions as any managing underwriters or the Electing Holders may designate, including any fees and disbursements of counsel for the Electing Holders or underwriters in connection with such qualification and determination, (c) all expenses relating to the preparation, printing, production, distribution and reproduction of each registration statement required to be filed hereunder, each prospectus included therein or prepared for distribution pursuant hereto, each amendment or supplement to the foregoing, the expenses of preparing the Securities for delivery and the expenses of printing or producing any underwriting agreements, agreements among underwriters, selling agreements and blue sky or legal investment memoranda and all other documents in connection with the offering, sale or delivery of Securities to be disposed of (including certificates representing the Securities), (d) messenger, telephone and delivery expenses relating to the offering, sale or delivery of Securities and the preparation of documents referred in clause (c) above, (e) fees and expenses of the Trustee under the Indenture, any agent of the Trustee and any counsel for the Trustee and of any collateral agent or custodian, (f) internal expenses (including all salaries and expenses of the Company's officers and employees performing legal or accounting duties), (g) fees, disbursements and expenses of counsel and independent certified public accountants of the Company (including the expenses of any opinions or "cold comfort" letters required by or incident to such performance and compliance), (h) fees, disbursements and expenses of any "qualified independent underwriter" engaged pursuant to Section 3(d)(xix) hereof, (i) fees, disbursements and expenses of one counsel for the Electing Holders retained in connection with a Shelf Registration, as selected by the Electing Holders of at least a majority in aggregate principal amount of the Registrable Securities held by Electing Holders (which counsel shall be reasonably satisfactory to the Company), (j) any fees charged by securities rating services for rating the Securities, and (k) fees, expenses and

disbursements of any other persons, including special experts, retained by the Company in connection with such registration (collectively, the "Registration Expenses"). To the extent that any Registration Expenses are incurred, assumed or paid by any holder of Registrable Securities or any placement or sales agent therefor or underwriter thereof, the Company shall reimburse such person for the full amount of the Registration Expenses so incurred, assumed or paid promptly after receipt of a request therefor. Notwithstanding the foregoing, the holders of the Registrable Securities being registered shall pay all agency fees and commissions and underwriting discounts and commissions attributable to the sale of such Registrable Securities and the fees and disbursements of any counsel or other advisors or experts retained by such holders (severally or jointly), other than the counsel and experts specifically referred to above.

#### 5. Representations and Warranties.

The Company represents and warrants to, and agrees with, each Purchaser and each of the holders from time to time of Registrable Securities that:

(a) Each registration statement covering Registrable Securities and each prospectus (including any preliminary or summary prospectus) contained therein or furnished pursuant to Section 3(d) or Section 3(c) hereof and any further amendments or supplements to any such registration statement or prospectus, when it becomes effective or is filed with the Commission, as the case may be, and, in the case of an underwritten offering of Registrable Securities, at the time of the closing under the underwriting agreement relating thereto, will conform in all material respects to the requirements of the Securities Act and the Trust Indenture Act and the rules and regulations of the Commission thereunder and will not contain an untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein not misleading; and at all times subsequent to the Effective Time when a prospectus would be required to be delivered under the Securities Act, other than from (i) such time as a notice has been given to holders of Registrable Securities pursuant to Section 3(d)(viii)(F) or Section 3(c)(iii)(F) hereof until (ii) such time as the Company furnishes an amended or supplemented prospectus pursuant to Section 3(e) or Section 3(c)(iv) hereof, each such registration statement, and each prospectus (including any summary prospectus) contained therein or furnished pursuant to Section 3(d) or Section 3(c) hereof, as then amended or supplemented, will conform in all material respects to the requirements of the Securities Act and the Trust Indenture Act and the rules and regulations of the Commission thereunder and will not contain an untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances in which they were made, not misleading; provided, however, that this representation and warranty shall not apply to any statements or omissions made in reliance upon and in conformity with information furnished in writing to the Company by a holder of Registrable Securities expressly for use therein.

(b) Any documents incorporated by reference in any prospectus referred to in Section 5(a) hereof, when they become or became effective or are or were filed with the Commission, as the case may be, will conform or conformed in all material respects to the requirements of the Securities Act or the Exchange Act, as applicable, and none of such documents will contain or contained an untrue statement of a material fact or will omit or omitted to state a material fact required to be stated therein or necessary to make the statements therein not misleading; provided, however, that this representation and warranty shall not apply to any statements or omissions made in reliance upon and in conformity with information furnished in

writing to the Company by a holder of Registrable Securities expressly for use therein.

(c) The compliance by the Company with all of the provisions of this Exchange and Registration Rights Agreement and the consummation of the transactions herein contemplated will not conflict with or result in a breach of any of the terms or provisions of, or constitute a default under, any indenture, mortgage, deed of trust, loan agreement or other agreement or instrument to which the Company or any subsidiary of the Company is a party or by which the Company or any subsidiary of the Company is bound or to which any of the property or assets of the Company or any subsidiary of the Company is subject, nor will such action result in any violation of the provisions of the certificate of incorporation, as amended, or the by-laws of the Company or any statute or any order, rule or regulation of any court or governmental agency or body having jurisdiction over the Company or any subsidiary of the Company or any of their properties; and no consent, approval, authorization, order, registration or qualification of or with any such court or governmental agency or body is required for the consummation by the Company of the transactions contemplated by this Exchange and Registration Rights Agreement, except the registration under the Securities Act of the Securities, qualification of the Indenture under the Trust Indenture Act and such consents, approvals, authorizations, registrations or qualifications as may be required under State securities or blue sky laws in connection with the offering and distribution of the Securities.

(d) This Exchange and Registration Rights Agreement has been duly authorized, executed and delivered by the Company.

#### 6. Indemnification.

(a) Indemnification by the Company. The Company will indemnify and hold harmless each of the holders of Registrable Securities included in an Exchange Registration Statement, each of the Electing Holders of Registrable Securities included in a Shelf Registration Statement and each person who participates as a placement or sales agent or as an underwriter in any offering or sale of such Registrable Securities against any losses, claims, damages or liabilities, joint or several, to which such holder, agent or underwriter may become subject under the Securities Act or otherwise, insofar as such losses, claims, damages or liabilities (or actions in respect thereof) arise out of or are based upon an untrue statement or alleged untrue statement of a material fact contained in any Exchange Registration Statement or Shelf Registration Statement, as the case may be, under which such Registrable Securities were registered under the Securities Act, or any preliminary, final or summary prospectus contained therein or furnished by the Company to any such holder, Electing Holder, agent or underwriter, or any amendment or supplement thereto, or arise out of or are based upon the omission or alleged omission to state therein a material fact required to be stated therein or necessary to make the statements therein not misleading, and will reimburse such holder, such Electing Holder, such agent and such underwriter for any legal or other expenses reasonably incurred by them in connection with investigating or defending any such action or claim as such expenses are incurred; provided, however, that the Company shall not be liable to any such person in any such case to the extent that any such loss, claim, damage or liability arises out of or is based upon an untrue statement or alleged untrue statement or omission or alleged omission made in such registration statement, or preliminary, final or summary prospectus, or amendment or supplement thereto, in reliance upon and in conformity with written information furnished to the Company by such person expressly for use therein.

(b) Indemnification by the Holders and any Agents and Underwriters. The Company may require, as a condition to including any Registrable Securities in any registration statement filed pursuant to Section 2(b) hereof and to entering into any underwriting agreement with respect thereto, that the Company shall have received an undertaking reasonably satisfactory to it from the Electing Holder of such Registrable Securities and from each underwriter named in any such underwriting agreement, severally and not jointly, to (i) indemnify and hold harmless the Company, and all other holders of Registrable Securities, against any losses, claims, damages or liabilities to which the Company or such other holders of Registrable Securities may become subject, under the Securities Act or otherwise, insofar as such losses, claims, damages or liabilities (or actions in respect thereof) arise out of or are based upon an untrue statement or alleged untrue statement of a material fact contained in such registration statement, or any preliminary, final or summary prospectus contained therein or furnished by the Company to any such Electing Holder, agent or underwriter, or any amendment or supplement thereto, or arise out of or are based upon the omission or alleged omission to state therein a material fact required to be stated therein or necessary to make the statements therein not misleading, in each case to the extent, but only to the extent, that such untrue statement or alleged untrue statement or omission or alleged omission was made in reliance upon and in conformity with written information furnished to the Company by such Electing Holder or underwriter expressly for use therein, and (ii) reimburse the Company for any legal or other expenses reasonably incurred by the Company in connection with investigating or defending any such action or claim as such expenses are incurred; provided, however, that no such Electing Holder shall be required to undertake liability to any person under this Section 6(b) for any amounts in excess of the dollar amount of the proceeds to be received by such Electing Holder from the sale of such Electing Holder's Registrable Securities pursuant to such registration.

(c) Notices of Claims, Etc. Promptly after receipt by an indemnified party under subsection (a) or (b) above of written notice of the commencement of any action, such indemnified party shall, if a claim in respect thereof is to be made against an indemnifying party pursuant to the indemnification provisions of or contemplated by this Section 6, notify such indemnifying party in writing of the commencement of such action; but the omission so to notify the indemnifying party shall not relieve it from any liability which it may have to any indemnified party otherwise than under the indemnification provisions of or contemplated by Section 6(a) or 6(b) hereof. In case any such action shall be brought against any indemnified party and it shall notify an indemnifying party of the commencement thereof, such indemnifying party shall be entitled to participate therein and, to the extent that it shall wish, jointly with any other indemnifying party similarly notified, to assume the defense thereof, with counsel reasonably satisfactory to such indemnified party (who shall not, except with the consent of the indemnified party, be counsel to the indemnifying party), and, after notice from the indemnifying party to such indemnified party of its election so to assume the defense thereof, such indemnifying party shall not be liable to such indemnified party for any legal expenses of other counsel or any other expenses, in each case subsequently incurred by such indemnified party, in connection with the defense thereof other than reasonable costs of investigation. Neither party shall, without the written consent of the other party, effect the settlement or compromise of, or consent to the entry of any judgment with respect to, any pending or threatened action or claim in respect of which indemnification or contribution may be sought hereunder (whether or not the indemnified party is an actual or potential party to such action or claim) unless such settlement, compromise or judgment (i) includes an unconditional release of the other party from all liability arising out of such action or claim and (ii) does not include a statement as to or an admission of fault, culpability or a failure to act by or on behalf of the other party.

(d) Contribution. If for any reason the indemnification provisions contemplated by Section 6(a) or Section 6(b) are unavailable to or insufficient to hold harmless an indemnified party in respect of any losses, claims, damages or liabilities (or actions in respect thereof) referred to therein, then each indemnifying party shall contribute to the amount paid or payable by such indemnified party as a result of such losses, claims, damages or liabilities (or actions in respect thereof) in such proportion as is appropriate to reflect the relative fault of the indemnifying party and the indemnified party in connection with the statements or omissions which resulted in such losses, claims, damages or liabilities (or actions in respect thereof), as well as any other relevant equitable considerations. The relative fault of such indemnifying party and indemnified party shall be determined by reference to, among other things, whether the untrue or alleged untrue statement of a material fact or omission or alleged omission to state a material fact relates to information supplied by such indemnifying party or by such indemnified party, and the parties' relative intent, knowledge, access to information and opportunity to correct or prevent such statement or omission. The parties hereto agree that it would not be just and equitable if contributions pursuant to this Section 6(d) were determined by pro rata allocation (even if the holders or any agents or underwriters or all of them were treated as one entity for such purpose) or by any other method of allocation which does not take account of the equitable considerations referred to in this Section 6(d). The amount paid or payable by an indemnified party as a result of the losses, claims, damages, or liabilities (or actions in respect thereof) referred to above shall be deemed to include any legal or other fees or expenses reasonably incurred by such indemnified party in connection with investigating or defending any such action or claim. Notwithstanding the provisions of this Section 6(d), no holder shall be required to contribute any amount in excess of the amount by which the dollar amount of the proceeds received by such holder from the sale of any Registrable Securities (after deducting any fees, discounts and commissions applicable thereto) exceeds the amount of any damages which such holder has otherwise been required to pay by reason of such untrue or alleged untrue statement or omission or alleged omission, and no underwriter shall be required to contribute any amount in excess of the amount by which the total price at which the Registrable Securities underwritten by it and distributed to the public were offered to the public exceeds the amount of any damages which such underwriter has otherwise been required to pay by reason of such untrue or alleged untrue statement or omission or alleged omission. No person guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the Securities Act) shall be entitled to contribution from any person who was not guilty of such fraudulent misrepresentation. The holders' and any underwriters' obligations in this Section 6(d) to contribute shall be several in proportion to the principal amount of Registrable Securities registered or underwritten, as the case may be, by them and not joint.

(e) The obligations of the Company under this Section 6 shall be in addition to any liability which the Company may otherwise have and shall extend, upon the same terms and conditions, to each officer, director and partner of each holder, agent and underwriter and each person, if any, who controls any holder, agent or underwriter within the meaning of the Securities Act; and the obligations of the holders and any agents or underwriters contemplated by this Section 6 shall be in addition to any liability which the respective holder, agent or underwriter may otherwise have and shall extend, upon the same terms and conditions, to each officer and director of the Company (including any person who, with his consent, is named in any registration statement as about to become a director of the Company) and to each person, if any, who controls the Company within the meaning of the Securities Act.

## 7. Underwritten Offerings.

(a) Selection of Underwriters. If any of the Registrable Securities covered by the Shelf Registration are to be sold pursuant to an underwritten offering, the managing underwriter or underwriters thereof shall be designated by Electing Holders holding at least a majority in aggregate principal amount of the Registrable Securities to be included in such offering, provided that such designated managing underwriter or underwriters is or are reasonably acceptable to the Company.

(b) Participation by Holders. Each holder of Registrable Securities hereby agrees with each other such holder that no such holder may participate in any underwritten offering hereunder unless such holder (i) agrees to sell such holder's Registrable Securities on the basis provided in any underwriting arrangements approved by the persons entitled hereunder to approve such arrangements and (ii) completes and executes all questionnaires, powers of attorney, indemnities, underwriting agreements and other documents reasonably required under the terms of such underwriting arrangements.

## 8. Rule 144.

The Company covenants to the holders of Registrable Securities that to the extent it shall be required to do so under the Exchange Act, the Company shall timely file the reports required to be filed by it under the Exchange Act or the Securities Act (including the reports under Section 13 and 15(d) of the Exchange Act referred to in subparagraph (c)(1) of Rule 144 adopted by the Commission under the Securities Act) and the rules and regulations adopted by the Commission thereunder, and shall take such further action as any holder of Registrable Securities may reasonably request, all to the extent required from time to time to enable such holder to sell Registrable Securities without registration under the Securities Act within the limitations of the exemption provided by Rule 144 under the Securities Act, as such Rule may be amended from time to time, or any similar or successor rule or regulation hereafter adopted by the Commission. Upon the request of any holder of Registrable Securities in connection with that holder's sale pursuant to Rule 144, the Company shall deliver to such holder a written statement as to whether it has complied with such requirements.

## 9. Miscellaneous.

(a) No Inconsistent Agreements. The Company represents, warrants, covenants and agrees that it has not granted, and shall not grant, registration rights with respect to Registrable Securities or any other securities which would be inconsistent with the terms contained in this Exchange and Registration Rights Agreement.

(b) Specific Performance. The parties hereto acknowledge that there would be no adequate remedy at law if the Company fails to perform any of its obligations hereunder and that the Purchasers and the holders from time to time of the Registrable Securities may be irreparably harmed by any such failure, and accordingly agree that the Purchasers and such holders, in addition to any other remedy to which they may be entitled at law or in equity, shall be entitled to compel specific performance of the obligations of the Company under this Exchange and Registration Rights Agreement in accordance with the terms and conditions of this Exchange and Registration Rights Agreement, in any court of the United States or any State thereof having jurisdiction.

(c) Notices. All notices, requests, claims, demands, waivers and other communications hereunder shall be in writing and shall be deemed to have been duly given when delivered by hand, if delivered personally or by

courier, or three days after being deposited in the mail (registered or certified mail, postage prepaid, return receipt requested) as follows: If to the Company, to it at 2200 Old Germantown Road, Delray Beach, Florida 33445, and if to a holder, to the address of such holder set forth in the security register or other records of the Company, or to such other address as the Company or any such holder may have furnished to the other in writing in accordance herewith, except that notices of change of address shall be effective only upon receipt.

(d) Parties in Interest. All the terms and provisions of this Exchange and Registration Rights Agreement shall be binding upon, shall inure to the benefit of and shall be enforceable by the parties hereto and the holders from time to time of the Registrable Securities and the respective successors and assigns of the parties hereto and such holders. In the event that any transferee of any holder of Registrable Securities shall acquire Registrable Securities, in any manner, whether by gift, bequest, purchase, operation of law or otherwise, such transferee shall, without any further writing or action of any kind, be deemed a beneficiary hereof for all purposes and such Registrable Securities shall be held subject to all of the terms of this Exchange and Registration Rights Agreement, and by taking and holding such Registrable Securities such transferee shall be entitled to receive the benefits of, and be conclusively deemed to have agreed to be bound by all of the applicable terms and provisions of this Exchange and Registration Rights Agreement. If the Company shall so request, any such successor, assign or transferee shall agree in writing to acquire and hold the Registrable Securities subject to all of the applicable terms hereof.

(e) Survival. The respective indemnities, agreements, representations, warranties and each other provision set forth in this Exchange and Registration Rights Agreement or made pursuant hereto shall remain in full force and effect regardless of any investigation (or statement as to the results thereof) made by or on behalf of any holder of Registrable Securities, any director, officer or partner of such holder, any agent or underwriter or any director, officer or partner thereof, or any controlling person of any of the foregoing, and shall survive delivery of and payment for the Registrable Securities pursuant to the Purchase Agreement and the transfer and registration of Registrable Securities by such holder and the consummation of an Exchange Offer.

(f) GOVERNING LAW. THIS EXCHANGE AND REGISTRATION RIGHTS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK.

(g) Headings. The descriptive headings of the several Sections and paragraphs of this Exchange and Registration Rights Agreement are inserted for convenience only, do not constitute a part of this Exchange and Registration Rights Agreement and shall not affect in any way the meaning or interpretation of this Exchange and Registration Rights Agreement.

(h) Entire Agreement; Amendments. This Exchange and Registration Rights Agreement and the other writings referred to herein (including the Indenture and the form of Securities) or delivered pursuant hereto which form a part hereof contain the entire understanding of the parties with respect to its subject matter. This Exchange and Registration Rights Agreement supersedes all prior agreements and understandings between the parties with respect to its subject matter. This Exchange and Registration Rights Agreement may be amended and the observance of any term of this Exchange and Registration Rights Agreement may be waived (either generally or in a particular instance and either retroactively or prospectively) only by a written instrument duly executed by the Company and the holders of at least a majority in aggregate principal amount of the Registrable

Securities at the time outstanding. Each holder of any Registrable Securities at the time or thereafter outstanding shall be bound by any amendment or waiver effected pursuant to this Section 9(h), whether or not any notice, writing or marking indicating such amendment or waiver appears on such Registrable Securities or is delivered to such holder.

(i) Inspection. For so long as this Exchange and Registration Rights Agreement shall be in effect, upon written request to the Company, a copy of this Exchange and Registration Rights Agreement and a complete list of the names and addresses of all the holders of Registrable Securities shall be mailed to any holder of Registrable Securities for proper purposes only (which shall include any purpose related to the rights of the holders of Registrable Securities under the Securities, the Indenture and this Agreement).

(j) Counterparts. This agreement may be executed by the parties in counterparts, each of which shall be deemed to be an original, but all such respective counterparts shall together constitute one and the same instrument.



If the foregoing is in accordance with your understanding, please sign and return to us one for the Company and each of the Representatives plus one for each counsel counterparts hereof, and upon the acceptance hereof by you, on behalf of each of the Purchasers, this letter and such acceptance hereof shall constitute a binding agreement between each of the Purchasers the Company. It is understood that your acceptance of this letter on behalf of each of the Purchasers is pursuant to the authority set forth in a form of Agreement among Purchasers, the form of which shall be submitted to the Company for examination upon request, but without warranty on your part as to the authority of the signers thereof.

Very truly yours,

Office Depot, Inc.

By: \_\_\_\_\_  
Name:  
Title:

Accepted as of the date hereof:  
Goldman, Sachs & Co.  
Banc One Capital Markets, Inc.  
BNP Paribas Securities Corp.  
Fleet Securities, Inc.  
SunTrust Equitable Securities Corporation

By: \_\_\_\_\_  
(Goldman, Sachs & Co.)

OFFICE DEPOT, INC.

INSTRUCTION TO DTC PARTICIPANTS

(Date of Mailing)

URGENT - IMMEDIATE ATTENTION REQUESTED

DEADLINE FOR RESPONSE: [DATE]\*

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The Depository Trust Company ("DTC") has identified you as a DTC Participant through which beneficial interests in the Office Depot, Inc. (the "Company") 10% Senior Subordinated Notes due 2008 (the "Securities") are held.

The Company is in the process of registering the Securities under the Securities Act of 1933 for resale by the beneficial owners thereof. In order to have their Securities included in the registration statement, beneficial owners must complete and return the enclosed Notice of Registration Statement and Selling Securityholder Questionnaire.

It is important that beneficial owners of the Securities receive a copy of the enclosed materials as soon as possible as their rights to have the Securities included in the registration statement depend upon their returning the Notice and Questionnaire by [DEADLINE FOR RESPONSE]. Please forward a copy of the enclosed documents to each beneficial owner that holds interests in the Securities through you. If you require more copies of the enclosed materials or have any questions pertaining to this matter, please contact Office Depot, Inc., 2200 Old Germantown Road, Delray Beach, Florida 33445, (561) 438-4800.

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\*Not less than 28 calendar days from date of mailing.

OFFICE DEPOT, INC.

