

UNITED STATES SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

Form S-3
REGISTRATION STATEMENT
UNDER THE SECURITIES ACT OF 1933
MARTIN MARIETTA MATERIALS, INC.

(Exact name of Registrant as specified in its charter)

North Carolina
(State or other jurisdiction of incorporation or organization)

56-1848578
(I.R.S. Employer Identification Number)

2710 Wycliff Road
Raleigh, North Carolina 27607-3033
(919) 781-4550
(Address, including zip code, and telephone number, including area code, of registrant's principal executive offices)

Roselyn R. Bar
Senior Vice President, General Counsel and Corporate Secretary
Martin Marietta Materials, Inc.
2710 Wycliff Road
Raleigh, North Carolina 27607-3033
(919) 781-4550
(Name, address, including zip code, telephone number, including area code, of agent for service)

with copies to:
Phyllis G. Korff
Michael J. Zeidel
Skadden, Arps, Slate, Meagher & Flom LLP
Four Times Square
New York, New York 10036
(212) 735-3000

Approximate date of commencement of proposed sale to the public: From time to time after the effective date of this Registration Statement as determined by the Registrant.

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

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

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

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

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

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

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, or a smaller reporting company. See the definitions of "large accelerated filer," "accelerated filer" and "smaller reporting company" in Rule 12b-2 of the Exchange Act. (Check one):
Large accelerated filer Accelerated filer Non-accelerated filer Smaller reporting company

CALCULATION OF REGISTRATION FEE

Title of Each Class of Securities to be Registered	Amount to be Registered	Proposed Maximum Aggregate Offering Price	Amount of Registration Fee
Debt Securities (which may be senior or subordinated, convertible or non-convertible), Common Stock, Preferred Stock, Warrants(1)	(2)	(2)	(3)

(1) Warrants to purchase the above-referenced securities may be offered and sold separately or together with other securities.

(2) Not applicable pursuant to Form S-3 General Instruction II(E). An unspecified aggregate initial offering price or number of the securities of each identified class is being registered as may from time to time by offered at unspecified prices. Separate consideration may or may not be received for securities that are issuable on exercise, conversion or exchange of other securities.

(3) In accordance with Rule 456(b) and Rule 457(t), the Registrant is deferring payment of all of the registration fee.

Prospectus

Martin Marietta Materials, Inc.

Debt Securities

Common Stock

Preferred Stock

Warrants

The following are types of securities that we may offer, issue and sell from time to time, together or separately:

- debt securities, which may be senior or subordinated, convertible or non-convertible;
- shares of our preferred stock;
- shares of our common stock; and
- warrants to purchase debt or equity securities.

This prospectus describes some of the general terms that may apply to the offered securities. The specific terms and amounts of the offered securities will be fully described in supplements to this prospectus, which may add, update or change information in this prospectus. Please read carefully any prospectus supplements and this prospectus and any information incorporated by reference carefully before you invest in these securities.

Our common stock is listed on the New York Stock Exchange under the trading symbol "MLM." Each prospectus supplement will indicate if the securities offered thereby will be listed on any securities exchange.

Investing in our securities involves risks. See "Risk Factors" on page 1.

Neither the Securities and Exchange Commission nor any state securities commission has approved or disapproved of these securities or passed upon the adequacy or accuracy of this prospectus. Any representation to the contrary is a criminal offense.

We may offer and sell these securities to or through one or more underwriters, dealers and agents, or directly to purchasers, on a continuous or delayed basis. The names of any underwriters or agents and the terms of the arrangements with such entities will be stated in an accompanying prospectus supplement.

The date of this prospectus is March 5, 2009.

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About this prospectus

This prospectus is part of a Registration Statement that we filed with the Securities and Exchange Commission, or SEC, utilizing a “shelf” registration process. Under this shelf process, we may, from time to time, sell the securities described in this prospectus in one or more offerings. We have omitted parts of the registration statement in accordance with the rules and regulations of the SEC. This prospectus provides you only with a general description of the securities we may offer. Each time we sell securities, we will provide a prospectus supplement or prospectus supplements containing specific information about the terms of that offering. The prospectus supplement may also add to, update or change information contained in this prospectus. You should read both this prospectus and any prospectus supplement together with additional information described under the heading “Where you can find more information” and “Incorporation by reference” before purchasing any of our securities.

You should rely only on the information contained or incorporated by reference in this prospectus or applicable prospectus supplement or any free writing prospectus. “Incorporated by reference” means that we can disclose important information to you by referring you to another document filed separately with the SEC. We have not authorized anyone to provide you with different or additional information. We are not making an offer to sell these securities in any jurisdiction where the offer or sale of these securities is not permitted. You should assume that the information in this prospectus or any prospectus supplement, as well as the information incorporated by reference herein or therein, is accurate only as of the date of the documents containing the information. Our business, financial condition, results of operations and prospects may have changed since those dates.

In this prospectus and any prospectus supplement, unless otherwise indicated, the terms “Company,” “we,” “us” and “our” refer to Martin Marietta Materials, Inc. and its consolidated subsidiaries.

About the registrant

We are a leading producer of aggregates for the construction industry, including infrastructure, commercial, agricultural, and residential. We also have a specialty products segment that manufactures and markets magnesia-based chemical products used in industrial, agricultural, and environmental applications; dolomitic lime sold primarily to the steel industry; and structural composite products. For the year ended December 31, 2008, our aggregates business accounted for approximately 91% of our total net sales, and our specialty products segment accounted for approximately 9% of our total net sales.

We were formed in 1993 as a North Carolina corporation to serve as successor to the operations of the materials group of the organization that is now Lockheed Martin Corporation. Our principal executive offices are located at 2710 Wycliff Road Raleigh, North Carolina 27607-3033, and our telephone number is (919) 781-4550.

Our website is located at <http://www.martinmarietta.com>. We do not incorporate the information on our website into this prospectus and you should not consider it a part of this prospectus.

Risk factors

Investment in the offered securities involves risks. Before acquiring any offered securities pursuant to this prospectus, you should carefully consider the information contained or incorporated by reference in this prospectus or in any accompanying prospectus supplement, including, without limitation, the risks of an investment in our company under the captions "Risk Factors" and "Management's Discussion and Analysis of Financial Condition and Results of Operations" in our Annual Report on Form 10-K for the fiscal year ended December 31, 2008, as the same may be updated from time to time by our future filings with the SEC. The occurrence of any of these risks might cause you to lose all or a part of your investment in the offered securities. Please also refer to the section below entitled "Forward-Looking Statements."

Forward-looking statements

This prospectus contains or incorporates by reference forward-looking statements within the meaning of Section 27A of the Securities Act of 1933, as amended, and Section 21E of the Securities Exchange Act of 1934, as amended. Generally, you can identify these statements because they use words like "anticipates," "believes," "expects," "future," "intends," "plans," "project," and similar terms. These statements are only our current expectations. Although we do not make forward-looking statements unless we believe we have a reasonable basis for doing so, we cannot guarantee their accuracy, and actual results may differ materially from those we anticipated due to a number of uncertainties and risks, including the risks described or incorporated by reference in this prospectus and other unforeseen risks, some of which are beyond our control. You should not place undue reliance on these forward-looking statements, which apply only as of the date of this prospectus or the incorporated documents.

There may be events in the future that we are unable to predict accurately or over which we have no control. The factors referenced in the section titled "Risk factors," as well as any cautionary language in, or incorporated by reference into, this prospectus or any prospectus supplement, provide examples of risks, uncertainties and events that may cause our actual results to differ materially from the expectations we describe in our forward-looking statements. Before you invest in our securities, you should be aware that the occurrence of the events described in the risk factors and elsewhere in this prospectus and in the documents incorporated by reference herein could negatively impact our business, operating results, financial condition and stock price.

You should not rely upon forward-looking statements as predictions of future events. We cannot assure you that the events and circumstances reflected in the forward-looking statements will be achieved or occur and actual results could differ materially from those projected in the forward-looking statements.

Use of proceeds

Unless otherwise indicated in a prospectus supplement, the net proceeds from the sale of securities offered by this prospectus will be used for general corporate purposes, including, without limitation, the repayment or the refinancing of indebtedness, repurchases of our outstanding common stock, capital expenditures, future acquisitions and working capital. If net proceeds from a specific offering will be used to repay indebtedness, the applicable prospectus supplement will describe the relevant terms of the debt to be repaid. Until we apply the proceeds from a sale of securities to their intended purposes, we may invest those proceeds in short-term investments, including repurchase agreements, some or all of which may not be investment grade.