Notice of Registration Statement  
and  
Selling Securityholder Questionnaire  
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(Date)

Reference is hereby made to the Exchange and Registration Rights Agreement (the "Exchange and Registration Rights Agreement") between Office Depot, Inc. (the "Company") and the Purchasers named therein. Pursuant to the Exchange and Registration Rights Agreement, the Company has filed with the United States Securities and Exchange Commission (the "Commission") a registration statement on Form [ ] (the "Shelf Registration Statement") for the registration and resale under Rule 415 of the Securities Act of 1933, as amended (the "Securities Act"), of the Company's 10% Senior Subordinated Notes due 2008 (the "Securities"). A copy of the Exchange and Registration Rights Agreement is attached hereto. All capitalized terms not otherwise defined herein shall have the meanings ascribed thereto in the Exchange and Registration Rights Agreement.

Each beneficial owner of Registrable Securities (as defined below) is entitled to have the Registrable Securities beneficially owned by it included in the Shelf Registration Statement. In order to have Registrable Securities included in the Shelf Registration Statement, this Notice of Registration Statement and Selling Securityholder Questionnaire ("Notice and Questionnaire") must be completed, executed and delivered to the Company's counsel at the address set forth herein for receipt ON OR BEFORE [DEADLINE FOR RESPONSE]. Beneficial owners of Registrable Securities who do not complete, execute and return this Notice and Questionnaire by such date (i) will not be named as selling securityholders in the Shelf Registration Statement and (ii) may not use the Prospectus forming a part thereof for resales of Registrable Securities.

Certain legal consequences arise from being named as a selling securityholder in the Shelf Registration Statement and related Prospectus. Accordingly, holders and beneficial owners of Registrable Securities are advised to consult their own securities law counsel regarding the consequences of being named or not being named as a selling securityholder in the Shelf Registration Statement and related Prospectus.

The term "Registrable Securities" is defined in the Exchange and Registration Rights Agreement.

## ELECTION

The undersigned holder (the "Selling Securityholder") of Registrable Securities hereby elects to include in the Shelf Registration Statement the Registrable Securities beneficially owned by it and listed below in Item (3). The undersigned, by signing and returning this Notice and Questionnaire, agrees to be bound with respect to such Registrable Securities by the terms and conditions of this Notice and Questionnaire and the Exchange and Registration Rights Agreement, including, without limitation, Section 6 of the Exchange and Registration Rights Agreement, as if the undersigned Selling Securityholder were an original party thereto.

Upon any sale of Registrable Securities pursuant to the Shelf Registration Statement, the Selling Securityholder will be required to deliver to the Company and Trustee the Notice of Transfer set forth in Appendix A to the Prospectus and as Exhibit B to the Exchange and Registration Rights Agreement.

The Selling Securityholder hereby provides the following information to the Company and represents and warrants that such information is accurate and complete:

QUESTIONNAIRE

(1) (a) Full Legal Name of Selling Securityholder:

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(b) Full Legal Name of Registered Holder (if not the same as in (a) above) of Registrable Securities Listed in Item (3) below:

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(c) Full Legal Name of DTC Participant (if applicable and if not the same as (b) above) Through Which Registrable Securities Listed in Item (3) below are Held:

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(2) Address for Notices to Selling Securityholder:

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Telephone:

-----

Fax:

-----

Contact Person:

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(3) Beneficial Ownership of Securities:

Except as set forth below in this Item (3), the undersigned does not beneficially own any Securities.

(a) Principal amount of Registrable Securities beneficially owned: -----

CUSIP No(s). of such Registrable Securities: -----

(b) Principal amount of Securities other than Registrable Securities beneficially owned:

-----  
CUSIP No(s). of such other Securities: -----

(c) Principal amount of Registrable Securities which the undersigned wishes to be included in the Shelf Registration Statement:

-----  
CUSIP No(s). of such Registrable Securities to be included in the Shelf Registration Statement: -----

(4) Beneficial Ownership of Other Securities of the Company:

Except as set forth below in this Item (4), the undersigned Selling Securityholder is not the beneficial or registered owner of any other securities of the Company, other than the Securities listed above in Item (3).

State any exceptions here:

(5) Relationships with the Company:

Except as set forth below, neither the Selling Securityholder nor any of its affiliates, officers, directors or principal equity holders (5% or more) has held any position or office or has had any other material relationship with the Company (or its predecessors or affiliates) during the past three years.

State any exceptions here:

(6) Plan of Distribution:

Except as set forth below, the undersigned Selling Securityholder intends to distribute the Registrable Securities listed above in Item (3) only as follows (if at all): Such Registrable Securities may be sold from time to time directly by the undersigned Selling Securityholder or, alternatively, through underwriters, broker-dealers or agents. Such Registrable Securities may be sold in one or more transactions at fixed prices, at prevailing market prices at the time of sale, at varying prices determined at the time of sale, or at negotiated prices. Such sales may be effected in transactions (which may involve crosses or block transactions) (i) on any national securities exchange or quotation service on which the Registered Securities may be listed or quoted at the time of sale, (ii) in the over-the-counter market, (iii) in transactions otherwise than on such exchanges or services or in the over-the-counter market, or (iv) through the writing of options. In connection with sales of the Registrable Securities or otherwise, the Selling Securityholder may enter into hedging transactions with broker-dealers, which may in turn engage in short sales of the Registrable Securities in the course of hedging the positions they assume. The Selling Securityholder may also sell Registrable Securities short and deliver Registrable Securities to close out such short positions, or loan or pledge Registrable Securities to broker-dealers that in turn may sell such securities.

State any exceptions here:

By signing below, the Selling Securityholder acknowledges that it understands its obligation to comply, and agrees that it will comply, with the provisions of the Exchange Act and the rules and regulations thereunder, particularly Regulation M.

In the event that the Selling Securityholder transfers all or any portion of the Registrable Securities listed in Item (3) above after the date on which such information is provided to the Company, the Selling Securityholder agrees to notify the transferee(s) at the time of the transfer of its rights and obligations under this Notice and Questionnaire and the Exchange and Registration Rights Agreement.

By signing below, the Selling Securityholder consents to the disclosure of the information contained herein in its answers to Items (1) through (6) above and the inclusion of such information in the Shelf Registration Statement and related Prospectus. The Selling Securityholder understands that such information will be relied upon by the Company in connection with the preparation of the Shelf Registration Statement and related Prospectus.

In accordance with the Selling Securityholder's obligation under Section 3(d) of the Exchange and Registration Rights Agreement to provide such information as may be required by law for inclusion in the Shelf Registration Statement, the Selling Securityholder agrees to promptly notify the Company of any inaccuracies or changes in the information provided herein which may occur subsequent to the date hereof at any time while the Shelf Registration Statement remains in effect. All notices hereunder and pursuant to the Exchange and Registration Rights Agreement shall be made in writing, by hand-delivery, first-class mail, or air courier guaranteeing overnight delivery as follows:

(i) To the Company:

David Fannin, Executive Vice President,  
General Counsel and Secretary  
Office Depot, Inc.  
2200 Old Germantown Road  
Delray Beach, Florida 33445

(ii) With a copy to:

Scott N. Gierke, Esq.  
McDermott, Will & Emery  
227 West Monroe  
Chicago, Illinois 60606

Once this Notice and Questionnaire is executed by the Selling Securityholder and received by the Company's counsel, the terms of this Notice and Questionnaire, and the representations and warranties contained herein, shall be binding on, shall inure to the benefit of and shall be enforceable by the respective successors, heirs, personal representatives, and assigns of the Company and the Selling Securityholder (with respect to the Registrable Securities beneficially owned by such Selling Securityholder and listed in Item (3) above. This Agreement shall be governed in all respects by the laws of the State of New York.

IN WITNESS WHEREOF, the undersigned, by authority duly given, has caused this Notice and Questionnaire to be executed and delivered either in person or by its duly authorized agent.

Dated: \_\_\_\_\_

-----  
Selling Securityholder  
(Print/type full legal name of beneficial owner of Registrable Securities)

By: \_\_\_\_\_  
Name:  
Title:

PLEASE RETURN THE COMPLETED AND EXECUTED NOTICE AND QUESTIONNAIRE FOR RECEIPT ON OR BEFORE [DEADLINE FOR RESPONSE] TO THE COMPANY'S COUNSEL AT:

Scott N. Gierke, Esq.  
McDermott, Will & Emery  
227 West Monroe Street  
Chicago, Illinois 60606



NOTICE OF TRANSFER PURSUANT TO REGISTRATION STATEMENT

Sun Trust Bank  
Office Depot, Inc.  
c/o Sun Trust Bank  
[Address of Sun Trust Bank]

Attention: Trust Officer

Re: Office Depot, Inc. (the "Company")  
10% Senior Subordinated Notes due 2008

Dear Sirs:

Please be advised that \_\_\_\_\_ has transferred \$ \_\_\_\_\_ aggregate principal amount of the above-referenced Notes pursuant to an effective Registration Statement on Form [\_\_\_\_\_] (File No. 333-\_\_\_\_\_) filed by the Company.

We hereby certify that the prospectus delivery requirements, if any, of the Securities Act of 1933, as amended, have been satisfied and that the above-named beneficial owner of the Notes is named as a "Selling Holder" in the Prospectus dated \_\_\_\_\_ or in supplements thereto, and that the aggregate principal amount of the Notes transferred are the Notes listed in such Prospectus opposite such owner's name.

Dated:

Very truly yours,

\_\_\_\_\_  
(Name)

By:

\_\_\_\_\_  
(Authorized Signature)

A Partnership Including  
Professional Corporations  
227 West Monroe Street  
Chicago, IL 60606-5096  
312-372-2000  
Facsimile 312- 984-7700  
http://www.mwe.com

Boston  
Chicago  
London  
Los Angeles  
Miami  
Moscow  
Orange County  
New York  
Silicon Valley  
Vilnius  
Washington, D.C.

MCDERMOTT, WILL & EMERY

August 15, 2001

Office Depot, Inc.  
2200 Old Germantown Road  
Delray Beach, Florida 33445

Re: Office Depot Registration Statement on Form S-4  
-----

Ladies and Gentlemen:

This opinion is furnished to you in connection with the registration statement on Form S-4 (the "REGISTRATION STATEMENT") filed with the Securities and Exchange Commission under the Securities Act of 1933, as amended (the "ACT"), for the registration of \$250,000,000 aggregate principal amount of 10% Senior Subordinated Notes due 2008 (the "NEW NOTES") of Office Depot, Inc., a Delaware corporation (the "COMPANY"). The New Notes will be offered in exchange (the "EXCHANGE") for the Company's outstanding 10% Senior Subordinated Notes due 2008 (the "OLD NOTES").

The New Notes will be issued in exchange for Old Notes pursuant to an Indenture (the "INDENTURE") dated as of July 2, 2001 by and between the Company and SunTrust Bank, national association, as Trustee (the "TRUSTEE"), and the related Exchange and Registration Rights Agreement dated as of July 2, 2001 among the Company, Goldman, Sachs & Co., Banc One Capital Markets, Inc., BNP Paribas Securities Corp., Fleet Securities, Inc. and SunTrust Equitable Securities Corporation (the "REGISTRATION RIGHTS AGREEMENT").

We have examined the Registration Statement, the Indenture, the Registration Rights Agreement, the form of the New Notes, and other documents we have deemed necessary to enable us to express the opinion set forth below. In addition, we have examined and relied, to the extent we deemed proper, on certificates of officers of the Company as to factual matters, and on originals or copies certified or otherwise identified to our satisfaction, of all corporate records of the Company, instruments and certificates of public officials and other persons that we deemed appropriate. In our examination, we have assumed the authenticity of all documents submitted to us as originals, the conformity to the original documents of all documents submitted to us as copies,

August 15, 2001  
Page 2

the genuineness of all signatures on documents reviewed by us and the legal capacity of natural persons. We have further assumed that the New Notes will be duly executed and delivered in accordance with the authorizing resolutions of the Board of Directors of the Company.

We express no opinion as to the applicability of, compliance with or effect of, the law of any jurisdiction other than the federal laws of the United States and the General Corporation Law of the State of Delaware.

Based upon and subject to the foregoing, we are of the opinion that the New Notes, when duly executed, authenticated and delivered in accordance with the terms of the Indenture and as contemplated by the Registration Statement, will be valid and legally binding obligations of the Company, except that the enforceability thereof may be limited by or subject to bankruptcy, reorganization, insolvency, fraudulent conveyance, moratorium or other similar laws now or hereafter existing which affect the rights and remedies of creditors generally and equitable principles of general applicability.

In rendering the opinion set forth above, we have assumed that the execution and delivery by the Company of the Indenture and the New Notes do not and will not violate, conflict with or constitute a default under any agreement or instrument to which the Company or its properties is subject, except for those agreements and instruments which have been identified to us by the Company as being material to it and which were filed as exhibits to the Company's Annual Report on Form 10-K for the year ended December 30, 2000.

We hereby consent to the reference to our firm under the caption "Legal Matters" in the Registration Statement and to the use of this opinion as an exhibit to the Registration Statement. In giving this consent, we do not hereby admit that we come within the category of persons whose consent is required under Section 7 of the Act or the rules and regulations of the Securities and Exchange Commission thereunder.

Very truly yours,



INDEPENDENT AUDITORS' CONSENT

We consent to the incorporation by reference in this Amendment No. 1 to Registration Statement No. 333-67620 on Form S-4 of Office Depot, Inc. of our reports dated February 15, 2001 appearing in and incorporated by reference in the Annual Report on Form 10-K of Office Depot, Inc. for the year ended December 30, 2000, and to the reference to us under the heading "Experts" in such Prospectus, which is part of this Registration Statement.

/s/ Deloitte & Touche LLP

Miami, Florida  
September 4, 2001

SECURITIES AND EXCHANGE COMMISSION  
Washington, DC

FORM T-1

STATEMENT OF ELIGIBILITY UNDER THE  
TRUST INDENTURE ACT OF 1939 OF A CORPORATION  
DESIGNATED TO ACT AS TRUSTEE

CHECK IF AN APPLICATION TO DETERMINE ELIGIBILITY OF A TRUSTEE  
PURSUANT TO SECTION 305(B)(2) [X]

SUNTRUST BANK  
(Exact name of trustee as specified in its charter)

GEORGIA  
(Jurisdiction of incorporation or organization)  
303 PEACHTREE STREET  
30TH FLOOR  
ATLANTA, GEORGIA 30308 58-0466330  
(Address of principal executive (Zip Code) (I.R.S. employer identification no.)  
offices)

HOLLY LEE ARENCIBIA  
SUNTRUST BANK  
777 BRICKELL AVENUE  
MIAMI, FL 33131  
(305) 579-7009  
(Name, address and telephone number of agent for service)

OFFICE DEPOT INC.  
(Exact name of obligor as specified in its charter)

DELAWARE  
(State or other jurisdiction of incorporation or other organization) 59-2663954  
(IRS employer identification no.)

2200 Old Germantown Road  
Delray Beach, FL 33445  
(Address of principal executive offices) (Zip Code)

10% Senior Subordinated Notes due 2008

1. GENERAL INFORMATION.

Furnish the following information as to the trustee:

Name and address of each examining or supervising authority to  
which it is subject:

DEPARTMENT OF BANKING AND FINANCE,  
STATE OF GEORGIA  
ATLANTA, GEORGIA

FEDERAL RESERVE BANK OF ATLANTA  
104 MARIETTA STREET, N.W.  
ATLANTA, GEORGIA

FEDERAL DEPOSIT INSURANCE CORPORATION  
WASHINGTON, D.C.

Whether it is authorized to exercise corporate trust powers:

YES.

2. AFFILIATIONS WITH OBLIGOR

If the obligor is an affiliate of the trustee, describe each such  
affiliation.

NONE.

3-12 NO RESPONSES ARE INCLUDE FOR ITEMS 3 THROUGH 12.

RESPONSES TO THOSE ITEMS ARE NOT REQUIRED BECAUSE, AS PROVIDED IN  
GENERAL INSTRUCTION B, THE OBLIGOR IS NOT IN DEFAULT ON ANY SECURITIES  
ISSUED UNDER INDENTURES UNDER WHICH SUNTRUST BANK IS A TRUSTEE.

13. DEFAULTS BY THE OBLIGOR.

(a) State whether there is or has been a default with respect to  
the securities under this indenture. Explain the nature of any  
such default

THERE IS NOT AND HAS NOT BEEN ANY SUCH DEFAULT UNDER THIS  
INDENTURE.

(b) If the trustee is a trustee under another indenture under  
which any other securities, or certificates of interest or  
participation in any other securities, of the obligor are



outstanding, or is trustee for more than one outstanding series of securities under the indenture, state whether there has been a default under any such indenture or series, identify the indenture or series affected, and explain the nature of any such default.

THERE HAS NOT BEEN ANY SUCH DEFAULT.

14-15 NO RESPONSES ARE INCLUDED FOR ITEMS 14 AND 15.

RESPONSES TO THOSE ITEMS ARE NOT REQUIRED BECAUSE, AS PROVIDED IN GENERAL INSTRUCTION B, THE OBLIGOR IS NOT IN DEFAULT ON ANY SECURITIES ISSUED UNDER INDENTURES UNDER WHICH SUNTRUST BANK IS A TRUSTEE.

16. LIST OF EXHIBITS.

List below all exhibits filed as part of this statement of eligibility.

- (1) A copy of the Articles of Amendment and Restated Articles of Association of the trustee as now in effect.
- (2) A copy of the certificate of authority of the trustee to commence business (included in Exhibit 1).
- (3) A copy of the authorization of the trustee to exercise corporate trust powers (included in Exhibit 1).
- (4) A copy of the existing by-laws of the trustee.
- (5) Not applicable.
- (6) The consent of the trustee required by Section 321(b) of the Trust Indenture Act of 1939.
- (7) A copy of the latest report of condition of the trustee published pursuant to law or the requirements of its supervising or examining authority as of the close of business on December 31, 2000.
- (8) Not applicable.
- (9) Not applicable.

SIGNATURE

Pursuant to the requirements of the Trust Indenture Act of 1939 the trustee, SunTrust Bank, a banking corporation organized and existing under the laws of the State of Georgia, has duly caused this statement of eligibility and qualification to be signed on its behalf by the undersigned, thereunto duly authorized, all in the City of Miami and the State of Florida, on the \_\_\_\_ day of September, 2001.

SUNTRUST BANK

By: /s/ Holly Lee Arencibia

-----  
Holly Lee Arencibia  
Vice President



EXHIBIT 1 TO FORM T-1  
ARTICLES OF ASSOCIATION  
OF  
SUNTRUST BANK  
(Attached)

SECRETARY OF STATE  
CORPORATIONS DIVISION  
315 WEST TOWER  
#2 MARTIN LUTHER KING, JR. DR.  
ATLANTA, GEORGIA 30334-1530

DOCKET NUMBER : 002350060  
CONTROL NUMBER : J715952  
EFFECTIVE DATE : 08/18/2000  
REFERENCE : 0077  
PRINT DATE : 08/22/2000  
FORM NUMBER : 101

MARGARET U. HODGSON  
SUNTRUST BANKS, INC.  
POST OFFICE BOX 4418, MAIL CODE 643  
ATLANTA, GEORGIA 30302-4418

CERTIFICATE OF AMENDMENT

I, Cathy Cox, the Secretary of State and the Corporations Commissioner of the State Georgia, do hereby certify under the seal of my office that articles of amendment have been filed to amend certain articles of incorporation and that the Department of Banking and Finance has filed a certificate of approval authorizing the amendment of said articles for

SUNTRUST BANK  
ATLANTA, FULTON COUNTY, GEORGIA

The required fees as provided by Title 14 of the Official Code of Georgia Annotated have been paid.

THEREFORE, the Secretary of State hereby issues this certificate of amendment.

WITNESS my hand an official seal in the City of Atlanta and the State of Georgia on the date set forth above.

[SEAL]

/s/ Cathy Cox  
Cathy Cox  
Secretary of State

ARTICLES OF AMENDMENT AND  
RESTATED ARTICLES OF INCORPORATION OF  
SUNTRUST BANK

Pursuant to the Financial Institutions Code of Georgia, SunTrust Bank, a Georgia banking corporation (the "Bank"), submits Articles of Amendment and Restated Articles of Incorporation and shows as follows:

1.

The Bank was chartered by a special act of the General Assembly of Georgia approved on September 21, 1891 with banking and trust powers.

2.

The Bank's main office is located at One Park Place, N.E., Atlanta, Fulton County, Georgia, 30302.

3.

By a written consent and waiver of notice dated August 8, 2000, the sole shareholder of the 4,320,000 shares of Common Stock then outstanding and entitled to vote did authorize, approve and adopt these Articles of Amendment and Restated Articles of Incorporation of the Bank, as submitted by a Resolution of the Board of Directors, and as set forth in Paragraph 4 below. The Bank has only one class of stock authorized, issued and outstanding.

4.

The Articles of Incorporation of the Bank shall be amended by changing the address of the registered office in Article IV, authorizing the issuance of preferred stock in Article VI, and by restating in their entirety the Articles of Incorporation, as heretofore amended, and substituting therefor in all respects, the Restated Articles of Incorporation as follows:

-1-

RESTATED  
ARTICLES OF INCORPORATION  
OF

SUNTRUST BANK

Article I

The name of the bank is SunTrust Bank (the "Bank").

Article II

The Bank is organized pursuant to the provisions of the Financial Institutions Code of Georgia.

Article III

The Bank shall have perpetual duration.

Article IV

The principal place of business of the Bank is located in Atlanta, Fulton County, Georgia, and the Bank may establish branches or agencies at other places in Georgia or elsewhere. The address of the main office of the Bank is 303 Peachtree Street, N.E., Atlanta, Fulton County, Georgia 30308.

Article V

The purposes for which the Bank is organized are to act as a bank and as a trust company and to enjoy and be subject to the powers and restrictions of a bank and a trust company under the laws of the State of Georgia, and to conduct any other businesses, to exercise any powers, and to engage in any other activities not specifically prohibited to corporations organized to act as a bank and as a trust company under the laws of the State of Georgia.

Article VI

Section 6.01. The aggregate number of common shares which the Bank has authority to issue is 4,750,000, all of which are of one class only, each such share having a par value of \$5.00 (the "Common Stock") The Bank shall also have authority to issue 15,000 shares of preferred stock, par value \$1,000 per share (the "Preferred Stock").

Section 6.02. Pursuant to the provisions of this Article VI, a series of Preferred Stock, all designated as the Series A Non-Cumulative Preferred Stock, consisting of 1,000 shares, is hereby established and authorized to be issued, and in addition to such matters specified elsewhere in this Article VI, such Series A Non-Cumulative Preferred Stock shall have the following powers,

preferences and relative, participating, optional or other special rights and qualifications, limitations or restrictions:

(a) Designation and Amount. The shares of such series of Preferred Stock shall be designated as the Series A Non-Cumulative Preferred Stock ("Series A Preferred Stock"), and the number of shares constituting the Series A Preferred Stock shall be 1,000. The liquidation preference of the Series A Preferred Stock shall be \$100,000 per share ("Series A Liquidation Value").

(b) Maturity. The Series A Preferred Stock has no stated maturity and will not be subject to any sinking fund or ----- mandatory redemption.

(c) Rank. The Series A Preferred Stock shall, with respect to dividend rights and upon liquidation, dissolution and winding up of the Bank, rank (i) senior to all classes and series of Common Stock of the Bank and to all classes and series of equity securities of the Bank now or hereafter authorized, issued or outstanding, which by their terms expressly provide that they are junior to the Series A Preferred Stock as to dividend distributions and distributions upon the liquidation, dissolution or winding up of the Bank, or which do not specify their rank (collectively with the Common Stock, the "Series A Junior Securities"); (ii) on a parity with the Series B Preferred Stock and each other class or series of equity securities issued by the Bank after the date hereof, the terms of which specifically provide that such class or series will rank on a parity with the Series A Preferred Stock as to dividend distributions and distributions upon the liquidation, dissolution or winding up of the Bank (collectively with the Series B Preferred Stock, the "Series A Parity Securities"); and (iii) junior to each other class or series of equity securities issued by the Bank after the date hereof, the terms of which specifically provide that such class or series will rank senior to the Series A Preferred Stock as to dividend distributions and distributions upon the liquidation, dissolution or winding up of the Bank (collectively, the "Series A Senior Securities"), provided that any such Series A Senior Securities and Series A Parity Securities issued after the date hereof that are not approved by the holders of Series A Preferred Stock as required by Section 6.02(i)(i)(D) hereof shall be deemed to be Series A Junior Securities and not Series A Senior Securities or Series A Parity Securities, as the case may be.

(d) Dividends. Dividends are payable on the Series A Preferred Stock as follows:

(i) The holders of shares of the Series A Preferred Stock in preference to the Series A Junior Securities shall be entitled to receive, out of funds legally available for that purpose, and when, as, and if declared by the Board of Directors of the Bank, preferential non-cumulative dividends payable in cash at the annual rate of nine percent (9.00%) of the Series A Liquidation Value (the "Series A Dividend Rate").

(ii) Dividends on the Series A Preferred Stock shall be non-cumulative. Dividends not paid on any Series A Dividend Payment Date shall not accumulate thereafter. Dividends shall accumulate from the first day of any Series A Dividend Period

to but excluding the immediately succeeding Series A Dividend Payment Date. Dividends, if and when declared, shall be payable in arrears in cash on each Series A Dividend Payment Date of each year with respect to the Series A Dividend Period ending on the day immediately prior to such Series A Dividend Payment Date at the Series A Dividend Rate to holders of record at the close of business on the applicable Record Date, commencing on March 31, 2001 with respect to any shares of Series A referred Stock issued prior to that Series A Dividend Payment Date; provided that dividends payable on the Series A Preferred Stock on the initial Series A Dividend Payment Date (and any dividend payable for a period less than a full semiannual period) shall be prorated for the period and computed on the basis of a 360-day year of twelve 30-day months and the actual number of days in such Series A Dividend Period; and provided, further, that dividends payable on the Series A Preferred Stock on the initial Series A Dividend Payment Date shall include any accumulated and unpaid dividends on the Series B Non-Cumulative Exchangeable Preferred Stock of the Corporation exchanged for the Series A Preferred Stock as of the Exchange Date for the then current dividend period. Dividends on such Series A Preferred Stock shall be paid only in cash.

(iii) No dividends on shares of Series A Preferred Stock shall be declared by the Board of Directors or paid or set apart for payment by the Board of Directors or paid or set apart for payment by the Bank at such time as the terms and provisions of any agreement of the Bank, including any agreement relating to its indebtedness, prohibits such declaration, payment or setting apart for payment or provides that such declaration, payment or setting apart for payment would constitute a breach thereof or a default thereunder, or if such declaration or payment shall be restricted or prohibited by law.

(iv) Holders of shares of Series A Preferred Stock shall not be entitled to any dividends in excess of full non-cumulative dividends declared, as herein provided, on the shares of Series A Preferred Stock. No interest, or sum of money in lieu of interest, shall be payable in respect of any dividend payment on the shares of Series A Preferred Stock that may be in arrears.

(v) (A) So long as any shares of Series A Preferred Stock are outstanding, no dividends shall be declared, paid or set aside for payment or other distribution upon any Series A Junior Securities (other than dividends or distributions paid in shares of, or options, warrants or rights to subscribe for or purchase shares of, Series A Junior Securities and other than as provided in clause (B) below), nor shall any shares of any Series A Junior Securities or any Series A Parity Securities be redeemed, purchased or otherwise acquired for any consideration (or any moneys be paid to or set aside or made available for a sinking fund for the redemption of any shares of any such stock) by the Bank (except by conversion into or exchange for shares of, or options, warrants or rights to subscribe for or purchase, Series A Junior Securities) whenever, in each case, full non-cumulative dividends on all

outstanding shares of the Series A Preferred Stock for the related Series A Dividend Period shall not have been declared and paid, when due, for the two consecutive Series A Dividend Periods terminating on or immediately prior to the date of payment in respect of such dividend, distribution, redemption, purchase or acquisition.

(B) When dividends for any dividend period are not paid in full, as provided in clause (A) above, on the shares of the Series A Preferred Stock or any Series A Parity Securities, dividends may be declared and paid on any such shares for any dividend period therefor, but only if such dividends are declared and paid pro rata so that the amount of dividends declared and paid per share on the shares of the Series A Preferred Stock and any Series A Parity Securities, in all cases shall bear to each other the same ratio that the amount of unpaid dividends per share on the shares of the Series A Preferred Stock for such Series A Dividend Period and such Series A Parity Securities for the corresponding dividend period bear to each other.

(e) Liquidation Preference.

(i) In the event of any voluntary or involuntary liquidation, dissolution or winding up of the affairs of the Bank, the holders of shares of Series A Preferred Stock then outstanding shall be entitled to be paid out of the assets of the Bank available for distribution to its stockholders an amount in cash equal to the Series A Liquidation Value for each share outstanding, plus an amount in cash equal to all accumulated and unpaid dividends thereon for the then current Series A Dividend Period, whether or not earned or declared, before any payment shall be made or any assets distributed to the holders of Series A Junior Securities. If the assets of the Bank are not sufficient to pay in full the liquidation payments payable to the holders of outstanding shares of the Series A Preferred Stock and any Series A Parity Securities, then the holders of all such shares shall share ratably in such distribution of assets in accordance with the amount which would be payable on such distribution if the amounts to which the holders of outstanding shares of Series A Preferred Stock and the holders of outstanding shares of such Series A Parity Securities are entitled were paid in full. After payment of the full amount of the liquidation preference, plus any accumulated and unpaid dividends for the then current Series A Dividend Period, to which holders of Series A Preferred Stock are entitled, holders of Series A Preferred Stock will have no right or claim to any remaining assets of the Bank.

(ii) For the purpose of this Section 6.02(e), neither the voluntary sale, conveyance, exchange or transfer (for cash, shares of stock, securities or other consideration) of all or substantially all of the property or assets of the Bank, nor the consolidation or merger of the Bank, shall be deemed to be a voluntary or involuntary liquidation, dissolution or winding up of the Bank, unless such voluntary

sale, conveyance, exchange or transfer shall be in connection with a plan of liquidation, dissolution or winding up of the Bank.

(f) Redemption. The Series A Preferred Stock is not redeemable prior to March 31, 2021. On or after such date, the Series A Preferred Stock shall be redeemable, in whole or in part, at the option of the Bank, but only with the prior written approval of the Federal Reserve and, if such approval is then required under any applicable law, rule, guideline or policy, with the prior written approval of the Georgia Department of Banking and Finance, for cash out of any source of funds legally available, at a redemption price equal to 100% of the Series A Liquidation Value per share plus unpaid dividends thereon accumulated since the immediately preceding Series A Dividend Payment Date (the "Series A Redemption Price"). Any date of such redemption is referred to as the "Series A Redemption Date." If fewer than all the outstanding shares of Series A Preferred Stock are to be redeemed, the Bank will select those to be redeemed by lot or pro rata or by any other method as may be determined by the Board of Directors to be equitable.

(g) Procedure for Redemption.

(i) Upon redemption of the Series A Preferred Stock pursuant to Section 6.02(f) hereof, notice of such redemption (a "Series A Notice of Redemption") shall be mailed by first-class mail, postage prepaid, not less than 30 days nor more than 60 days prior to the Series A Redemption Date to the holders of record of the shares to be redeemed at their respective addresses as they shall appear in the records of the Bank; provided, however, that failure to give such notice or any defect therein or in the mailing thereof shall not affect the validity of the proceeding for the redemption of any shares so to be redeemed except as to the holder to whom the Bank has failed to give such notice or except as to the holder to whom notice was defective. Each such notice shall state: (A) the Series A Redemption Date; (B) the Series A Redemption Price; (C) the place or places where certificates for such shares are to be surrendered for payment of the Series A Redemption Price; and (D) the CUSIP number of the shares being redeemed.

(ii) If a Series A Notice of Redemption shall have been given as aforesaid and the Bank shall have deposited on or before the Redemption Date a sum sufficient to redeem the shares of Series A Preferred Stock as to which a Series A Notice of Redemption has been given in trust with the Transfer Agent with irrevocable instructions and authority to pay the Series A Redemption Price to the holders thereof, or if no such deposit is made, then upon the Series A Redemption Date (unless the Bank shall default in making payment of the Series A Redemption Price), all rights of the holders thereof as stockholders of the Bank by reason of the ownership of such shares (except their right to receive the Series A Redemption Price thereof without interest) shall cease and terminate, and such shares shall no longer be deemed outstanding for any purpose. The Bank shall be entitled to receive, from time to time, from the Transfer Agent the interest, if any, earned on such moneys deposited with it, and the holders of any shares so redeemed shall have no claim to any such interest. In case



the holder of any shares of Series A Preferred Stock so called for redemption shall not claim the Series A Redemption Price for its shares within six months after the related Series A Redemption Date, the Transfer Agent shall, upon demand, pay over to the Bank such amount remaining on deposit, and the Transfer Agent shall thereupon be relieved of all responsibility to the holder of such shares, and such holder shall look only to the Bank for payment thereof.

(iii) Not later than 1:30 p.m., Eastern Standard Time, on the Business Day immediately preceding the Series A Redemption Date, the Bank shall irrevocably deposit with the Transfer Agent sufficient funds for the payment of the Series A Redemption Price for the shares to be redeemed on the Series A Redemption Date and shall give the Transfer Agent irrevocable instructions to apply such funds, and, if applicable and so specified in the instructions, the income and proceeds therefrom, to the payment of such Series A Redemption Price. The Bank may direct the Transfer Agent to invest any such available funds, provided that the proceeds of any such investment will be available to the Transfer Agent in Atlanta, Georgia at the opening of business on such Series A Redemption Date.

(iv) Except as otherwise expressly set forth in this Section 602(g), nothing contained in these Restated Articles of Incorporation shall limit any legal right of the Bank to purchase or otherwise acquire any shares of Series A Preferred Stock at any price, whether higher or lower than the Series A Redemption Price, in private negotiated transactions, the over-the-counter market or otherwise.

(v) If the Bank shall not have funds legally available for the redemption of all of the shares of Series A Preferred Stock on any Series A Redemption Date, the Bank shall redeem on the Series A Redemption Date only the number of shares of Series A Preferred Stock as it shall have legally available funds to redeem, as determined in an equitable manner, and the remainder of the shares of Series A Preferred Stock shall be redeemed, at the option of the Bank, on the earliest practicable date next following the day on which the Bank shall first have funds legally available for the redemption of such shares.

(h) Reacquired Shares. Shares of the Series A Preferred Stock that have been redeemed, purchased or otherwise acquired by the Bank are not subject to reissuance or resale as shares of Series A Preferred Stock and shall be held in treasury. Such shares shall revert to the status of authorized but unissued shares of preferred stock, undesignated as to series, until the Board of Directors of the Bank shall designate them again for issuance as part of a series.

(i) Voting Rights. Holders of Series A Preferred Stock will not have any voting rights, except as otherwise from time to time required by law and except as follows:

(i) In addition to any vote or consent of stockholders required by law, the approval of the holders of two-thirds of the outstanding shares of Series A Preferred

Stock, voting as a class, shall be required for the Bank: (A) to amend, alter or repeal any of the provisions of these Restated Articles of Incorporation in any manner that would alter or change the powers, preferences or special rights of the shares of Series A Preferred Stock so as to materially and adversely affect them, except as permitted in Section 6.02(j)(i)(A); (B) to authorize the merger, consolidation, or reclassification of the Bank with or into another Person, except as permitted in Section 6.02(j)(i)(B); (C) to dissolve, liquidate or wind up the affairs of the Bank; and (D) to authorize or issue, or obligate itself to authorize or issue, any Series A Senior Securities or any Series A Parity Securities unless, for purposes of this clause (D) only, the Bank shall have received written notice from each of the Rating Agencies, and delivered a copy of such written notice to the Transfer Agent, confirming that any such issuance will not result in a reduction of the rating assigned by any of such Rating Agencies to the Series A Preferred Stock then outstanding.

(ii) If at any time dividends on the Series A Preferred Stock or any Series A Parity Securities shall not have been declared and paid in an amount equal to three semiannual dividends, whether consecutive or not, the number of directors constituting the Board of Directors of the Bank shall be increased by two and the holders of the Series A Preferred Stock and any Series A Parity Securities with similar voting rights, voting together as a single class, shall be entitled to elect two additional persons to fill such newly created directorships. The directors so elected shall meet the qualifications set forth in the Bank's bylaws and any applicable statutory or regulatory qualifications. At such time as dividends for at least two consecutive Series A Dividend Periods have been fully paid or set apart for full payment on the outstanding Series A Preferred Stock and any Series A Parity Securities with similar voting rights, the rights of such holders to vote for the election of directors as provided in this Section 6.02(i)(ii) shall cease and such directors shall no longer serve on the Board of Directors of the Bank, subject to renewal from time to time in the event of each and every subsequent default in the aggregate amount equivalent of three full semiannual dividends.

During any period when the holders of the Series A Preferred Stock and any Series A Parity Securities have the right to vote as a class for directors as provided above, the directors so elected by the holders of the Series A Preferred Stock and any Series A Parity Securities with similar voting rights shall continue in office until their successors shall have been elected or until termination of the right of the holders of the Series A Preferred Stock and any Series A Parity Securities to vote as a class for directors. For purposes of the foregoing, the holders of the Series A Preferred Stock and any Series A Parity Securities shall vote in proportion to their respective liquidation preference of the shares of such stock held by them.

(iii) With respect to any right of the holders of shares of Series A Preferred Stock to vote on any matter, whether such right is created by this Section 6.02(i), by

applicable law or otherwise, no holder of any share of Series A Preferred Stock shall be entitled to vote, and no share of Series A Preferred Stock shall be deemed to be outstanding for the purpose of voting or determining the number of shares required to constitute a quorum, if prior to or concurrently with a determination of shares entitled to vote or of shares deemed outstanding for quorum purposes, as the case may be, funds sufficient for the redemption of such shares are irrevocably deposited with the Transfer Agent and a Series A Notice of Redemption has been given by the Bank or an affiliate thereof to the holders of the Series A Preferred Stock.

(j) Covenants. So long as any shares of Series A Preferred Stock are outstanding, the Bank covenants and agrees with and for the benefit of the holders of shares of Series A Preferred Stock that:

(i) the Bank shall not, without the affirmative vote or consent of holders of two-thirds of the number of shares of Series A Preferred Stock then outstanding, voting as a separate class:

(A) amend, alter or repeal any provisions of these Restated Articles of Incorporation (existing prior to and at the time of such vote) so as to materially and adversely affect the rights, preferences, privileges or restrictions of the holders of Series A Preferred Stock, except that this subsection (A) shall not apply to steps taken by the Bank to issue and the issuance of other preferred stock by the Bank; or

(B) consolidate, merge, or reclassify with or into any other Person, or permit any merger of another Person into the Bank, or enter into a voluntary liquidation or voluntary dissolution of the Bank or enter into a share exchange with another Person, except that (1) the Bank may consolidate, merge or reclassify with or into another Person or enter into a share exchange with another Person if such other Person is a consolidated subsidiary (in accordance with generally accepted accounting principles) of SunTrust Banks, Inc., or (2) the Bank may consolidate, merge, or reclassify with or into another Person or enter into a share exchange with another Person if (a) such other Person is a Depository Institution or corporation organized under the laws of the United States or of a state of the United States, (b) such other Person expressly assumes all obligations and commitments of the Bank pursuant to such consolidation, merger, reclassification or share exchange, (c) the outstanding shares of Series A Preferred Stock are exchanged for, reclassified as or converted into shares of the surviving Depository Institution or corporation which have preferences, limitations and relative voting and other rights substantially identical to those of the Series A Preferred Stock, (d) after giving effect to such merger, consolidation, reclassification or share exchange, no default, or event which with the giving of notice or passage of time or both could become a default by the Bank of its obligations under these Restated Articles of Incorporation, shall have occurred and be continuing, and (e) the Bank shall have received written notice from each of the

Rating Agencies, and delivered a copy of such written notice to the Transfer Agent, confirming that such merger, consolidation, reclassification or share exchange will not result in a reduction of the rating assigned by any of such Rating Agencies to the Series A Preferred Stock then outstanding; provided that, for purposes of this subsection (B)(2), the Bank shall have delivered to the Transfer Agent and caused to be mailed to each holder of record of Series A Preferred Stock, at least thirty days prior to any such merger, consolidation, reclassification or share exchange becoming effective, a notice describing such merger, consolidation, reclassification or share exchange, together with an Officers' Certificate and an Opinion of Counsel, each stating that such merger, consolidation, reclassification or share exchange complies with the requirements of these Restated Articles of Incorporation and that all conditions precedent herein provided for relating to such transaction have been complied with.

(ii) the Bank will not issue additional shares of Series A Senior Securities or Series A Parity Securities unless the Bank shall have received written notice from each of the Rating Agencies, and delivered a copy of such written notice to the Transfer Agent, confirming that any such issuance will not result in a reduction of the rating assigned by any of such Rating Agencies to the Series A Preferred Stock then outstanding.

Section 6.03. Pursuant to the provisions of this Article VI, a series of Preferred Stock, all designated as the Series B Non-Cumulative Preferred Stock, consisting 9,000 shares, is hereby established and authorized to be issued, and in addition to such matters specified elsewhere in this Article VI, such Series B Non-Cumulative Preferred Stock shall have the following powers, preferences and relative, participating, optional or other special rights and qualifications, limitations or restrictions:

(a) Designation and Amount. The shares of such series of Preferred Stock shall be designated as the Series B Non-Cumulative Preferred Stock ("Series B Preferred Stock"), and the number of shares constituting the Series B Preferred Stock shall be 9,000. The liquidation preference of the Series B Preferred Stock shall be \$100,000 per share ("Series B Liquidation Value").

(b) Maturity. The Series B Preferred Stock has no stated maturity and will not be subject to any sinking fund or ----- mandatory redemption.

(c) Rank. The Series B Preferred Stock shall, with respect to dividend rights and upon liquidation, dissolution ---- and winding up of the Bank, rank (i) senior to all classes and series of Common Stock of the Bank and to all classes and series of equity securities of the Bank now or hereafter authorized, issued or outstanding, which by their terms expressly provide that they are junior to the Series B Preferred Stock as to dividend distributions and distributions upon the liquidation, dissolution or winding up of the Bank, or which do not specify their rank (collectively with the Common Stock, the "Series B

Junior Securities"); (ii) on a parity with the Series A Preferred Stock and each other class or series of equity securities issued by the Bank after the date hereof, the terms of which specifically provide that such class or series will rank on a parity with the Series B Preferred Stock as to dividend distributions and distributions upon the liquidation, dissolution or winding up of the Bank (collectively with the Series A Preferred Stock, the "Series B Parity Securities"); and (iii) junior to each other class or series of equity securities issued by the Bank after the date hereof, the terms of which specifically provide that such class or series will rank senior to the Series B Preferred Stock as to dividend distributions and distributions upon the liquidation, dissolution or winding up of the Bank (collectively, the "Series B Senior Securities"), provided that any such Series B Senior Securities or Series B Parity Securities issued after the date hereof that are not approved by the holders of Series B Preferred Stock as required by Section 6.03(i)(i)(D) hereof shall be deemed to be Series B Junior Securities and not Series B Senior Securities or Series B Parity Securities, as the case may be.

(d) Dividends. Dividends are payable on the Series B Preferred Stock as follows:

(i) The holders of shares of the Series B Preferred Stock in preference to the Series B Junior Securities shall be entitled to receive, out of funds legally available for that purpose, and when, as, and if declared by the Board of Directors of the Bank, preferential non-cumulative dividends payable in cash in an amount determined by applying the annual rate of LIBOR plus 200 basis points to the Series B Liquidation Value (the "Series B Dividend Rate").

(ii) Dividends on the Series B Preferred Stock shall be non-cumulative. Dividends not paid on any Series B Dividend Payment Date shall not accumulate thereafter. Dividends shall accumulate from the first day of any Series B Dividend Period to but excluding the immediately succeeding Series B Dividend Payment Date. Dividends, if and when declared, shall be payable in arrears in cash on each Series B Dividend Payment Date of each year with respect to the Series B Dividend Period ending on the day immediately prior to such Series B Dividend Payment Date at the Series B Dividend Rate per share to holders of record at the close of business on the applicable Record Date, commencing on the Exchange Date with respect to any shares of Series B Preferred Stock issued prior to that Series B Dividend Payment Date; provided that dividends payable on the Series B Preferred Stock on the initial Series B Dividend Payment Date (and any dividend payable for a period less than a full quarterly period) shall be prorated for the period and computed on the basis of a 360-day year and the actual number of days in such Series B Dividend Period; and provided, further, that dividends payable on the Series B Preferred Stock on the initial Series B Dividend Payment Date shall include any accumulated and unpaid dividends on the Series C Non-Cumulative Exchangeable Preferred Stock of the Corporation exchanged for the Series B Preferred Stock as of the Exchange Date for the then current dividend period. Dividends on such Series B Preferred Stock shall be paid only in cash.

(iii) No dividends on shares of Series B Preferred Stock shall be declared by the Board of Directors or paid or set apart for payment by the Board of Directors or paid or set apart for payment by the Bank at such time as the terms and provisions of any agreement of the Bank, including any agreement relating to its indebtedness, prohibits such declaration, payment or setting apart for payment or provides that such declaration, payment or setting apart for payment would constitute a breach thereof or a default thereunder, or if such declaration or payment shall be restricted or prohibited by law.

(iv) Holders of shares of Series B Preferred Stock shall not be entitled to any dividends in excess of full non-cumulative dividends declared, as herein provided, on the shares of Series B Preferred Stock. No interest, or sum of money in lieu of interest, shall be payable in respect of any dividend payment on the shares of Series B Preferred Stock that may be in arrears.

(v) (A) So long as any shares of Series B Preferred Stock are outstanding, no dividends shall be declared, paid or set aside for payment or other distribution upon any Series B Junior Securities (other than dividends or distributions paid in shares of, or options, warrants or rights to subscribe for or purchase shares of, Series B Junior Securities and other than as provided in clause (B) below), nor shall any shares of any Series B Junior Securities or any Series B Parity Securities be redeemed, purchased or otherwise acquired for any consideration (or any moneys be paid to or set aside or made available for a sinking fund for the redemption of any shares of any such stock) by the Bank (except by conversion into or exchange for shares of, or options, warrants or rights to subscribe for or purchase, Series B Junior Securities) whenever, in each case, full non-cumulative dividends on all outstanding shares of the Series B Preferred Stock for the related Series B Dividend Period shall not have been declared and paid, when due, for the four consecutive Series B Dividend Periods terminating on or immediately prior to the date of payment in respect of such dividend, distribution, redemption, purchase or acquisition.

(B) When dividends for any dividend period are not paid in full, as provided in clause (A) above, on the shares of the Series B Preferred Stock or any Series B Parity Securities, dividends may be declared and paid on any such shares for any dividend period therefor, but only if such dividends are declared and paid pro rata so that the amount of dividends declared and paid per share on the shares of the Series B Preferred Stock and any Series B Parity Securities, in all cases shall bear to each other the same ratio that the amount of unpaid dividends per share on the shares of the Series B Preferred Stock for such Series B Dividend Period and such Series B Parity Securities for the corresponding dividend period bear to each other.

(e) Liquidation Preference.

(i) In the event of any voluntary or involuntary liquidation, dissolution or winding up of the affairs of the Bank, the holders of shares of Series B Preferred Stock then outstanding shall be entitled to be paid out of the assets of the Bank available for distribution to its stockholders an amount in cash equal to the Series B Liquidation Value for each share outstanding, plus an amount in cash equal to all accumulated and unpaid dividends thereon for the then current Series B Dividend period, whether or not earned or declared, before any payment shall be made or any assets distributed to the holders of Series B Junior Securities. If the assets of the Bank are not sufficient to pay in full the liquidation payments payable to the holders of outstanding shares of the Series B Preferred Stock and any Series B Parity Securities, then the holders of all such shares shall share ratably in such distribution of assets in accordance with the amount which would be payable on such distribution if the amounts to which the holders of outstanding shares of Series B Preferred Stock and the holders of outstanding shares of such Series B Parity Securities are entitled were paid in full. After payment of the full amount of the liquidation preference, plus any accumulated and unpaid dividends for the then current Series B Dividend Period, to which holders of Series B Preferred Stock are entitled, holders of Series B Preferred Stock will have no right or claim to any remaining assets of the Bank.

(ii) For the purpose of this Section 6.03(e), neither the voluntary sale, conveyance, exchange or transfer (for cash, shares of stock, securities or other consideration) of all or substantially all of the property or assets of the Bank, nor the consolidation or merger of the Bank, shall be deemed to be a voluntary or involuntary liquidation, dissolution or winding up of the Bank, unless such voluntary sale, conveyance, exchange or transfer shall be in connection with a plan of liquidation, dissolution or winding up of the Bank.

(f) Redemption. The Series B Preferred Stock is not redeemable prior to March 31, 2011. On March 31, 2011 and on each Series B Dividend Payment Date thereafter, the Series B Preferred Stock shall be redeemable, in whole or in part, at the option of the Bank, but with the prior written approval of the Federal Reserve and, if approval is then required under any applicable law, rule, guideline or policy, the Georgia Department of Banking and Finance, for cash out of any source of funds legally available, at a redemption price equal to 100% of the Series B Liquidation Value per share plus unpaid dividends thereon accumulated since the immediately preceding Series B Dividend Payment Date (the "Series B Redemption Price"). Any date of such redemption is referred to as the "Series B Redemption Date." If fewer than all the outstanding shares of Series B Preferred Stock are to be redeemed, the Bank will select those to be redeemed by lot or pro rata or by any other method as may be determined by the Board of Directors to be equitable.

(g) Procedure for Redemption.

(i) Upon redemption of the Series B Preferred Stock pursuant to Section 6.03(f) hereof, notice of such redemption (a "Series B Notice of Redemption") shall be mailed by first-class mail, postage prepaid, not less than 30 days nor more than 60 days prior to the Series B Redemption Date to the holders of record of the shares to be redeemed at their respective addresses as they shall appear in the records of the Bank; provided, however, that failure to give such notice or any defect therein or in the mailing thereof shall not affect the validity of the proceeding for the redemption of any shares so to be redeemed except as to the holder to whom the Bank has failed to give such notice or except as to the holder to whom notice was defective. Each such notice shall state: (A) the Series B Redemption Date; (B) the Series B Redemption Price; (C) the place or places where certificates for such shares are to be surrendered for payment of the Series B Redemption Price; and (D) the CUSIP number of the shares being redeemed.

(ii) if a Series B Notice of Redemption shall have been given as aforesaid and the Bank shall have deposited on or before the Redemption Date a sum sufficient to redeem the shares of Series B Preferred Stock as to which a Series B Notice of Redemption has been given in oust with the Transfer Agent with irrevocable instructions and authority to pay the Series B Redemption Price to the holders thereof, or if no such deposit is made, then upon the Series B Redemption Date (unless the Bank shall default in making payment of the Series B Redemption Price), all rights of the holders thereof as stockholders of the Bank by reason of the ownership of such shares (except their right to receive the Series B Redemption Price thereof without interest) shall cease and terminate, and such shares shall no longer be deemed outstanding for any purpose. The Bank shall be entitled to receive, from time to time, from the Transfer Agent the interest, if any, earned on such moneys deposited with it, and the holders of any shares so redeemed shall have no claim to any such interest. In case the holder of any shares of Series B Preferred Stock so called for redemption shall not claim the Series B Redemption Price for its shares within six months after the related Series B Redemption Date, the Transfer Agent shall, upon demand, pay over to the Bank such amount remaining on deposit, and the Transfer Agent shall thereupon be relieved of all responsibility to the holder of such shares, and such holder shall look only to the Bank for payment thereof.

(iii) Not later than 1:30 p.m., Eastern Standard Time, on the Business Day immediately preceding the Series B Redemption Date, the Bank shall irrevocably deposit with the Transfer Agent sufficient funds for the payment of the Series B Redemption Price for the shares to be redeemed on the Series B Redemption Date and shall give the Transfer Agent irrevocable instructions to apply such funds, and, if applicable and so specified in the instructions, the income and proceeds therefrom, to the payment of such Series B Redemption Price. The Bank may direct the Transfer Agent to invest any such available funds, provided that the proceeds of



any such investment will be available to the Transfer Agent in Atlanta, Georgia at the opening of business on such Series B Redemption Date.

(iv) Except as otherwise expressly set forth in this Section 6.03(g), nothing contained in these Restated Articles of Incorporation shall limit any legal right of the Bank to purchase or otherwise acquire any shares of Series B Preferred Stock at any price, whether higher or lower than the Series B Redemption Price, in private negotiated transactions, the over-the-counter market or otherwise.

(v) If the Bank shall not have funds legally available for the redemption of all of the shares of Series B Preferred Stock on any Series B Redemption Date, the Bank shall redeem on the Series B Redemption Date only the number of shares of Series B Preferred Stock as it shall have regally available funds to redeem, as determined in an equitable manner, and the remainder of the shares of Series B Preferred Stock shall be redeemed, at the option of the Bank, on the earliest practicable date next following the day on which the Bank shall first have funds legally available for the redemption of such shares.

(h) Reacquired Shares. Shares of the Series B Preferred Stock that have been redeemed, purchased or otherwise acquired by the Bank are not subject to reissuance or resale as shares of Series B Preferred Stock and shall be held in treasury. Such shares shall revert to the status of authorized but unissued shares of preferred stock, undesignated as to series, until the Board of Directors of the Bank shall designate them again for issuance as part of a series.

(i) Voting Rights. Holders of Series B Preferred Stock will not have any voting rights, except as otherwise from time to time required by law and except as follows:

(i) In addition to any vote or consent of stockholders required by law, the approval of the holders of two-thirds of the outstanding shares of Series B Preferred Stock, voting as a class, shall be required for the Bank: (A) to amend, alter or repeal any of the provisions of these Restated Articles of Incorporation in any manner that would alter or change the powers, preferences or special rights of the shares of Series B Preferred Stock so as to materially and adversely affect them, except as permitted in Section 6.03(j)(i)(A); (B) to authorize the merger, consolidation, or reclassification of the Bank with or into another Person, except as permitted in Section 6.03(j)(i)(B); (C) to dissolve, liquidate or wind up the affairs of the Bank; and (D) to authorize or issue, or obligate itself to authorize or issue, any Series B Senior Securities or Series B Parity Securities, unless, for purposes of this clause (D), the Bank shall have received written notice from each of the Rating Agencies, and delivered a copy of such written notice to the Transfer Agent, confirming that any such issuance of Series B Parity Securities will not result in a reduction of the rating assigned by any of such Rating Agencies to the Series B Preferred Stock then outstanding.

(ii) If at any time dividends on the Series B Preferred Stock or any Series B Parity Securities shall not have been declared and paid in an amount equal to six quarterly dividends, whether consecutive or not, the number of directors constituting the Board of Directors of the Bank shall be increased by two and the holders of the Series B Preferred Stock and any Series B Parity Securities with similar voting rights, voting together as a single class, shall be entitled to elect two additional persons to fill such newly created directorships. The directors so elected shall meet the qualifications set forth in the Bank's bylaws and any applicable statutory or regulatory qualifications. At such time as dividends for at least four consecutive Series B Dividend Periods have been fully paid or set apart for full payment on the outstanding Series B Preferred Stock and any Series B Parity Securities with similar voting rights, the rights of such holders to vote for the election of directors as provided in this Section 6.03(i)(ii) shall cease and such directors shall no longer serve on the Board of Directors of the Bank, subject to renewal from time to time upon the same terms and conditions in the event of each and every subsequent default in the aggregate amount equivalent of six full quarterly dividends.

During any period when the holders of the Series B Preferred Stock and any Series B Parity Securities have the right to vote as a class for directors as provided above, the directors so elected by the holders of the Series B Preferred Stock and any Series B Parity Securities with similar voting rights shall continue in office until their successors shall have been elected or until termination of the right of the holders of the Series B Preferred Stock and any Series B Parity Securities to vote as a class for directors. For purposes of the foregoing, the holders of the Series B Preferred Stock and any Series B Parity Securities shall vote in proportion to their respective liquidation preference of the shares of such stock held by them.

(iii) With respect to any right of the holders of shares of Series B Preferred Stock to vote on any matter, whether such right is created by this Section 6.03(i), by applicable law or otherwise, no holder of any share of Series B Preferred Stock shall be entitled to vote, and no share of Series B Preferred Stock shall be deemed to be outstanding for the purpose of voting or determining the number of shares required to constitute a quorum, if prior to or concurrently with a determination of shares entitled to vote or of shares deemed outstanding for quorum purposes, as the case may be, funds sufficient for the redemption of such shares are irrevocably deposited with the Transfer Agent and a Series B Notice of Redemption has been given by the Bank or an affiliate thereof to the holders of the Series B Preferred Stock.

(j) Covenants. So long as any shares of Series B Preferred Stock are outstanding, the Bank covenants and agrees with and for the benefit of the holders of shares of Series B Preferred Stock that:

(i) the Bank shall not, without the affirmative vote or consent of holders of two-thirds of the number of shares of Series B Preferred Stock then outstanding, voting as a separate class:

(A) amend, alter or repeal any provisions of these Restated Articles of Incorporation (existing prior to and at the time of such vote) so as to materially and adversely affect the rights, preferences, privileges or restrictions of the holders of Series B Preferred Stock, except that this subsection (A) shall not apply to steps taken by the Bank to issue and the issuance of other preferred stock by the Bank; or

(B) consolidate, merge, or reclassify with or into any other Person, or permit any merger of another Person into the Bank, or enter into a voluntary liquidation or voluntary dissolution of the Bank or enter into a share exchange with another Person, except that (1) the Bank may consolidate, merge or reclassify with or into another Person or enter into a share exchange with another Person if such other Person is a consolidated subsidiary (in accordance with generally accepted accounting principles) of SunTrust Banks, Inc., or (2) the Bank may consolidate, merge, or reclassify with or into another Person or enter into a share exchange with another Person if (a) such other Person is a Depository Institution or corporation organized under the laws of the United States or a state of the United States, (b) such other Person expressly assumes all obligations and commitments of the Bank pursuant to such consolidation, merger, reclassification or share exchange, (c) the outstanding shares of Series B Preferred Stock are exchanged for, reclassified as or converted into shares of the surviving Depository Institution or corporation which have preferences, limitations and relative voting and other rights substantially identical to those of the Series B Preferred Stock, (d) after giving effect to such merger, consolidation, reclassification or share exchange, no default, or event which with the giving of notice or passage of time or both could become a default by the Bank of its obligations under these Restated Articles of Incorporation, shall have occurred and be continuing, and (e) the Bank shall have received written notice from each of the Rating Agencies, and delivered a copy of such written notice to the Transfer Agent, confirming that such merger, consolidation, reclassification or share exchange will not result in a reduction of the rating assigned by any of such Rating Agencies to the Series B Preferred Stock then outstanding; provided that, for purposes of this subsection (B)(2), the Bank shall have delivered to the Transfer Agent and caused to be mailed to each holder of record of Series B Preferred Stock, at least thirty days prior to any such merger, consolidation, reclassification or share exchange becoming effective, a notice describing such merger, consolidation, reclassification or share exchange, together with an Officers' Certificate and an Opinion of Counsel, each stating that such merger, consolidation, reclassification or share exchange complies with the requirements of these Restated Articles of Incorporation and that all conditions precedent herein provided for relating to such transaction have been complied with.

(ii) The Bank covenants and agrees with and for the benefit of the holders of shares of Series B Preferred Stock that the Bank will not issue additional shares of Series B Senior Securities or Series B Parity Securities unless the Bank shall have received written notice from each of the Rating Agencies, and delivered a copy of such written notice to the Transfer Agent, confirming that any such issuance will not result in a reduction of the rating assigned by any of such Rating Agencies to the Series B Preferred Stock then outstanding.

Section 6.04. Definitions. For the purpose of Sections 6.02 and 6.03 hereof, the following terms shall have the meanings indicated:

"Business Day" means a day on which the New York Stock Exchange is open for trading and which is not a day on which banking institutions in The City of New York or Atlanta, Georgia are authorized or required by law or executive order to close.

"Calculation Agent" means any Person authorized by the Bank to determine the Series B Dividend Rate, which initially shall be the Bank.

"Corporation" means SunTrust Real Estate Investment Corporation, a Virginia corporation, or any successor thereto.

"Depository Institution" has the meaning given to such term in 12 U.S.C.s.s. 1813(c)(i), or any successor thereto.

"Determination Date" means, with respect to any Series B Dividend Period, the date that is two London Business Days prior to the first day of such Series B Dividend Period.

"Dividend Payment Date" means, as the context requires, a Series A Dividend Payment Date or a Series B Dividend Payment Date.

"Exchange Date" means any date on which the Series B Non-Cumulative Exchangeable Preferred Stock of the Corporation is exchanged for the Series A Preferred Stock or any date on which the Series C Non-Cumulative Exchangeable Preferred Stock of the Corporation is exchanged for the Series B Preferred Stock

"Federal Reserve" means the Board of Governors of the Federal Reserve System, or any successor thereto.

"Issue Date" means, with respect to the Series A Preferred Stock, the first date on which shares of Series A Preferred Stock are issued and with respect to the Series B Preferred Stock, the first date on which shares of the Series B Preferred Stock are issued.

"LIBOR" means, with respect to a Series B Dividend Period relating to a Series B Dividend Payment Date (in the following order of priority):

(i) the rate (expressed as a percentage per annum) for Eurodollar deposits having a three-month maturity that appears on Telerate Page 3750 as of 11:00 a.m. (London time) on the related Determination Date;

(ii) if such rate does not appear on Telerate Page 3750 as of 11:00 a.m. (London time) on the related Determination Date, LIBOR will be the arithmetic mean (if necessary rounded upwards to the nearest whole multiple of .00001%) of the rates (expressed as percentages per annum) for Eurodollar deposits having a three-month maturity that appear on Reuters Monitor Money Rates Page LIBO ("Reuters Page LIBO") as of 11:00 a.m. (London time) on such Determination Date;

(iii) if such rate does not appear on Reuters Page LIBO as of 11:00 a.m. (London time) on the related Determination Date, the Calculation Agent will request the principal London offices of four leading banks in the London interbank market of the Bank's selection to provide such banks' offered quotations (expressed as percentages per annum) to prime banks in the London interbank market for Eurodollar deposits having a three-month maturity as of 11:00 a.m. (London time) on such Determination Date. If at least two quotations are provided, LIBOR will be the arithmetic mean (if necessary rounded upwards to the nearest whole multiple of .00001 %) of such quotations;

(iv) if fewer than two such quotations are provided as requested in clause (iii) above, the Calculation Agent will request four major New York City banks of the Bank's selection to provide such banks' offered quotations (expressed as percentages per annum) to leading European banks for loans in Eurodollars as of 11:00 a.m. (London time) on such Determination Date. If at least two such quotations are provided, LIBOR will be the arithmetic mean (if necessary rounded upwards to the nearest whole multiple of .00001%) of such quotations; and

(v) if fewer than two such quotations are provided as requested in clause (iv) above, LIBOR will be LIBOR determined with respect to the Series B Dividend Period immediately preceding such current Series B Dividend Period.

If the rate for Eurodollar deposits having a three-month maturity that initially appears on Telerate Page 3750 or Reuters Page LIBO, as the case may be, as of 11:00 a.m. (London time) on the related Determination Date is superseded on Telerate Page 3750 or Reuters Page LIBO, as the case may be, by a corrected rate before 12:00 noon (London time) on such Determination Date, the corrected rate as so substituted on the applicable page will be the applicable LIBOR for such Determination Date.

"London Business Day" means any day, other than a Saturday or Sunday, on which commercial banks and foreign exchange markets are open for business, including dealings in foreign exchange and foreign currency deposits, in London.

"Moody's" means Moody's Investors Service, Inc., or its successor, so long as such agency (or successor) is in the business of rating securities of the type of the Series A Preferred Stock or the Series B Preferred Stock.

"Officer's Certificate" means a certificate signed by the President, any Vice President, the Treasurer, any Assistant Treasurer, the Secretary or any Assistant Secretary of the Bank.

"Opinion of Counsel" means a written opinion of counsel, who may be in-house counsel for the Bank.

"Person" means any individual, firm, Depository institution or other entity and shall include any successor (by merger or otherwise) of such entity.

"Rating Agencies" means Moody's (and any successor thereto), Standard & Poor's (and any successor thereto) and any other nationally recognized statistical rating organizations assigning, at the Bank's request, ratings to the shares of Series A Preferred Stock or Series B Preferred Stock.

"Record Date" means the 15th day of the month in which the applicable Dividend Payment Date falls for dividends declared by the Board of Directors.

"Series A Dividend Payment Date" means each March 31 and September 30 of each year.

"Series A Dividend Period" is the period from a Series A Dividend Payment Date to, but excluding, the next succeeding Series A Dividend Payment Date; provided, however, that the initial Series A Dividend Period is the period from the Issue Date of the Series B Preferred Stock to the next succeeding Series A Dividend Payment Date.

"Series A Dividend Rate" has the meaning set forth in Section 6.02(d)(i) hereof.

"Series A Junior Securities" has the meaning set forth in Section 6.02(c) hereof.

"Series A Liquidation Value" has the meaning set forth in Section 6.02(a) hereof.

"Series A Notice of Redemption" has the meaning set forth in Section 6.02(g)(i) hereof.

"Series A Parity Securities" has the meaning set forth in Section 6.02(c) hereof.

"Series A Preferred Stock" has the meaning set forth in Section 6.02(a) hereof.

"Series A Redemption Date" has the meaning set forth in Section 6.02(f) hereof.

"Series A Redemption Price" has the meaning set forth in Section 6.02(f) hereof.

"Series A Senior Securities" has the meaning set forth in Section 6.02(c) hereof

"Series B Dividend Payment Date" means each March 31, June 30, September 30 and December 31 of each year.

"Series B Dividend Period" is the period from a Series B Dividend Payment Date to, but excluding, the next succeeding Series B Dividend Payment Date; provided, however, that the initial Series B Dividend Period is the period from the Issue Date of the Series B Preferred Stock to the next succeeding Series B Dividend Payment Date.

"Series B Dividend Rate" has the meaning set forth in Section 6.03(d)(i) hereof.

"Series B Junior Securities" has the meaning set forth in Section 6.03(c) hereof.

"Series B Liquidation Value" has the meaning set forth in Section 6.03(a) hereof.

"Series B Notice of Redemption" has the meaning set forth in Section 6.03(g)(i) hereof.

"Series B Parity Securities" has the meaning set forth in Section 6.03(c) hereof.

"Series B Preferred Stock" has the meaning set forth in Section 6.03(a) hereof.

"Series B Redemption Date" has the meaning set forth in Section 6.03(f) hereof

"Series B Redemption Price" has the meaning set forth in Section 6.03(f) hereof,

"Series B Senior Securities" has the meaning set forth in Section 6.03(c) hereof,

"Standard & Poor's" means Standard & Poor's Ratings Group, a division of the McGraw-Hill Companies, Inc. or its successor, so long as such agency (or successor) is in the business of rating securities of the type of the Series A Preferred Stock or the Series B Preferred Stock.

"Transfer Agent" means a bank or trust company as may be appointed from time to time by the Board of Directors of the Bank, or a committee thereof, to act as transfer agent, paying agent and registrar of the Series A Preferred Stock and the Series B Preferred Stock.

Section 6.05. Authority is hereby expressly granted to the Board of Directors from time to time to issue additional Preferred Stock, for such consideration and on such terms as it may determine, as Preferred Stock of one or more series and in connection with the creation of any such series to fix by the resolution or resolutions providing for the issue of shares thereof the designation, powers and relative participating, optional, or other special rights of such series, and the qualifications, limitations, or restrictions thereof.

#### Article VII

No stockholder shall have any preemptive right to subscribe for or to purchase any shares or other securities issued by the Bank.

#### Article VIII

The number of directors shall be not less than eleven nor more than twenty-five, which number shall be fixed as provided by law.

#### Article IX

Section 9.01. No director of the Bank shall be personally liable to the shareholders of the Bank for monetary damages for breach of his duty of care or other duty as a director, provided that this provision shall eliminate or limit the liability of a director only to the maximum extent permitted from time to time by the Financial Institutions Code of Georgia or any successor law or laws-

Section 9.02. Any repeal or modification of clause (a) of this Article IX by the shareholders of the Bank shall not adversely affect any right or protection of a director of the Bank existing at the time of such repeal or modification.



IN WITNESS WHEREOF, SunTrust Bank has caused these Restated Articles of Incorporation to be executed and its corporate seal to be affixed and has caused the foregoing to be attested, all by its duly authorized officers on this 8th day of August, 2000.

SUNTRUST BANK

By: /s/ L. Phillip Humann

-----  
Name: L. Phillip Humann  
Title: Chairman of the Board, President and Chief  
Executive Officer

By: /s/ John W. Spiegel

-----  
Name: John W. Spiegel  
Title: Executive Vice President and Chief Financial  
Officer

(SEAL)

Attest: /s/ Raymond D. Fortin

-----  
Name: Raymond D. Fortin  
Title: Corporate Secretary

EXHIBIT 2 TO FORM T-1  
CERTIFICATE OF AUTHORITY  
OF  
SUNTRUST BANK TO COMMENCE BUSINESS  
  
(Included in Exhibit 1)

EXHIBIT 3 TO FORM T-1

AUTHORIZATION  
OF  
SUNTRUST BANK TO EXERCISE  
CORPORATE TRUST POWERS

(Included in Exhibit 1)

EXHIBIT 4 TO FORM T-1

BY-LAWS  
OF  
SUNTRUST BANK

(Attached)

SUNTRUST BANK  
BYLAWS

(As Amended and Restated February 13, 2001)

ARTICLE I  
SHAREHOLDERS

SECTION 1. ANNUAL MEETING. The annual meeting of the shareholder for the election of Directors and for the transaction of such other business as may properly come before the meeting shall be held at such place, on such date and at such time as the Board of Directors may by resolution provide. If the Board of Directors fails to provide such date and time, the meeting shall be held at the Bank's headquarters at 10:00 AM local time on the third Tuesday in April of each year, or, if that date is a legal holiday, on the next succeeding business day. The Board of Directors may specify by resolution prior to any special meeting of the shareholder that such meeting shall be in lieu of the annual meeting.

SECTION 2. SPECIAL MEETING; CALL OF MEETINGS. Special meetings of the shareholder may be called at any time by the Chairman of the Board, the President, or the Board itself, and shall be held at such place as is stated in the notice.

ARTICLE II  
DIRECTORS

SECTION 1. BOARD OF DIRECTORS. The Board of Directors shall manage the business and affairs of the Bank and may exercise all of the powers of the Bank, subject to whatever restrictions are imposed by law.

SECTION 2. COMPOSITION OF THE BOARD. The Board of Directors of the Bank shall consist of not less than ten (10) nor more than twenty (20) natural persons, the exact number to be set from time to time by the Board of Directors. In the absence of the Board setting the number of Directors, the number shall be sixteen (16). Each Director, unless he or she dies, resigns, retires or is removed from office, shall hold office until the next annual meeting of the shareholder, and may be reelected for successive terms.

SECTION 3. ELECTION OF DIRECTORS. Nominations for election to the Board of Directors may be made by the Board, or by the Bank's shareholder. Nominations shall specify the class of Directors to which each person is nominated.

SECTION 4. VACANCIES. Vacancies resulting from retirement, resignation, removal from office (with or without cause), death or an increase in the number of Directors comprising the Board, shall be filled by the Board of Directors. Any Director so elected shall hold office until the next annual meeting of the shareholder. No decrease in the number of Directors constituting the Board of Directors shall shorten the term of any incumbent Director.

SECTION 5. RETIREMENT. Each Director serving as an officer of the Bank or any of its affiliates shall cease to be a Director on the date of the first to occur of (a) his or her 65th birthday, or (b) the date of his or her termination, resignation or retirement of employment. Each Director who is not an officer of the Bank or any of its affiliates shall cease to be a Director at the end of his or her term that coincides with or follows his or her 70th birthday.

SECTION 6. REMOVAL. Any or all Directors may be removed from office at any time with or without cause, by the affirmative vote of the shareholder.

SECTION 7. RESIGNATIONS. Any Director may resign at any time by giving written notice to the Chairman of the Board, the President or the Corporate Secretary. Such resignation shall take effect when delivered unless the notice specifies a later effective date, and the acceptance of the resignation shall not be necessary to make it effective, unless otherwise stated in the resignation.

ARTICLE III  
ACTION OF THE BOARD OF DIRECTORS; COMMITTEES

SECTION 1. QUORUM; VOTE REQUIREMENT. A majority of the Directors holding office shall constitute a quorum for the transaction of the Board's business. If a quorum is present, a vote of a majority of the Directors present at such time shall be the act of the Board of Directors, unless a greater vote is required by law, the Articles of Incorporation or these Bylaws.

SECTION 2. EXECUTIVE COMMITTEE. An Executive Committee, consisting of not less than four (4) Directors, is hereby established. The members of the Executive Committee shall be elected by the Board at its meeting immediately following the annual shareholder's meeting, or at such other time as the Board determines to be appropriate. The Executive Committee shall have and may exercise all the authority of the Board as permitted by law. In addition, the Executive Committee shall serve as the Nominating Committee and shall have the power to recommend candidates for election to the Board and consider other issues related to the size and composition of the Board. The Board shall elect the Chairman of the Executive Committee, who shall be entitled to preside at all meetings of the Executive Committee and perform such other duties as may be designated by the Committee.

SECTION 3. AUDIT COMMITTEE. An Audit Committee, consisting of not less than four (4) Directors, is hereby established. No director who is an officer of the Bank or any affiliate shall be a member of the Audit Committee. The members of the Audit Committee shall be elected by the Board at its meeting immediately following the annual shareholder's meeting, or at such other time as the Board determines to be appropriate. The Audit Committee shall require that an audit of the books and records of the affairs of the Bank be made at such time or times as the members of the Audit Committee choose, and shall review the scope of the audit and approve of any non-audit services to be performed for the Bank by the independent accountants. The Audit Committee shall also review examination reports by the independent accountants and regulatory agencies; review credit issues, loan policies and procedures, the classification of loans and the adequacy of the allowance for loan losses; monitor the credit process review function; review the Bank's CRA policy, plans and performance; review internal

programs to assure compliance with laws and regulations and the adequacy of internal controls, and exercise oversight for the Bank's fiduciary actions and duties. The Board shall elect the Chairman of the Audit Committee who shall be entitled to preside at all meetings of the Committee and perform such other duties as may be designated by the Committee.

SECTION 4. OTHER COMMITTEES. The Board of Directors may designate one or more other committees, each consisting of one or more Directors, and each of which, to the extent permitted by law and provided in the resolution establishing such committee, shall have and may exercise all authority of the Board of Directors.

SECTION 5. COMMITTEE MEETINGS. Regular meetings of each committee, of which no notice is necessary, shall be held at such times and places as fixed, from time to time, by resolution adopted by the committee. Special meetings of any committee may be called at any time by the Chairman of the Board or the (resident, by the Chairman of such committee or by two members of the committee. Notice of any special meeting of any committee may be given in the manner provided in the Bylaws for giving notice of a special meeting of the Board of Directors. However, notice of any special meeting need not be given to any member of the committee who is present at the meeting or who, before or after the meeting, waives notice in writing (including telegram, cablegram, facsimile, or radiogram). Any regular or special meeting of any committee shall be a legal meeting, without any notice being given, of all the members are present. A majority of the members of any committee shall constitute a quorum for the transaction of business, and the act of a majority of those present at any meeting at which a quorum is present shall be the act of the committee.

SECTION 6. COMMITTEE RECORDS. Each committee shall keep a record of its acts and proceedings and shall report them from time to time to the Board of Directors.

SECTION 7. ALTERNATE MEMBERS; VACANCIES. The Board of Directors may designate one or more Directors as alternate members of any committee, to act in the place and stead of one or more members who are absent from such committee. The Board of Directors may fill any vacancy or vacancies occurring in any committee.

SECTION 8. PLACE, TIME, NOTICE AND CALL OF DIRECTORS' MEETINGS. The annual meeting of the Board of Directors shall be held each year immediately following the annual meeting of the shareholder or at such other time and place as the Chairman of the Board may designate. Regular meetings of the Board of Directors shall be held at such times and places as the Board of Directors may determine from time to time. Regular meetings of the Board of Directors may be held without notice. Special meetings of the Board of Directors shall be held upon notice of the date, time and place of the meeting as given to each Director orally, by telephone or in person, or in writing, by personal delivery or by mail, telegram, facsimile, or cablegram. Notice of special meetings shall be given no later than the day before the meeting, except that notice of a special meeting need not be given to any Director who signs and delivers to the Bank, either before or after the meeting, a waiver of notice. Attendance of a Director at a Board meeting shall constitute a waiver of notice of that meeting, as well as a waiver of any and all objections to the place of the meeting, the time of

the meeting, or the manner in which it has been called or convened, except when a Director states, at the beginning of the meeting (or promptly upon his or her arrival), any such objection or objections to the transaction of business and thereafter does not vote for or assent to action taken at the meeting. The business to be transacted at, and the purpose of, any regular or special meeting of the Board of Directors need not be specified in the notice or waiver of notice of the meeting unless required by law or these Bylaws.

A majority of the Directors present, whether or not a quorum exists, may adjourn any meeting of the Board of Directors to another time and place. No notice of any adjourned meeting need be given. Meetings of the Board of Directors may be called by the Chairman of the Board, the President or any two Directors.

SECTION 9. ACTION BY DIRECTORS WITHOUT A MEETING; PARTICIPATION IN MEETING BY TELEPHONE. Except as limited by law, any action to be taken at a meeting of the Board, or by any committee of the Board, may be taken without a meeting if written consent, setting forth the action so taken, shall be signed by all the members of the Board or such Committee and shall be filed with the minutes of the proceedings of the Board or such committee. Such written consent shall have the same force and effect as a unanimous vote of the Board or such committee and any document executed on behalf of the Corporation may recite that the action was duly taken at a meeting of the Board or such committee.

Participation at Board and committee meetings may occur by conference telephone or similar communication equipment so long as all persons participating in the meeting can hear and speak to one other, and such participation shall constitute personal presence at the meeting.

SECTION 10. DIRECTORS' COMPENSATION. The Board of Directors shall have authority to determine, from time to time, the amount of compensation paid to its members for attendance at meetings of, or services on, the Board or any committee thereof. The Board shall also have the power to reimburse Directors for reasonable expenses of attendance at Directors' meetings and committee meetings.

#### ARTICLE IV OFFICERS

SECTION 1. EXECUTIVE STRUCTURE. The Board of Directors shall elect a Chairman of the Board, President, Chief Financial Officer, Corporate Secretary and Treasurer, and may elect one or more Vice Chairmen and Executive Vice Presidents as the Board of Directors may deem necessary. The Board of Directors shall designate a Chief Executive Officer from among these officers. The Chief Executive Officer shall designate duties of each designated officer and may appoint assistant officers, to assist one or more of the designated officers in discharging their duties. Titles of the assistant officers will be designated by the Chief Executive Officer as he or she deems appropriate. The Chief Executive Officer may also appoint other officers and may delegate the authority to appoint officers to other officers of the Bank. The local or regional boards or the local or regional chief executive officers or their designees may appoint officers of SunTrust Bank. Each officer elected by the Board and each officer appointed by the Chief Executive Officer or his or her designee shall serve



until the next annual meeting of the Board, or until he or she earlier resigns, retires, dies or is removed from office. Any two or more offices may be held by the same person.

SECTION 2. CHIEF EXECUTIVE OFFICER. The Chief Executive Officer shall be the most senior officer of the Bank and all other officers and agents of the Bank shall be subject to his or her direction. He or she shall be accountable to the Board of Directors for the fulfillment of his or her duties and responsibilities and, in the performance and exercise of all such duties, responsibilities and powers, he or she shall be subject to the supervision and direction of, and any limitations imposed by, the Board of Directors. The Chief Executive Officer shall be responsible for interpretation and implementation of the policies of the Bank as determined and specified from time to time by the Board of Directors, and shall be responsible for the general management and direction of the business and affairs of the Bank. For the purpose of Fulfilling his or her duties and responsibilities and subject to these Bylaws and the direction of the Board, the Chief Executive Officer shall have plenary authorities and powers, including general executive powers, the authority to delegate and assign duties, responsibilities and authorities, and, in the name of the Bank and on its behalf, the authority to negotiate and make any agreements, waivers or commitments that do not require the express approval of the Board.

SECTION 3. CHAIRMAN OF THE BOARD. The Chairman shall be a member of the Board of Directors and shall be entitled to preside at all meetings of the Board.

SECTION 4. PRESIDENT. The President shall have such powers and perform such duties as may be assigned by the Board of Directors, the Chairman of the Board or the Chief Executive Officer.

SECTION 5. VICE CHAIRMAN. Any Vice Chairman elected shall have such duties and authority as may be conferred upon him by the Board or delegated to him by the Chief Executive Officer.

SECTION 6. CHIEF FINANCIAL OFFICER. The Chief Financial Officer shall have the care, custody, control and handling of the funds and assets of the Bank, and shall render a statement of the assets, liabilities and operations of the Bank to the Board at its regular meetings.

SECTION 7. TREASURER. The Treasurer shall perform such duties as may be assigned to him or her and shall report to the Chief Financial Officer or, in the absence of the Chief Financial Officer, to the President.

SECTION 8. CORPORATE SECRETARY. Due notice of all meetings of the shareholder and Directors shall be given by the Corporate Secretary or the person or persons calling such meeting. The Corporate Secretary shall report the proceedings of all meetings in a book of minutes and shall perform all the duties pertaining to his or her office, including authentication of corporate documents, and shall have custody of the Seal of the Bank. Each Assistant Corporate Secretary appointed by the Chief Executive Officer or his or her designee may perform all duties of the Corporate Secretary.

SECTION 9. BANK OFFICERS. Each officer, employee and agent of the Bank shall have the duties and authority conferred upon him or her by the Board of Directors or delegated to him or her by the Chief Executive Officer, or his or her designee.

SECTION 10. REMOVAL OF OFFICERS. Any officer maybe removed by the Board of Directors with or without cause whenever, in its judgment, the best interests of the Bank will be served thereby. In addition, an officer of the Bank shall cease to be an officer upon ceasing to be an employee of the Bank or its affiliates.

ARTICLE V  
STOCK

SECTION 1. STOCK CERTIFICATES. The shares of stock of the Bank shall be represented by certificates in such form as may be approved by the Board of Directors, which certificates shall be issued to the shareholder of the Bank and shall be signed by the Chairman of the Board, or the President, together with the Corporate Secretary or an Assistant Secretary of the Bank; and which shall be sealed with the seal of the Bank. The described signatures on any certificate may be a facsimile signature if the certificate is countersigned by a transfer agent or registrar other than the Bank itself or an employee of the Bank. No share certificates shall be issued until consideration for the shares represented thereby has been fully paid. If any officer who has signed or whose facsimile signature has been placed upon a certificate ceases to be such officer before such certificate is issued, it may be issued by the Bank with the same effect as if he or she was such officer at the date of issue.

SECTION 2. TRANSFER OF STOCK. Shares of stock of the Bank shall be transferred on the books of the Bank only upon surrender to the Bank of the certificate or certificates representing the shares to be transferred, accompanied by an assignment in writing of such shares, properly executed by the shareholder of record or his or her duly authorized attorney-in-fact, and after payment of all taxes due upon the transfer. The Bank may refuse any requested transfer until furnished evidence satisfactory to it that such transfer is proper. Upon the surrender of a certificate for transfer of stock, such certificate shall be marked on its face "Canceled". The Board of Directors may make such additional rules concerning the issuance, transfer and registration of stock and requirements regarding the establishment of lost, destroyed or wrongfully taken stock certificates (including any requirement of an indemnity bond prior to issuance of any replacement certificate and provision for appointment of a transfer agent and a registrar) as it deems appropriate.

SECTION 3. REGISTERED SHAREHOLDER. The Bank may deem and treat the holder of record of any stock as the absolute owner thereof for all purposes and shall not be required to take any notice of any right or claim of right of any other person.

SECTION 4. RECORD DATE. For the purpose of determining the shareholder entitled to notice of, or to vote at, any meeting of shareholder or any adjournment thereof, or entitled to receive payment of any dividend, or in order to make a determination of the shareholder for any other purpose, the Board of Directors

may fix, in advance, a date as the record date for determination of the shareholder.

ARTICLE VI  
DEPOSITORIES, SIGNATURES AND SEAL

SECTION 1. DEPOSITORIES. All funds of the Bank shall be deposited in the name of the Bank in such bank, banks, or other financial institutions as the Board of Directors may from time to time designate and shall be drawn out on checks, drafts or other orders signed on behalf of the Bank by such person or persons as the Board, its Executive Committee or the Chief Executive Officer may, from time to time, direct.

SECTION 2. SEAL. The seal of the Bank shall be in such form as the Board of Directors may, from time to time, direct. Unless otherwise directed by the Board of Directors, the official seal of the Bank shall be as follows:

If the seal is affixed to a document, the signature of the Corporate Secretary or his or her designee shall attest to the seal. The seal and its attestation may be lithographed or otherwise printed on any document and shall have, to the extent permitted by law, the same force and effect as if it has been affixed and attested manually.

SECTION 3. EXECUTION, OF INSTRUMENTS. All bills, notes, checks, and other instruments for the payment of money, all agreements, indentures, mortgages, deeds, conveyances, transfers, certificates, declarations, receipts, discharges, releases, satisfactions, settlements, petitions, schedules, accounts, affidavits, bonds, undertakings, proxies and other instruments or documents may be signed, executed, acknowledged, verified, delivered, or accepted on behalf of the Bank by the Chairman of the Board, the President, any Vice Chairman, Executive Vice President, Senior Vice President or Vice President, the Secretary or the Treasurer. Any such instrument may also be signed, executed, acknowledged, verified, delivered or accepted on behalf of the Bank in such manner and by such other officers, employees or agents of the Bank as the Board of Directors, Executive Committee or Chief Executive Officer may, from time to time, direct.

ARTICLE VII  
INDEMNIFICATION OF OFFICERS, DIRECTORS, AND EMPLOYEES

SECTION 1. DEFINITIONS. The following terms are defined, for purposes of this Article, as:

(A) "Bank" includes any domestic or foreign predecessor entity of this Bank in merger or other transaction in which the predecessor's existence ceased upon consummation of the transaction.

(B) "Director" means an individual who is or was a director of the Bank or an individual who, while a director of the Bank, is or was serving at the Bank's request as director, officer, partner, trustee, employee, or agent of another foreign or domestic corporation, partnership, joint venture, trust, employee benefit plan, or other entity. A Director is considered to be serving an employee benefit plan at the Bank's request if his or her duties to the Bank also impose duties on, or otherwise involve services by, him or her to the plan or to participants in or beneficiaries of the plan. Director includes, unless the context requires otherwise, the estate or personal representative of a Director.

(C) "Disinterested Director" means a Director who, at the time of a vote referred to in Section 3(C) or a vote or selection referred to in Section 4(B), 4(C) or 7(A) is not: (i) a party to the proceedings; or (ii) an individual who is a party to a proceeding having a familial, financial, professional, or employment relationship with the Director whose indemnification or advance for expenses is the subject of the decision being made with respect to the proceeding, which relationship would, in the circumstances, reasonably be expected to exert an influence on the Director's judgement when voting on the decision being made.

(D) "Employee" means an individual who is or was an employee of the Bank or an individual who, while an employee of the Bank, is or was serving at the Bank's request as a director, officer, partner, trustee, employee, or agent of another foreign or domestic corporation, partnership, joint venture, trust, employee benefit plan, or other enterprise. An Employee is considered to be serving an employee benefit plan at the Bank's request if his or her duties to the Bank also imposes duties on, or otherwise involves services by, him or her to the plan or to participants in or beneficiaries of the plan. Employee includes, unless the context requires otherwise, the estate or personal representative of an Employee.

(E) "Expenses" includes counsel fees.

(F) "Liability" means the obligation to pay a judgment, settlement, penalty, one (including an excise tax assessed with respect to an employee benefit plan), or reasonable expenses incurred with respect to a proceeding.

(G) "Officer" means an individual who is or was an officer of the Bank, including an assistant officer, or an individual who, while an officer of the Bank, is or was serving at the Bank's request as a director, officer, partner, trustee, employee or agent of another foreign or domestic corporation, partnership, joint venture, trust, employee benefit plan, or other entity. An Officer is considered to be serving an employee benefit plan at the Bank's request if his or her duties to the Bank also impose duties on, or otherwise involve services by, him or her to the plan or to participants in or beneficiaries of the plan. Officer includes, unless the context requires otherwise, the estate or personal representative of an Officer.

(H) "Official Capacity" means: (i) when used with respect to a director, the office of a director in a corporation; and (ii) when used with respect to an officer, the office in a corporation held by the officer. Official Capacity does not include service for any other domestic or foreign corporation or any partnership, joint venture, trust, employee benefit plan, or other entity.

(I) "Party" means an individual who was, is, or is threatened to be made, a named defendant or respondent in a proceeding.

(J) "Proceeding" means any threatened, pending or completed action, suit, or proceeding, whether civil, criminal, administrative, arbitratative or investigative and whether formal or informal.

Section 2. BASIC INDEMNIFICATION ARRANGEMENT. (A) Except as provided in subsections 2(D) and 2(E) below and, if required by Section 4 below, upon a determination pursuant to Section 4 in the specific case that such indemnification is permissible in the circumstances under this subsection because the individual has met the standard of conduct set forth in this subsection (A), the Bank shall indemnify an individual who is made a party to a proceeding because he or she is or was a Director or Officer against liability incurred by him or her in the proceeding if he or she conducted himself or herself in good faith and, in the case of conduct in his or her official capacity, he or she reasonably believed such conduct was in the best interest of the Bank, or in all other cases, he or she reasonably believed such conduct was at least not opposed to the best interests of the Bank and, in the case of any criminal proceeding, he or she had no reasonable cause to believe the conduct was unlawful.

(B) A person's conduct with respect to an employee benefit plan for a purpose he or she believes in good faith to be in the interests of the participants in and beneficiaries of the plan is conduct that satisfies the requirement of subsection 2(A) above.

(C) The termination of a proceeding by judgment, order, settlement or conviction, or upon a plea of nolo contendere or its equivalent, is not, of itself, determinative that the proposed indemnitee did not meet the standard of conduct set forth in subsection 2(A) above.

(D) The Bank shall not indemnify a person under this Article (i) in connection with a proceeding by or in the right of the Bank, except for reasonable expenses incurred in connection with the proceeding if it is determined that such person has met the relevant standard of conduct under this Section, or (ii) with respect to conduct for which such person was adjudged liable on the basis that personal benefit was improperly received by him or her, whether or not involving action in his official capacity.

SECTION 3. ADVANCES FOR EXPENSES. (A) The Bank may advance funds to pay for or reimburse the reasonable expenses incurred by a Director or Officer who is a party to a proceeding because he or she is a Director or Officer in advance of final disposition of the proceeding if (i) such person furnishes the Bank a written affirmation of his or her good faith belief that he or she has met the relevant standard of conduct set forth in subsection 2(A) above or that the proceeding involves conduct for which liability has been eliminated under the Bank's Articles of Incorporation; and (ii) such person furnishes the Bank a written undertaking meeting the qualifications set forth below in subsection 3(B), executed personally or on his or her behalf, to repay any funds advanced if it is ultimately determined that he or she is not entitled to any indemnification under this Article or otherwise.

(B) The undertaking required by subsection 3(A)(ii) above must be an unlimited general obligation of the Director or Officer but need not be secured and shall be accepted without reference to financial ability to make repayment.

(C) Authorizations under this Section shall be made: (i) by the Board of Directors (a) when there are two or more Disinterested Directors, by a majority vote of all Disinterested Directors (a majority of whom shall for such purpose constitute a quorum) or by a majority of the members of a committee of two or more Disinterested Directors appointed by such a vote; or (b) when there are fewer than two Disinterested Directors, by a majority of the Directors present in a meeting in which Directors who do not qualify as Disinterested Directors may participate; or (ii) by the shareholder.

#### SECTION 4. AUTHORIZATION OF AND DETERMINATION OF ENTITLEMENT TO INDEMNIFICATION.

(A) The Bank shall not indemnify a Director or Officer under Section 2 above unless authorized thereunder and a determination has been made for a specific proceeding that indemnification of such person is permissible in the circumstances because he or she has met the relevant standard of conduct set forth in subsection 2(A) above; provided, however, that regardless of the result or absence of any such determination, to the extent that a Director or Officer has been wholly successful, on the merits or otherwise, in the defense of any proceeding to which he or she was a party because he or she is or was a Director or Officer, the Bank shall indemnify such person against reasonable expenses incurred by him or her in connection therewith.

(B) The determination referred to in subsection 4(A) above shall be made (i) if there are two or more Disinterested Directors, by a majority vote of all the Disinterested Directors (a majority of whom shall for such purpose constitute a quorum) or by a majority of the members of a committee of two or more Disinterested Directors appointed by such a vote; (ii) by special legal counsel (1) selected by the Board of Directors or its committee in the manner prescribed in subdivision (i), or (2) if there are fewer than two Disinterested Directors, selected by the Board of Directors (in which selection Directors who do not qualify as Disinterested Directors may participate); or (iii) by the shareholder; but shares owned by or voted under the control of a Director who at the time does not qualify as a Disinterested Director may not be voted on the determination.

(C) Authorization of indemnification or an obligation to indemnify, and evaluation as to reasonableness of expenses of a Director or Officer in the specific case shall be made in the same manner as the determination that indemnification is permissible, as described in subsection 4(B) above, except that if there are fewer than two Disinterested Directors or if the determination is made by special legal counsel, authorization of indemnification and evaluation as to reasonableness of expenses shall be made by those entitled under subsection 4(B)(ii)(2) above to select counsel.

(D) The Board of Directors, a committee thereof, or special legal counsel acting pursuant to subsection (B) above or Section 5 below, shall act expeditiously upon an application for indemnification or advances, and cooperate in the

procedural steps required to obtain a judicial determination under Section 5 below.

(E) The Bank may, by a provision in its Articles of Incorporation or Bylaws or in a resolution adopted or a contract approved by its Board of Directors or shareholder, obligate itself in advance of the act or omission giving rise to a proceeding to provide indemnification or advance funds to pay for or reimburse expenses consistent with this part. Any such obligatory provision shall be deemed to satisfy the requirements referred to in Section 3(C) or Section 4(C).

SECTION 5. COURT-ORDERED INDEMNIFICATION AND ADVANCES FOR EXPENSES. A Director or Officer who is a party to a proceeding because he or she is a Director or Officer may apply for indemnification or advances for expenses to the court conducting the proceeding or to another court of competent jurisdiction. After receipt of an application and after giving any notice it considers necessary, the court shall order indemnification or advances for expenses if it determines that: (i) the Director is entitled to indemnification under this part; or (ii) in view of all the relevant circumstances, it is fair and reasonable to indemnify the Director or Officer or to advance expenses to the Director or Officer, even if the Director or Officer has not met the relevant standard of conduct set forth in subsection 2(A) above, failed to comply with Section 3, or was adjudged liable in a proceeding referred to in subsections (i) or (ii) of Section 2(D), but if the Director or Officer was adjudged so liable, the indemnification shall be limited to reasonable expenses incurred in connection with the proceeding, unless the Articles of Incorporation of the Bank or a Bylaw, contract or resolution approved or ratified by the shareholder pursuant to Section 7 below provides otherwise.

If the court determines that the Director or Officer is entitled to indemnification or an advance for expenses, it may also order the Bank to pay the Director's or Officer's reasonable expenses to obtain court-ordered indemnification or advance for expenses.

SECTION 6. INDEMNIFICATION OF OFFICERS AND EMPLOYEES. (A) Unless the Bank's Articles of Incorporation provide otherwise, the Bank shall indemnify and advance expenses under this Article to an employee of the Bank who is not a Director or Officer to the same extent, consistent with public policy, as to a Director or Officer.

(B) The Bank may indemnify and advance expenses under this Article to an officer of the Bank who is a party to a proceeding because he or she is an Officer of the Bank: (i) to the same extent as a Director; and (ii) if he is not a Director, to such further extent as may be provided by the Articles of Incorporation, the Bylaws, a resolution of the Board of Directors, or contract except for liability arising out of conduct that is enumerated in subsections (A)(i) through (A)(iv) of Section 7. The provisions of this Section shall also apply to an Officer who is also a director if the sole basis on which he or she is made a party to the proceeding is an act or omission solely as an Officer.

SECTION 7. SHAREHOLDER APPROVED INDEMNIFICATION. (A) If authorized by the Articles of Incorporation or a Bylaw, contract or resolution approved or ratified by shareholder of the Bank, the Bank may indemnify or obligate itself to indemnify a person made a party to a proceeding, including a proceeding

brought by or in the right of the Bank, without regard to the limitations in other sections of this Article, but shares owned or voted under the control of a Director who at the time does not qualify as a Disinterested Director with respect to any existing or threatened proceeding that would be covered by the authorization may not be voted on the authorization. The Bank shall not indemnify a person under this Section 7 for any liability incurred in a proceeding in which the person is adjudged liable to the Bank or is subjected to injunctive relief in favor of the Bank: (i) for any appropriation, in violation of his duties, of any business opportunity of the Bank; (ii) for acts or omissions which involve intentional misconduct or a knowing violation of law; (iii) for the types of liability set forth in Section 14-2-832 of the Georgia Business Corporation Code; or (iv) for any transaction from which he or she received an improper personal benefit.

(B) Where approved or authorized in the manager described in subsection 7(A) above, the Bank may advance or reimburse expenses incurred in advance of final disposition of the proceeding only if (i) the proposed indemnitee furnishes the Bank a written affirmation of his good faith belief that his or her conduct does not constitute behavior of the kind described in subsection 7(A)(i)-(iv) above; and (ii) the proposed indemnitee furnishes the Bank a written undertaking, executed personally, or on his or her behalf, to repay any advances if it is ultimately determined that he or she is not entitled to indemnification.

SECTION 8. LIABILITY INSURANCE. The Bank may purchase and maintain insurance on behalf of an individual who is a Director, Officer, Employee, or agent of the Bank or who, while a director, officer, employee, or agent of the Bank, is or was serving at the request of the Bank as a director, officer, partner, trustee, employee, or agent of another foreign or domestic corporation, partnership, joint venture, trust, employee benefit plan, or other entity against liability asserted against or incurred by him in that capacity or arising from his status as a director, officer, employee, or agent, whether or not the Bank would have power to indemnify him against the same liability under Section 2 or Section 3 above.

SECTION 9. WITNESS FEES. Nothing in this Article shall limit the Bank's power to pay or reimburse expenses incurred by a person in connection with his appearance as a witness in a proceeding at a time when he is not a party.

SECTION 10. REPORT TO SHAREHOLDERS. If the Bank indemnifies or advances expenses to a Director in connection with a proceeding by or in the right of the Bank, the Bank shall report the indemnification or advance, in writing, to the shareholder.

SECTION 11. SEVERABILITY. In the event that any of the provisions of this Article (including any provision within a single section, subsection, division or sentence) is held by a court of competent jurisdiction to be invalid, void or otherwise unenforceable, the remaining provisions of this Article shall remain enforceable to the fullest extent permitted by law.

SECTION 12. INDEMNIFICATION NOT EXCLUSIVE. The rights of indemnification provided in this Article VII shall be in addition to any rights which any such Director, Officer, Employee or other person may otherwise be entitled by contract or as a matter of law.



ARTICLE VIII  
AMENDMENTS OF BYLAWS

SECTION 1. AMENDMENTS. The Board of Directors shall have the power to alter, amend or repeal the Bylaws or adopt new Bylaws, but any Bylaws adopted by the Board of Directors may be altered, amended or repealed and new Bylaws adopted by the shareholder. Action by the Directors with respect to the Bylaws shall be taken by an affirmative vote of a majority of all of the Directors then elected and serving, unless a greater vote is required by law, the Articles of Incorporation or these Bylaws.

ARTICLE IX  
EMERGENCY TRANSFER OF RESPONSIBILITY

SECTION 1. EMERGENCY DEFINED. In the event of a national emergency threatening national security or a major disaster declared by the President of the United States or the person performing his functions, which directly or severely affects the operations of the Bank, the officers and employees of the Bank will continue to conduct the affairs of the Bank under such guidance from the Directors as may be available except as to matters which by law or regulation require specific approval of the Board of Directors and subject to conformance with any applicable laws, regulations, and governmental directives during the emergency.

SECTION 2. OFFICERS PRO TEMPORE. The Board of Directors shall have the power, in the absence or disability of any officer, or upon the refusal of any officer to act as a result of said national emergency directly and severely affecting the operations of the Bank, to delegate and prescribe such officer's powers and duties to any other officer, or to any Director.

In the event of a national emergency or state of disaster of sufficient severity to prevent the conduct and management of the affairs and business of the Bank by its Directors and officers as contemplated by the Bylaws, any two or more available members or alternate members of the then incumbent Executive Committee shall constitute a quorum of such Committee for the full conduct and management of the Bank in accordance with the provisions of Articles II and III of the Bylaws. If two members or alternate members of the Executive Committee cannot be expeditiously located, then three available Directors shall constitute the Executive Committee for the full conduct and management of the affairs and business of the Bank until the then remaining Board can be convened. These provisions shall be subject to implementation by resolutions of the Board of Directors passed from time to time, and any provisions of the Bylaws (other than this Section) and any resolutions which are contrary to the provisions of this Section or the provisions of any such implementary resolutions shall be suspended until it shall be determined by any such interim Executive Committee acting under this Section that it shall be to the advantage of this Corporation, to resume the conduct and management of its affairs and business under all of the other provisions of these Bylaws.

SECTION 3. Officer Succession. If, in the event of a national emergency or disaster which directly and severely affects the operations of the Bank, the Chief Executive Officer cannot be located expeditiously or is unable to assume

or to continue normal duties, then the authority and duties of the office shall be automatically assumed, without Board of Directors action, in order of title, and subject only to willingness and ability to serve, by the Chairman of the Board, President, Vice Chairman, Executive Vice President, Senior Vice President, Vice President, Corporate Secretary or their successors in office at the time of the emergency or disaster. Where two or more officers hold equivalent titles and are willing and able to serve, seniority in title controls initial appointment. If, in the same manner, the Corporate Secretary or Treasurer cannot be located or is unable to assume or continue normal duties, the responsibilities attached thereto shall, in like manner as described immediately above, be assumed by any Executive Vice President, Senior Vice President, or Vice President. Any officer assuming authority and position hereunder shall continue to serve until the earlier of his resignation or the elected officer or a more senior officer shall become available to perform the duties of the position of Chief Executive Officer, Corporate Secretary, or Treasurer.

SECTION 4. CERTIFICATION OF AUTHORITY. In the event of a national emergency or disaster that directly and severely affects the operations of the Bank, anyone dealing with the Bank shall accept a certification by the Corporate Secretary or any three officers that a specified individual is acting as Chairman of the Board, Chief Executive Officer, President, Corporate Secretary, or Treasurer, in accordance with these Bylaws; and that anyone accepting such certification shall continue to consider it in force until notified in writing of a change, such notice of change to carry the signature of the Corporate Secretary or three officers of the Bank.

SECTION 5. ALTERNATIVE LOCATIONS. In the event of a national emergency or disaster which destroys, demolishes, or renders the Bank's offices or facilities unserviceable, or which causes, or in the judgment of the Board of Directors or the Executive Committee probably will cause, the occupancy or use thereof to be a clear and imminent hazard to personal safety, the Bank shall temporarily lease or acquire sufficient facilities to carry on its business as may be designated by the Board of Directors, Any temporarily relocated place of business of this Bank shall be returned to its legally authorized location as soon as practicable and such temporary place of business shall then be discontinued.

SECTION 6. AMENDMENTS TO ARTICLE IX. At any meeting called in accordance with Section 2 of this Article IX, the Board of Directors or Executive Committee, as the case may be, may modify, amend or add to the provisions of this Article IX so as to make any provision that may be practical or necessary for the circumstances of the emergency.

EXHIBIT 5 TO FORM T-1

(INTENTIONALLY OMITTED. NOT APPLICABLE.)

EXHIBIT 6 TO FORM T-1

CONSENT OF TRUSTEE

Pursuant to the requirements of Section 321(b) of the Trust Indenture Act of 1939, in connection with the proposed issuance of up to \$250,000,000 of the 10% Senior Subordinated Notes due 2008 of Office Depot, Inc., SunTrust Bank hereby consents that reports of examinations by Federal, State, Territorial or District Authorities may be furnished by such authorities to the Securities and Exchange Commission upon request therefor.

Dated: September \_\_, 2001

SUNTRUST BANK

By: /s/ Holly Lee Arencibia

-----  
Holly Lee Arencibia  
Vice President

EXHIBIT 7 TO FORM T-1

REPORT OF CONDITION  
(ATTACHED)

SUNTRUST BANK Call Date: 12/31/2000 State #: 130330 FFIEC 031  
P.O. BOX 4418 CENTER 632 Vendor ID: D Cert #: 00867 RC-1  
ATLANTA, GA 30303 Transit #: 61000104 11

CONSOLIDATED REPORT OF CONDITION FOR INSURED COMMERCIAL  
AND STATE-CHARTERED SAVINGS BANKS FOR DECEMBER 31, 2000

All schedules are to be reported in thousands of dollars. Unless otherwise  
indicated, report the amount outstanding as of the last business day of the  
quarter.

SCHEDULE RC - BALANCE SHEET

C400 <-  
Dollar Amounts in Thousands

ASSETS		RCFD		
1.	Cash and balances due from depository institutions (from Schedule RC-A):	RCFD		
	a. Noninterest-bearing balances and currency and coin (1)-----	0081	4,201,310	1. a
	b. Interest-bearing balances (2)-----	0071	18,044	1. b
2.	Securities:			
	a. Held-to-maturity securities (from Schedule RC-B, column A)-----	1754	0	2. a
	b. Available-for-sale securities (from Schedule RC-B, column D)-----	1773	16,421,141	2. b
3.	Federal funds sold and securities purchased under agreements to resell-----	1350	1,691,018	3
4.	Loans and lease financing receivables:	RCFD		
	a. Loans and leases, net of unearned income (from Schedule RC-C)-----	2122	74,068,603	4. a
	b. LESS: Allowance for loan and lease losses-----	3123	857,387	4. b
	c. LESS: Allocated transfer risk reserve-----	3128	0	4. c
	d. Loans and leases, net of unearned income, allowance, and reserve (item 4.a minus 4.b and 4.c)-----	RCFD 2125	73,211,216	4. d
5.	Trading assets (from Schedule RC-D)-----	3545	160,174	5.
6.	Premises and fixed assets (including capitalized leases)-----	2145	1,320,362	6.
7.	Other real estate owned (from Schedule RC-M)-----	2150	38,828	7.
8.	Investments in unconsolidated subsidiaries and associates companies (from Schedule RC-M)-----	2130	0	8.
9.	Customers' liability to this bank on acceptances outstanding-----	2155	181,584	9.
10.	Intangible assets (from Schedule RC-M)-----	2143	598,192	10.
11.	Other assets (from Schedule RC-F)-----	2160	1,686,139	11.
12.	Total assets (sum of items 1 through 11)-----	2170	99,528,008	12

(1) Includes cash items in process of collection and unposted debits.  
(2) Includes time certificates of deposit not held for trading.

Transmitted to EDS as 0112237 on 01/30/01 at 12:21:40 CST 12

SCHEDULE RC - CONTINUED

Dollar Amounts in Thousands

LIABILITIES

13. Deposits:				RCON	
a. In domestic offices (sum of totals A and C from Schedule RC-E, part I)-----	RCON		2200	59,983,785	13.a
(1) Noninterest-bearing (1)-----	6631	9,408,546			13.a.1
(2) Interest-bearing-----	6636	50,575,239			13.a.2
b. In foreign offices, Edge and Agreement subsidiaries, and IBFs (from Schedule RC-E, part II)-----	RCFN		2200	9,813,349	13.b
(1) Noninterest bearing-----	6631	0			13.b1
(2) Interest-bearing-----	6636	9,813,349	RCFD		13.b2
14. Federal funds purchased and securities sold under agreements to repurchase-----			2800	10,844,120	14
15. a. Demand notes issued to the U.S. Treasury-----			2840	593,425	15.a
b. Trading liabilities (from Schedule RC-D)-----			3548	0	15.b
16. Other borrowed money (includes mortgage indebtedness and obligations under capitalized leases):					
a. With a remaining maturity of one year or less-----			2232	1,594,961	16.a
b. With a remaining maturity of more than one year through three years-----			A547	2,995,702	16.b
c. With a remaining maturity of more than three years-----			A548	1,187,905	16.c
17. Not applicable					
18. Bank's liability on acceptances executed and outstanding-----			2920	181,584	18
19. Subordinated notes and debentures(2)-----			3200	1,068,000	19
20. Other liabilities (from Schedule RC-G)-----			2930	2,496,493	20
21. Total liabilities (sum of items 13 through 20)-----			2948	90,759,324	21
22. Not applicable					

EQUITY CAPITAL

23. Perpetual preferred stock and related surplus-----			3838	0	23
24. Common stock-----			3230	21,600	24
25. Surplus (exclude all surplus related to preferred stock)-----			3839	2,505,472	25
26. a. Undivided profits and capital reserves-----			3632	5,135,292	26.a
b. Net unrealized holding gains (losses) on available-for-sale securities-----			8434	1,106,320	26.b
c. Accumulated net gains (losses) on cash flow hedges-----			4336	0	26.c
27. Cumulative foreign currency translation adjustments-----			3284	0	27
28. Total equity capital (sum of items 23 through 27)-----			3210	8,768,684	28
29. Total liabilities and equity capital (sum of items 21 and 28)-----			3300	99,528,008	29

MEMORANDUM

To be reported only with the March Report of Condition.  
1. Indicate in the box at the right the number of the statement below that best describes the most comprehensive level of auditing work performed for the bank by independent external auditors as of any date during 1999----- RCFD NUMBER  
6724 N/A M.1

- 1 = Independent audit of the bank conducted in accordance with generally accepted auditing standards by a certified public accounting firm which submits a report on the bank
- 2 = Independent audit of the bank's parent holding company conducted in accordance with generally accepted auditing standards by a certified public accounting firm which submits a report on the consolidated holding company (but not on the bank separately)
- 3 = Directors' examination of the bank conducted in accordance with generally auditing standards by a certified public accounting firm (may be required by state chartering authority)
- 4 = Directors' examination of the bank performed by other external auditors (may be required by state chartering authority)
- 5 = Review of the bank's financial statements by external auditors
- 6 = Compilation of the bank's financial statements by external auditors
- 7 = Other audit procedures (excluding tax preparation work)
- 8 = No external audit work

- (1) Includes total demand deposits and noninterest-bearing time and savings deposits.
- (2) Includes limited-life preferred stock and related surplus.



EXHIBIT 8 TO FORM t-1

(INTENTIONALLY OMITTED. NOT APPLICABLE)

LETTER OF TRANSMITTAL

OFFICE DEPOT, INC.

Offer to Exchange  
10% Senior Subordinated Notes due 2008  
(which have been registered under the Securities Act of 1933)

for

10% Senior Subordinated Notes due 2008  
(of which an aggregate principal amount of \$250,000,000 is outstanding)

Pursuant to the Prospectus dated September \_\_, 2001

The Exchange Agent for the Exchange Offer is:

SUNTRUST BANK

By Registered or Certified Mail:	By Overnight Courier or by Hand Delivery:
SunTrust Bank	SunTrust Bank
Corporate Trust Department	Corporate Trust Department
Attention: Holly Arencibia	Attention: Holly Arencibia
Reference: Office Depot Exchange Offer	Reference: Office Depot Exchange Offer
777 Brickell Avenue	777 Brickell Avenue
Miami, Florida 33131	Miami, Florida 33131

Facsimile Transmission Number (for Eligible Institutions only):  
(305) 579-7017

Telephone Number:  
(305) 579-7009

-----  
THE EXCHANGE OFFER WILL EXPIRE AT 5:00 P.M., NEW YORK CITY TIME, ON [Day, Date], UNLESS EXTENDED (THE DATE AND TIME, AS IT MAY BE EXTENDED, HEREINAFTER THE "EXPIRATION DATE"). TENDERS MAY BE WITHDRAWN PRIOR TO 5:00 P.M., NEW YORK CITY TIME, ON THE EXPIRATION DATE.  
-----

By execution of this Letter of Transmittal, the undersigned acknowledges receipt of the prospectus dated [Date], 2001 (the "Prospectus") of Office Depot, Inc., a Delaware corporation (the "Company"), which, together with this letter of transmittal and the instructions hereto (the "Letter of Transmittal"), constitutes the Company's offer (the "Exchange Offer") to exchange \$250,000,000 of its 10% Senior Subordinated Notes due 2008 (the "new notes") for \$250,000,000 principal amount of its outstanding 10% Senior Subordinated Notes due 2008 (the "old notes") upon the terms and subject to the conditions set forth in the Prospectus. The new notes will be registered in accordance with the requirements of the Securities Act of 1933, as amended. Tenders of old notes will be accepted only in authorized denominations of \$1,000.

All of the old notes are currently held in book-entry accounts at DTC maintained by SunTrust Bank (the "Exchange Agent"), as trustee. To exchange notes held in book-entry DTC accounts, this Letter of Transmittal need not be manually executed; instead, tenders of old notes must be effected in accordance with the procedures mandated by DTC's Automated Tender Offer Program ("ATOP"). To tender old notes in this manner, the electronic instructions sent to DTC and transmitted by DTC to the Exchange Agent (the "Agent's Message") must

contain an acknowledgement and agreement that the holder has received and agreed to be bound by, and make all of the representations in, this Letter of Transmittal and agrees that the Company may enforce this Letter of Transmittal against the holder. In all other cases, where notes are not held in book-entry form at DTC, a Letter of Transmittal must be manually executed and delivered to the Exchange Agent in the manner set forth on the final page of this Letter of Transmittal.

By crediting the old notes to the Exchange Agent's account at DTC and by complying with the applicable ATOP procedures with respect to the tender of the old notes, including transmission of an Agent's Message, the holder of old notes acknowledges and agrees to be bound by the terms of this Letter of Transmittal, and the participant in DTC confirms on behalf of itself and the beneficial owner(s) of the old notes that all provisions of this Letter of Transmittal are applicable to it and to the beneficial owner(s) as fully as if the participant and each beneficial owner had provided the information required herein and executed and transmitted this Letter of Transmittal to the Exchange Agent.

Holders of old notes whose certificates for old notes are not immediately available or who cannot deliver their certificates and all other required documents to the Exchange Agent on or prior to the Expiration Date or who cannot complete the procedures for book-entry transfer on a timely basis, may tender their old notes according to the guaranteed deliver procedures described in "The Exchange Offer - Procedures for Tendering" in the Prospectus.

DELIVERY OF DOCUMENTS TO DTC DOES NOT CONSTITUTE DELIVERY TO THE EXCHANGE AGENT.

Any questions regarding the Exchange Offer should be addressed to, and materials relating to the Exchange Offer may be obtained from, the Exchange Agent.

Delivery of this Letter of Transmittal in a manner or to an address, or transmission via telegram, telex or facsimile, other than as set forth above

will not constitute a valid delivery to the Exchange Agent.

Ladies and Gentlemen:

Subject to the terms of the Exchange Offer, the undersigned hereby tenders to the Company the principal amount of old notes indicated below. Subject to, and effective upon, the acceptance for exchange of the principal amount of old notes tendered in accordance with this Letter of Transmittal, the undersigned sells, assigns and transfers to, or upon the order of, the Company all right, title and interest in and to the old notes tendered hereby. The undersigned hereby irrevocably constitutes and appoints the Exchange Agent its agent and attorney-in-fact with respect to the old notes with full power of substitution to (i) deliver certificates for the old notes to the Company, or transfer ownership of the old notes on the account books maintained by DTC, together, in any case, with all accompanying evidences of transfer and authenticity to, or upon the order of, the Company and (ii) present the old notes for transfer on the books of the Company and receive all benefits and otherwise exercise all rights of beneficial ownership of the old notes, all in accordance with the terms of the Exchange Offer. The power of attorney granted in this paragraph shall be deemed irrevocable and coupled with an interest.

The undersigned hereby represents and warrants that he or she has full power and authority to tender, exchange, sell, assign and transfer the old notes tendered hereby and that the Company will acquire good, marketable and unencumbered title thereto, free and clear of all liens, restrictions, charges and encumbrances and not subject to any adverse claim or proxy when the same are acquired by the Company. The undersigned also acknowledges that this Exchange Offer is being made in reliance on an interpretation by the staff of the U.S. Securities and Exchange Commission, as set forth in no-action letters to third parties, that the new notes issued in exchange for the old notes pursuant to the Exchange Offer may be offered for resale, resold and otherwise transferred by holders thereof (other than any holder that is an "affiliate" of the Company within the meaning of Rule 405 under the Securities Act) without compliance with the registration and prospectus delivery provisions of the Securities Act, provided that (i) the new notes are acquired in the ordinary course of the holders' business and (ii) the holders are not, do not intend to, and have no arrangement with any person to participate in the distribution of the new notes. If the undersigned is not a broker-dealer, the undersigned represents that it is not engaged in, and does not intend to engage in, a distribution of new notes. If the undersigned is a broker-dealer that will receive new notes for its own account in exchange for old notes, the undersigned represents that the old notes were acquired as a result of market-making activities and acknowledges that it will deliver a prospectus meeting the requirements of the Securities Act in connection with any resale of the new notes; however, by so acknowledging and by delivering a prospectus, the undersigned will not be deemed to admit that it is an "underwriter" within the meaning of the Securities Act.

The undersigned represents that (i) the new notes acquired pursuant to the Exchange Offer are being obtained in the ordinary course of business of the person receiving the new notes, whether or not that person is the undersigned, (ii) neither the undersigned holder of old notes nor any other person has an arrangement or understanding with any person to participate in the distribution of the new notes, (iii) if the undersigned is not a broker-dealer, or is a broker-dealer but will not receive new notes for its own account in exchange for old notes, neither the undersigned nor any other person is engaged in or intends to participate in the distribution of new notes and (iv) neither the undersigned nor any other person is an "affiliate" of the Company within the meaning of Rule 405 of the Securities Act.

The undersigned will, upon request, execute and deliver any additional documents deemed by the Exchange Agent or the Company to be necessary or desirable to complete the assignment and transfer of the old notes tendered hereby.

For purposes of the Exchange Offer, the Company shall be deemed to have accepted validly tendered old notes when, as and if the Company has given written notice thereof to the Exchange Agent. If any tendered old notes are not accepted for exchange pursuant to the Exchange Offer for any reason or if old notes are submitted for a greater principal amount than the holder desires to exchange, the unaccepted or non-exchanged old notes will be

returned or, if applicable, credited by book-entry transfer to the account at DTC from which they were tendered as promptly as practicable after the expiration or termination of the Exchange Offer.

All authority conferred or agreed to be conferred by this Letter of Transmittal shall survive the death, incapacity or dissolution of the undersigned and every obligation under this Letter of Transmittal shall be binding upon the undersigned's heirs, personal representatives, successors, and assigns.

The undersigned understands that tenders of old notes pursuant to the procedures described under the caption "The Exchange Offer-Procedures for Tendering Old Notes" in the Prospectus and in the instructions hereto will constitute a binding agreement between the undersigned and the Company upon the terms and subject to the conditions of the Exchange Offer.

The bracketed information is requested but is not required. All other questions must be answered unless otherwise indicated. Only one offer may be submitted by or on behalf of each beneficial owner of old notes.

[Name of Beneficial Owner: \_\_\_\_\_  
 Contact Person: \_\_\_\_\_  
 Address: \_\_\_\_\_  
 Telephone: \_\_\_\_\_  
 Facsimile: \_\_\_\_\_ ]

Principal Amount Tendered

Bond Description -----	CUSIP -----	ISIN -----	Principal Amount Owned -----	Principal Amount Tendered -----	Certificate Number(s) -----
10% Senior Subordinated Notes due 2008 (Rule 144A notes)	676220AC0	US676220AC07	_____	_____	_____
10% Senior Subordinated Notes due 2008 (Regulation S notes)	U67518AA5	USU67518AA54	_____	_____	_____

1. Company Name of Direct Participant in DTC signing: \_\_\_\_\_  
 Contact Person: \_\_\_\_\_  
 Address: \_\_\_\_\_  
 Telephone: \_\_\_\_\_  
 Facsimile: \_\_\_\_\_

2. Name of Clearing System (Euroclear, Clearstream Banking or DTC) where old notes are held (if applicable): \_\_\_\_\_  
 Account Number at Clearing System where old notes are held: \_\_\_\_\_

3.  Check here and fill in the name and address for delivery if you are a broker-dealer and wish to receive 10 additional copies of the Prospectus and 10 copies of any amendments or supplements thereto.  
 Name: \_\_\_\_\_

Address: -----

4.  Check here if tendered old notes are being delivered by book-entry transfer to the account maintained by the Exchange Agent with DTC and complete the following:

Name of Tendering Institution: -----

DTC Account Number: -----

Transaction Code Number: -----

5.  Check here if tendered notes are enclosed herewith.

6.  Check here and enclose a photocopy of the Notice of Guaranteed Delivery if the tendered old notes are being delivered pursuant to a Notice of Guaranteed Delivery previously sent to the Exchange Agent, and complete the following:

Name(s) of Registered Holder(s): -----

Window Ticket Number (if any): -----

Date of Execution of Notice of Guaranteed Delivery: -----

Name of Eligible Institution that Guaranteed Delivery: -----

PLEASE SIGN HERE

This Letter of Transmittal must be signed by the holder(s) of the old notes exactly as its name(s) appears(s) on a security position listing it as the owner of old notes. If signature is by a trustee, executor, administrator, guardian, attorney-in-fact, officer or other person acting in a fiduciary or representative capacity, the person must set forth his or her full title below under "Capacity" and submit evidence satisfactory to the Company of the person's authority to so act. See Instruction 3 herein.

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

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

Signature(s) of Holder(s) or  
Authorized Signatory

Name(s): \_\_\_\_\_  
(Please print)

Address: \_\_\_\_\_  
(including zip code or  
postal code)

Capacity(ies): \_\_\_\_\_ Telephone: \_\_\_\_\_

Taxpayer Identification No(s): \_\_\_\_\_

SIGNATURE GUARANTEE

Signature Guaranteed by an Eligible Institution: \_\_\_\_\_

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

Name of Firm: \_\_\_\_\_

Dated: \_\_\_\_\_



## INSTRUCTIONS

### Forming Part of the Terms and Conditions of the Exchange Offer

1. Delivery of this Letter of Transmittal and Old Notes. The method of delivery of this Letter of Transmittal, the tendered old notes, and all other required documents to the Exchange Agent is at the election and risk of the holders and, except as otherwise provided below, the delivery will be deemed made only when actually received by the Exchange Agent or credited to the Exchange Agent's account at DTC in the case of electronically delivered old notes. Holders may request their respective brokers, dealers, commercial banks, trust companies or nominees to effect tenders on their behalf. Certificates for all physically tendered old notes, or book-entry confirmation, as the case may be, as well as a properly completed and duly executed Letter of Transmittal (or facsimile thereof) or Agent's Message, and any other documents required by this Letter, must be received by the Exchange Agent at the address set forth herein on or prior to the Expiration Date, or the tendering holder must comply with the guaranteed delivery procedures set forth below. Instead of delivery by mail, we recommend you use an overnight or hand delivery service. In all cases, you should allow sufficient time to assure timely delivery. Do not send any Letter of Transmittal or old notes to the Company.

Holders of old notes whose certificates for old notes are not immediately available or who cannot deliver their certificates and all other required documents to the Exchange Agent on or prior to the Expiration Date or who cannot complete the procedures for book-entry transfer on a timely basis, may tender their old notes according to the guaranteed delivery procedures described in "The Exchange Offer - Procedures for Tendering" in the Prospectus. Pursuant to those procedures, (i) the tender must be made through a member firm of a registered national securities exchange or of the National Association of Securities Dealers, Inc., a commercial bank or trust company having an office or correspondent in the United States or an "eligible guarantor institution" within the meaning of Rule 17Ad-15 under the Securities Exchange Act of 1934, as amended (any of the foregoing, an "Eligible Institution"), (ii) prior to the Expiration Date, the Exchange Agent must receive from the Eligible Institution a properly completed and duly executed Letter (or facsimile thereof) and Notice of Guaranteed Delivery, substantially in the form provided by the Company (by facsimile transmission, mail or hand delivery), setting forth the name and address of the holder of old notes, the certificate number or numbers of the old notes and the principal amount at maturity of the old notes tendered, stating that the tender is being made thereby and guaranteeing that within three New York Stock Exchange trading days after the Expiration Date, the Letter (or facsimile thereof), together with the certificate or certificates representing the old notes to be tendered in proper form for transfer, or book-entry confirmation, as the case may be, and any other documents required by this Letter, will be deposited by the Eligible Institution with the Exchange Agent, and (iii) the properly completed and executed Letter (or facsimile thereof), together with the certificate or certificates representing all tendered old notes in proper form for transfer, or book-entry confirmation, as the case may be, and all other documents required by this Letter are received by the Exchange Agent within three New York Stock Exchange Trading Days after the Expiration Date.

For the purposes of the Exchange Offer, the term "holder" includes any participant in DTC named in a securities position listing as a holder of old notes. Only a holder of record may tender old notes in the Exchange Offer. Any beneficial owner of old notes who wishes to tender some or all of the old notes should arrange with DTC, a DTC participant or the record owner of the old notes to execute and deliver this Letter of Transmittal or to send an Agent's Message effecting a book-entry transfer on his or her behalf.

2. Partial Tenders. If you are tendering less than all of the old notes evidenced by a submitted certificate, you should fill in the aggregate principal amount of old notes to be tendered in the box above entitled "Principal Amount Tendered." Tenders of old notes will be accepted only in integral multiples of \$1,000. We will consider all of your old notes to have been tendered unless you otherwise indicate in this box.

3. Withdrawal of Tendered Old Notes. A tender pursuant to the Exchange Offer may be withdrawn prior to the Expiration Date. To be effective with respect to the tender of old notes, a notice of withdrawal must: (i) be received by the Exchange Agent before the Expiration Date; (ii) specify the name of the person who deposited the old notes to be withdrawn; (iii) contain a description of the old notes to be withdrawn, the certificate numbers shown on the particular certificates evidencing the old notes and the principal amount at maturity of the old notes represented by the certificates; and (iv) be signed by the holder in the same manner as the original signature on this Letter (including any required signature guarantee). The Exchange Agent will return the properly withdrawn old notes promptly following receipt of the notice of withdrawal. If old notes have been tendered pursuant to the procedure for book-entry transfer, any notice of withdrawal must specify the name and number of the account at the book-entry transfer facility to be credited with the withdrawn old notes or otherwise comply with the book-entry transfer facility's procedures. All questions as to the validity of notices of withdrawal, including the time of receipt, will be determined by the Company, and such determination will be final and binding on all parties.

4. Signatures. If this Letter of Transmittal (or copy hereof) is signed by trustees, executors, administrators, guardians, attorneys-in-fact, officers of corporations or others acting in a fiduciary or representative capacity, those persons should indicate the capacity in which they are signing, and unless waived by the Company, those persons should submit evidence satisfactory to the Company of their authority to act in the stated capacity together with this Letter of Transmittal. If this Letter of Transmittal is signed by the registered holder of the old notes tendered hereby, the signature must correspond exactly with the name as written on the face of the certificates without alteration, enlargement or any change whatsoever.

If any tendered old notes are owned of record by two or more joint owners, all owners must sign this Letter.

If any tendered old notes are registered in different names on several certificates, it will be necessary to complete, sign and submit as many separate copies of this Letter as there are different registrations of certificates.

When this Letter is signed by the registered holder (which term, for the purposes described herein, shall include the book-entry transfer facility whose name appears on a security listing as the owner of the old notes) of the old notes specified herein and tendered hereby, no endorsements of certificates or separate bond powers are required. If, however, the new notes are to be issued to a person other than the registered holder, then endorsements of any certificates transferred hereby or separate bond powers are required, and in that case, signatures on the certificate(s) must be guaranteed by an Eligible Institution.

If this Letter is signed by a person other than the registered holder or holders of any old notes specified therein, the certificate(s) must be endorsed by the registered holder(s) or accompanied by separate written instruments of transfer or endorsed in blank by the registered holder(s) in form satisfactory to the Company and duly executed by the registered holder, in either case signed exactly as the registered holder's or holders' name or names appear(s) on the old notes.

5. Transfer Taxes. The Company will pay all transfer taxes, if any, applicable to the exchange of old notes pursuant to the Exchange Offer, but will not pay transfer taxes with respect to any other transfer.

6. Waiver of Conditions. The Company reserves the absolute right to amend, waive, or modify specified conditions in the Exchange Offer in the case of any old notes tendered.

7. Irregularities. All questions as to the validity, form, eligibility (including time of receipt), and acceptance of Letters of Transmittal or old notes will be resolved by the Company, whose determination will be final and binding. The Company reserves the absolute right to reject any or all Letters of Transmittal or tenders that are not in proper form or the acceptance of which would, in the opinion of the Company's counsel, be unlawful.

The Company also reserves the absolute right to waive any irregularities or conditions of tender as to the particular old notes covered by any Letter of Transmittal or tendered pursuant to the Letter of Transmittal. None of the Company, the Exchange Agent or any other person will be under any duty to give notification of any defects or irregularities in tenders or incur any liability for failure to give any notification. The Company's interpretation of the terms and conditions of the Exchange Offer shall be final and binding.

8. Backup Withholding. Federal income tax law generally requires that a tendering holder whose old notes are accepted for exchange must provide the Company (as payor) with the holder's correct Taxpayer Identification Number ("TIN") on Substitute Form W-9 below, or otherwise establish a basis for exemption from backup withholding. If the holder is an individual, the TIN is his or her social security number. If the Company is not provided with a TIN or an adequate basis for an exemption, the tendering holder may be subject to a \$50 penalty imposed by the Internal Revenue Service. In addition, delivery to the tendering holder of new notes may be subject to backup withholding in an amount equal to 31% of all reportable payments made after the exchange.

Certain holders (including, among others, all corporations and certain foreign individuals) are not subject to these backup withholding and reporting requirements. See the enclosed Guidelines for Certification of Taxpayer Identification Number on Substitute Form W-9 (the "W-9 Guidelines") for additional instructions.

To prevent backup withholding, each tendering holder of old notes must provide its correct TIN by completing the Substitute Form W-9 set forth below, certifying that the TIN provided is correct (or that the holder is awaiting a TIN) and that (i) the holder is exempt from backup withholding, (ii) the holder has not been notified by the Internal Revenue Service that the holder is subject to backup withholding as a result of a failure to report all interest and dividends or (iii) the Internal Revenue Service has notified the holder that the holder is no longer subject to backup withholding. If the tendering holder of old notes is a non-resident alien or foreign entity not subject to backup withholding, the holder must give the Company a completed Form W-8, Certificate of Foreign Status. These forms may be obtained from the Exchange Agent. If the old notes are in more than one name or are not in the name of the actual owner, the holder should consult the W-9 Guidelines for information on which TIN to report. If the holder does not have a TIN, the holder should consult the W-9 Guidelines for instructions on how to apply for a TIN, then check the box in Part 2 of the Substitute Form W-9, write "Applied For" in lieu of the TIN and complete the Certificate of Awaiting Taxpayer Identification Number. Note: checking this box and writing "Applied For" on the form means that the holder has already applied for a TIN or that the holder intends to apply for a TIN within the near future. If the holder checks the box in Part 2 of the Substitute Form W-9 and writes "Applied For" on that form, backup withholding at the rate of 31% will nevertheless apply to all reportable payments made to the holder. If the holder furnishes its TIN to the Company within 60 days, however, any amounts so withheld shall be refunded to the holder.

Backup withholding is not an additional Federal income tax. Rather, the Federal income tax liability of persons subject to backup withholding will be reduced by the amount of tax withheld. If withholding results in an overpayment of taxes, a refund may be obtained from the Internal Revenue Service.

9. Incorporation of Letter of Transmittal. This Letter of Transmittal shall be deemed to be incorporated by reference in any tender of old notes by any DTC participant effected through procedures established by DTC and, by virtue of the tender, the participant shall be deemed to have acknowledged and accepted this Letter of Transmittal on behalf of itself and the beneficial owners of any old notes tendered.

NOTICE OF GUARANTEED DELIVERY

OFFICE DEPOT, INC.

Offer to Exchange
10% Senior Subordinated Notes due 2008
(which have been registered under the Securities Act of 1933)

for

10% Senior Subordinated Notes due 2008
(of which an aggregate principal amount of \$250,000,000 is outstanding)

Pursuant to the Prospectus Dated September \_\_, 2001

-----
THE EXCHANGE OFFER WILL EXPIRE AT 5:00 P.M., NEW YORK CITY TIME, ON,
\_\_\_\_\_, \_\_\_\_\_, 2001, UNLESS EXTENDED (THE DATE AND TIME, AS IT MAY BE
EXTENDED, HEREINAFTER THE "EXPIRATION DATE"). TENDERS MAY BE WITHDRAWN PRIOR TO
5:00 P.M., NEW YORK CITY TIME, ON THE EXPIRATION DATE.
-----

This Notice of Guaranteed Delivery, or a form substantially equivalent
to this form, must be used to accept the Exchange Offer of Office Depot, Inc.
(the "Company") made pursuant to the prospectus dated September \_\_, 2001 (the
"Prospectus"), if certificates for old notes are not immediately available or if
the procedure for book-entry transfer cannot be completed on a timely basis or
time will not permit all required documents to reach SunTrust Bank (the
"Exchange Agent") prior to 5:00 p.m., New York City time, on the Expiration
Date. The Notice of Guaranteed Delivery may be delivered by hand, transmitted by
facsimile transmission, sent by overnight courier or mailed to the Exchange
Agent.

The Exchange Agent for the Exchange Offer is:

SUNTRUST BANK

By Registered or Certified Mail: By Overnight Courier or by Hand Delivery:
SunTrust Bank SunTrust Bank
Corporate Trust Department Corporate Trust Department
Attention: Holly Arencibia Attention: Holly Arencibia
Reference: Office Depot Exchange Offer Reference: Office Depot Exchange Offer
777 Brickell Avenue 777 Brickell Avenue
Miami, Florida 33131 Miami, Florida 33131

Facsimile Transmission Number (for Eligible Institutions only):
(305) 579-7017

Telephone Number:
(305) 579-7009

Delivery of this Notice of Guaranteed Delivery to an address, or
transmission via facsimile to a number, other than as set forth above will not
constitute a valid delivery.

This Notice of Guaranteed Delivery may not be used to guarantee
signatures. If the instructions on any document to be delivered in connection
with the Exchange Offer require the signature thereon to be guaranteed by an
"Eligible Institution," the signature guarantee must appear in the applicable
space provided on the document.

Ladies and Gentlemen:

Upon the terms and conditions set forth in the Prospectus, the
undersigned hereby tenders to the Company the principal amount of old notes set
forth below pursuant to the guaranteed delivery procedure described in the
Prospectus under "The Exchange Offer-Guaranteed Delivery Procedures."

Principal Amount at Maturity of Old Notes Tendered:\* \$
-----

Certificate Nos. (if available):
-----

Aggregate Principal Amount at Maturity of Old Notes Tendered: \$
-----

If old notes will be delivered by book-entry transfer, provide account number.

Account Number:
-----

\* Must be in denominations of principal amount at maturity of \$1,000 and
any integral multiple thereof. See Instruction 2 in the Letter of
Transmittal.

All authority herein conferred or agreed to be conferred shall survive
the death or incapacity of the undersigned and every obligation of the
undersigned hereunder shall be binding upon the heirs, personal representatives,
successors and assigns of the undersigned.

Please Sign Here

X

X

-----  
Signatures(s) of Owner(s) or Authorized Signatory

-----  
Date

Telephone Number (including area code): -----

This Notice of Guaranteed Delivery must be signed by the holder(s) of old notes as their name(s) appear(s) on certificates for old notes or on a security position listing, or by person(s) authorized to become registered holder(s) by endorsement and documents transmitted with this Notice of Guaranteed Delivery. If signature is by a trustee, executor, administrator, guardian, attorney-in-fact, officer or other person acting in a fiduciary or representative capacity, that person must set forth his or her full title below.

Please Print Name(s) and Address(es)

Name(s): -----

Capacity: -----

Address(es): -----

-----  
-----  
-----

GUARANTEE

The undersigned, a member of a registered national securities exchange or a member of the National Association of Securities Dealers, Inc. or a commercial bank or trust company having an office or correspondent in the United States or an "Eligible Guarantor Institution" within the meaning of Rule 17Ad-15 under the Securities Exchange Act of 1934, hereby guarantees that the certificates representing the principal amount of old notes tendered hereby in proper form for transfer, or timely confirmation of a book-entry transfer of the old notes into the Exchange Agent's account at DTC pursuant to the procedures set forth in the Prospectus under "The Exchange Offer-Guaranteed Delivery Procedures," together with a properly completed and duly executed Letter of Transmittal (or facsimile thereof or Agent's Message in lieu thereof) and other documents required by the Letter of Transmittal in respect to the old notes, will be deposited with the Exchange Agent at the address set forth above, no later than three New York Stock Exchange trading days after the Expiration Date.

Name of Firm:	-----	-----
		Authorized Signature
Address:	-----	Name
		-----
		Please Type or Print
	-----	
	Zip Code	Title:
		-----
Area Code and Telephone Number:	-----	Dated:
		-----

NOTE: DO NOT SEND CERTIFICATES FOR OLD NOTES WITH THIS FORM. CERTIFICATES FOR OLD NOTES SHOULD ONLY BE SENT WITH YOUR LETTER OF TRANSMITTAL.

OFFICE DEPOT, INC.

Offer to Exchange  
10% Senior Subordinated Notes due 2008  
(which have been registered under the Securities Act of 1933)

for

10% Senior Subordinated Notes due 2008  
(of which an aggregate principal amount of \$250,000,000 is outstanding)

Pursuant to the Prospectus dated September \_\_, 2001

-----  
THE EXCHANGE OFFER WILL EXPIRE AT 5:00 P.M., NEW YORK CITY TIME, ON [Day],  
[Date], 2001, UNLESS EXTENDED (THE DATE AND TIME, AS IT MAY BE EXTENDED,  
HEREINAFTER THE "EXPIRATION DATE"). TENDERS MAY BE WITHDRAWN PRIOR TO 5:00 P.M.,  
NEW YORK CITY TIME, ON THE EXPIRATION DATE.  
-----

September \_\_, 2001

To Brokers, Dealers, Commercial Banks, Trust Companies and Other Nominees:

We are enclosing herewith the documents identified below relating to the offer (the "Exchange Offer") by Office Depot, Inc., a Delaware corporation (the "Company"), to exchange \$250,000,000 of its 10% Senior Subordinated Notes due 2008 (the "new notes") for \$250,000,000 aggregate principal amount of its outstanding 10% Senior Subordinated Notes due 2008 (the "old notes") upon the terms and subject to the conditions set forth in the Prospectus dated September \_\_, 2001 and the related Letter of Transmittal.

Enclosed herewith are copies of the following documents:

1. Prospectus;
2. Letter of Transmittal;
3. Instruction to Registered Holder from Beneficial Owner;

4. Letter that may be sent to your clients for whose account you hold old notes registered in your name or the name of your nominee, to accompany the instruction form referenced above, for obtaining the clients' instructions with regard to the Exchange Offer;

5. Notice of Guaranteed Delivery; and

6. Guidelines for Certification of Taxpayer Identification Number on Substitute Form W-9.

We urge you to contact your clients promptly. Please note that the Exchange Offer will expire at 5:00 p.m., New York City time, on September \_\_, 2001 unless extended by the Company in its sole discretion.

The Exchange Offer is not conditioned upon any minimum number of old notes being tendered.

Pursuant to the Letter of Transmittal, each holder of old notes will represent to the Company that (i) any new notes acquired pursuant to the Exchange Offer will be obtained in the ordinary course of business of the person

receiving the new notes, whether or not the person is the holder, (ii) neither the holder of old notes nor any other person has an arrangement or understanding with any person to participate in the distribution of the new notes, (iii) if the holder is not a broker-dealer, or is a broker-dealer but will not receive new notes for its own account in exchange for old notes, neither the holder nor any other person is engaged in or intends to participate in the distribution of new notes and (iv) neither the holder nor any other person is an "affiliate" of the Company within the meaning of Rule 405 of the Securities Act of 1933, as amended (the "Securities Act") or, if the holder is an affiliate, that the holder will comply with the registration and prospectus delivery requirements of the Securities Act to the extent applicable. By so acknowledging that it will deliver and by delivering a prospectus meeting the requirements of the Securities Act in connection with any resale of new notes, the undersigned is not deemed to admit that it is an "underwriter" within the meaning of the Securities Act.

The enclosed Instruction to Registered Holder from Beneficial Owner contains an authorization by the beneficial owner of the old notes for you to make the foregoing representations.

The Company will not pay any fee or commission to any broker or dealer or to any other persons (other than SunTrust Bank, a Georgia banking corporation (the "Exchange Agent") for the Exchange Offer) in connection with the solicitation of tenders of old notes pursuant to the Exchange Offer. The Company will pay all transfer taxes, if any, applicable to the exchange of old notes pursuant to the Exchange Offer, on the transfer of old notes to it. The Company will not pay any transfer taxes payable with respect to any transfer of notes, other than for transfers to the Company pursuant to the Exchange Offer.

Any questions regarding the Exchange Offer should be addressed to, and additional copies of the enclosed materials may be obtained from, the Exchange Agent (telephone (305) 579-7009, attention: Holly Arencibia).

Very truly yours,

NOTHING CONTAINED HEREIN OR IN THE ENCLOSED DOCUMENTS SHALL CONSTITUTE YOU OR ANY OTHER PERSON AS AN AGENT OF THE COMPANY, THE EXCHANGE AGENT OR ANY OTHER PERSON, OR AUTHORIZE YOU OR ANY OTHER PERSON TO USE ANY DOCUMENT OR MAKE ANY STATEMENT ON BEHALF OF THE COMPANY OR THE EXCHANGE AGENT IN CONNECTION WITH THE EXCHANGE OFFER OTHER THAN THE DOCUMENTS ENCLOSED HERewith AND THE STATEMENTS CONTAINED HEREIN.



OFFICE DEPOT, INC.

Offer to Exchange  
10% Senior Subordinated Notes due 2008  
(which have been registered under the Securities Act of 1933)

for

10% Senior Subordinated Notes due 2008  
(of which an aggregate principal amount of \$250,000,000 is outstanding)

Pursuant to the Prospectus dated September \_\_, 2001

-----  
THE EXCHANGE OFFER WILL EXPIRE AT 5:00 P.M., NEW YORK CITY TIME, ON [Day],  
[Date], 2001, UNLESS EXTENDED (THE DATE AND TIME AS IT MAY BE EXTENDED,  
HEREINAFTER THE "EXPIRATION DATE"). TENDERS MAY BE WITHDRAWN PRIOR TO 5:00 P.M.,  
NEW YORK CITY TIME, ON THE EXPIRATION DATE.  
-----

September \_\_, 2001

To Our Clients:

Enclosed for your consideration is a prospectus dated September \_\_, 2001 (the "Prospectus") and the related letter of transmittal (the "Letter of Transmittal") relating to the offer (the "Exchange Offer") of Office Depot, Inc., a Delaware corporation (the "Company"), to exchange \$250,000,000 of its 10% Senior Subordinated Notes due 2008 (the "new notes") for \$250,000,000 aggregate principal amount of its outstanding 10% Senior Subordinated Notes due 2008 (the "old notes") upon the terms and subject to the conditions described in the Prospectus and the Letter of Transmittal.

This material is being forwarded to you as the beneficial owner of the old notes carried by us in your account but not registered in your name. A tender of the old notes may only be made by us as the holder of record and pursuant to your instructions.

Accordingly, we request instructions as to whether you wish us to tender on your behalf the old notes held by us for your account, pursuant to the terms and conditions set forth in the enclosed Prospectus and Letter of Transmittal. We urge you to read the Prospectus and Letter of Transmittal carefully before instructing us to tender your old notes.

Your instructions should be forwarded to us as promptly as possible in order to permit us to tender the old notes on your behalf in accordance with the provisions of the Exchange Offer. The Exchange Offer will expire at 5:00 p.m., New York City time, on September \_\_, 2001, unless extended by the Company. Any old notes tendered pursuant to the Exchange Offer may be withdrawn at any time before the Expiration Date.

If you wish to have us tender your old notes, please so instruct us by completing, executing and returning to us the enclosed instruction form. THE LETTER OF TRANSMITTAL IS FURNISHED TO YOU FOR INFORMATION ONLY AND MAY NOT BE USED DIRECTLY BY YOU TO TENDER OLD NOTES.

INSTRUCTION TO REGISTERED HOLDER FROM BENEFICIAL OWNER

To Registered Holder:

The undersigned hereby acknowledge(s) receipt of the prospectus dated September \_\_, 2001 (the "Prospectus") of Office Depot, Inc., a Delaware corporation (the "Company"), and accompanying letter of transmittal (the "Letter of Transmittal") that together constitute the Company's offer (the "Exchange Offer") to exchange \$250,000,000 of its 10% Senior Subordinated Notes due 2008 (the "new notes") for \$250,000,000 aggregate principal amount of its outstanding 10% Senior Subordinated Notes due 2008 (the "old notes"). Capitalized terms used but not defined have the meanings ascribed to them in the Prospectus.

This will instruct you, the registered holder, as to the action to be taken by you relating to the Exchange Offer with respect to the old notes held by you for the account of the undersigned.

The aggregate face amount of the old notes held by you for the account of the undersigned is (fill in amount):

\$ \_\_\_\_\_ of 10% Senior Subordinated Notes due 2008.\*

With respect to the Exchange Offer, the undersigned hereby instructs you (check the appropriate box):

To TENDER the old notes held by you for the account of the undersigned (insert principal amount of old notes to be tendered (if any)):

\$ \_\_\_\_\_ of 10% Senior Subordinated Notes due 2008.

NOT TO TENDER any old notes held by you for the account of the undersigned.

If the undersigned instructs you to tender old notes held by you for the account of the undersigned, it is understood that you are authorized to make, on behalf of the undersigned (and the undersigned, by its signature below, hereby makes to you), the representations and warranties contained in the Letter of Transmittal that are to be made with respect to the undersigned as a beneficial owner, including but not limited to the representations, that (i) any new notes acquired pursuant to the Exchange Offer will be obtained in the ordinary course of business of the person receiving the new notes, whether or not that person is the registered holder, (ii) neither the holder of old notes nor any other person has an arrangement or understanding with any person to participate in the distribution of new notes, (iii) if the holder is not a broker-dealer, or is a broker-dealer but will not receive new notes for its own account in exchange for old notes, neither the holder nor any other person is engaged in or intends to participate in the distribution of new notes and (iv) neither the holder nor any other person is an "affiliate" of the Company within the meaning of Rule 405 of the Securities Act or, if the holder is an affiliate, that holder will comply with the registration and prospectus delivery requirements of the Securities Act to the extent applicable. By so acknowledging that it will deliver and by delivering a prospectus meeting the requirements of the Securities Act in connection with any resale of new notes, the undersigned is not deemed to admit that it is an "underwriter" within the meaning of the Securities Act.

\* Unless otherwise indicated, signature(s) hereon by beneficial owner(s) shall constitute an instruction to the nominee to tender all old notes of the beneficial owner(s).

SIGN HERE

Name of beneficial owner(s) (please print):

Signature(s):

-----

Address:

-----

Telephone (with international dialing code):

Taxpayer Identification or Social Security/Employer Identification Number,  
if applicable:

-----

Date:

-----

Account Number with Registered Holder:

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GUIDELINES FOR CERTIFICATION OF TAXPAYER IDENTIFICATION  
NUMBER ON SUBSTITUTE FORM W-9

GUIDELINES FOR DETERMINING THE PROPER IDENTIFICATION NUMBER TO GIVE THE PAYER. Social Security numbers have nine digits separated by two hyphens: i.e. 000-00-0000. Employer identification numbers have nine digits separated by only one hyphen: i.e. 00-0000000. The table below will help determine the number to give the payer.

FOR THIS TYPE OF ACCOUNT:	GIVE THE SOCIAL SECURITY NUMBER OF:
1. An individual's account	The individual
2. Two or more individuals (joint account)	The actual owner of the account or, if combined funds, any one of the individuals(1)
3. Husband and wife (joint account)	The actual owner of the account or, if joint funds, either person(1)
4. Custodian account of a minor (Uniform Gift to Minors Act)	The minor(2)
5. Adult and minor (joint account)	The adult or, if the minor is the only contributor, the minor(1)
6. Account in the name of guardian or committee for a designated ward, minor or incompetent person	The ward, minor, or incompetent person(3)
7. (a) The usual revocable savings trust account (grantor is also trustee)	The grantor-trustee(1)
(b) So-called trust account that is not a legal or valid trust under State law	The actual owner(1)
8. Sole proprietorship account	The owner(4)
9. A valid trust, estate, or pension trust	The legal entity (Do not furnish the identifying number of the personal representative or trustee unless the legal entity itself is not designated in the account title.)(5)
10. Corporate account	The corporation
11. Religious, charitable, or educational organization account	The organization
12. Partnership	The partnership
13. Association, club, or other tax-exempt organization	The organization

FOR THIS TYPE OF ACCOUNT: GIVE THE SOCIAL SECURITY NUMBER OF:

- |   |                       |
|---|-----------------------|
| 14. A broker or registered nominee  | The broker or nominee |
| 15. Account with the Department of Agriculture in the name of a public entity (such as a State or local government, school district, or prison) that receives agricultural program payments | The public entity     |

(1) List first and circle the name of the person whose number you furnish.

(2) Circle the minor's name and furnish the minor's Social Security Number.

(3) Circle the ward's, minor's or incompetent person's name and furnish such person's social security number.

(4) Show the name of the owner. You may also enter your business name. You may use your Social Security Number or Employer Identification Number.

(5) List first and circle the name of the legal trust, estate, or pension trust.

NOTE: If no name is circled when there is more than one name, the number will be considered to be that of the first name listed.

OBTAINING A NUMBER

If you do not have a Taxpayer Identification Number or you do not know your number, obtain Form SS-5, Application for a Social Security Number Card, or Form SS-4, Application for Employer Identification Number, at the local office of the Social Security Administration or the Internal Revenue Service or by calling 1 (800) TAX-FORM and apply for a number.

PAYEES EXEMPT FROM BACKUP WITHHOLDING

Payees specifically exempted from backup withholding on ALL payments include the following:

- o An organization exempt from tax under Section 501(a), or an individual retirement plan.
- o The United States or any agency or instrumentality thereof.
- o A State, the District of Columbia, a possession of the United States, or any subdivision or instrumentality thereof.
- o A foreign government, a political subdivision of a foreign government, or any agency or instrumentality thereof.
- o An international organization or any agency, or instrumentality thereof.

Payees that may be exempt from backup withholding include:

- o A corporation.

- o A financial institution.
- o A registered dealer in securities or commodities registered in the U.S. or a possession of the U.S.
- o A real estate investment trust.
- o A common trust fund operated by a bank under Section 584(a).
- o An exempt charitable remainder trust, or a non-exempt trust described in Section 4947(a)(1).
- o An entity registered at all times under the Investment Company Act of 1940.
- o A foreign central bank of issue.

- o A middleman known in the investment community as a nominee or who is listed in the most recent publication of the American Society of Corporate Secretaries, Inc., Nominee List.
- o A futures commission merchant registered with the Commodity Futures Trading Commission.

Payments of dividends and patronage dividends not generally subject to backup withholding include the following:

- o Payments to nonresident aliens subject to withholding under Section 1441.
- o Payments to partnerships not engaged in a trade or business in the U.S. and which have at least one nonresident partner.
- o Payments of patronage dividends where the amount received is not paid in money.
- o Payments made by certain foreign organizations.
- o Section 404(k) payments made by an ESOP.

Payments of interest not generally subject to backup withholding include the following:

- o Payments of interest on obligations issued by individuals. Note: You may be subject to backup withholding if this interest is \$600 or more and is paid in the course of the payer's trade or business and you have not provided your correct Taxpayer Identification Number to the payer.
- o Payments of tax-exempt interest (including exempt-interest dividends under Section 852).
- o Payments described in Section 6049(b)(5) to non-resident aliens.
- o Payments on tax-free covenant bonds under Section 1451.
- o Payments made by certain foreign organizations.
- o Mortgage interest paid to you.

Exempt payees described above should file Form W-9 to avoid possible erroneous backup withholding. FILE THIS FORM WITH THE PAYER, FURNISH YOUR TAXPAYER IDENTIFICATION NUMBER, WRITE "EXEMPT" ON THE FACE OF THE FORM, AND RETURN IT TO THE PAYER. IF THE PAYMENTS ARE INTEREST, DIVIDENDS, OR PATRONAGE DIVIDENDS, ALSO SIGN AND DATE THE FORM.

Certain payments other than interest, dividends, and patronage dividends, that are not subject to information reporting are also not subject to backup withholding. For details, see the regulations under Sections 6041, 6041A(a), 6045 and 6050A.

PRIVACY ACT NOTICE-Section 6109 requires most recipients of dividend, interest, or other payments to give Taxpayer Identification numbers to payers who must report the payments to IRS. The IRS uses the numbers for identification purposes. Payers must be given the numbers whether or not recipients are required to file tax returns. Payers must generally withhold 31% of taxable interest, dividend, and certain other payments to a payee who does not furnish a Taxpayer Identification Number to a payer. Certain penalties may also apply.

#### PENALTIES

(1) Penalty For Failure to Furnish Taxpayer Identification Number. If you fail to furnish your taxpayer identification number to a payer, you are subject to a penalty of \$50 for each such failure unless your failure is due to reasonable cause and not to willful neglect.

(2) Civil Penalty for False Information with Respect to Withholding. If you make a false statement with no reasonable basis which results in no imposition of backup withholding, you are subject to a penalty of \$500.

(3) Criminal Penalty for Falsifying Information. Falsifying certifications or affirmations may subject you to criminal penalties including fines and/or imprisonment.

FOR ADDITIONAL INFORMATION CONTACT YOUR TAX CONSULTANT OR THE INTERNAL REVENUE SERVICE.