Ratio of earnings to fixed charges

The following table shows our historical ratio of earnings to fixed charges for each of the five most recent fiscal years.

Ratio of earnings to fixed charges	Year Ended December 31,				
	2008	2007	2006	2005	2004
	3.45	5.27	7.01	5.67	4.47

For this ratio, earnings consist of earnings before income taxes on income, extraordinary items and net cumulative effect of accounting changes, adjusted for undistributed earnings of less-than-fifty-percent-owned affiliates. Fixed charges consist of interest expensed and capitalized, plus the portion of rent expense under operating leases deemed by us to be representative of the interest factor.

Description of debt securities

We may issue senior or subordinated debt securities. We will issue the senior debt securities under an indenture to be entered into between us and Branch Banking and Trust Company, Inc., as trustee, which we refer to as the senior indenture. We will issue the subordinated debt securities under an indenture to be entered into between us and Branch Banking and Trust Company, Inc., as trustee, which we refer to as the subordinated indenture. We refer to the senior indenture and the subordinated indenture, collectively, as the base indentures. As used in this prospectus, "debt securities" means our direct unsecured general obligations and may include debentures, notes, bonds or other evidences of indebtedness that we issue and the trustee authenticates and delivers under the applicable base indenture. The prospectus supplement relating to any offering of debt securities will describe more specific terms of the debt securities being offered.

Debt securities will be issued under a base indenture in one or more series established pursuant to a supplemental indenture or a resolution duly adopted by our board of directors or a duly authorized committee thereof. The base indentures do not limit the aggregate principal amount of debt securities that may be issued thereunder, or the amount of series that may be issued. We refer to the base indentures (together with each applicable supplemental indenture or resolution establishing the applicable series of debt securities) collectively in this prospectus as the indentures. The indentures will be subject to and governed by the Trust Indenture Act of 1939.

The summary set forth below does not purport to be complete and is subject to and qualified in its entirety by reference to the base indentures and the supplemental indenture or board resolution (including the form of debt security) relating to the applicable series of debt securities, the form of each of which is or will be filed or incorporated by reference as an exhibit to the registration statement of which this prospectus is a part and incorporated herein by reference.

General

The senior debt securities will be our unsecured obligations and will rank equally with all of our other unsecured and unsubordinated debt from time to time outstanding. The subordinated debt securities will be subordinated in right of payment to the prior payment in full of our unsubordinated debt, including any senior debt securities, as described below under "Subordinated Indenture Provisions — Subordination."

Our secured debt will be effectively senior to the debt securities to the extent of the value of the assets securing such debt. Unless otherwise indicated in a prospectus supplement, the debt securities will be exclusively our obligations and not of our subsidiaries and therefore the debt securities will be structurally subordinate to the debt and liabilities of any of our subsidiaries.

The applicable prospectus supplement will describe the specific terms of each series of debt securities being offered, including some or all of the following:

- the title of the debt securities;
- the price at which the debt securities will be issued (including any issue discount);
- any limit on the aggregate principal amount of the debt securities;
- the date or dates (or manner of determining the same) on which the debt securities will mature;
- the rate or rates (which may be fixed or variable) per annum (or the method or methods by which such rate or rates will be determined) at which the debt securities will bear interest, if any, and the date or dates from which such interest will accrue;
- the date or dates on which such interest will be payable and the record dates for such interest payment dates and the basis upon which interest shall be calculated if other than that of a 360-day year of twelve 30-day months;
- if the trustee in respect of the debt securities is other than Branch Banking & Trust Company (or any successor thereto), the identity of the trustee;
- any mandatory or optional sinking fund or purchase fund or analogous provision;
- any provisions relating to the date after which, the circumstances under which, and the price or prices at which the debt securities may, pursuant to any optional or mandatory redemption provisions, be redeemed at our option or of the holder thereof and certain other terms and provisions of such optional or mandatory redemption;
- if the debt securities are denominated in other than United States dollars, the currency or currencies (including composite currencies) in which the debt securities are denominated;
- if payments of principal (and premium, if any) or interest, if any, in respect of the debt securities are to be made in a currency other than United States dollars or the amounts of such payments are to be determined with reference to an index based on a currency or currencies other than that in which the debt securities are denominated, the currency or currencies (including composite currencies) or the manner in which such amounts are to be determined, respectively;
- if other than or in addition to the events of default described in the base indentures, the events of default with respect to the debt securities of that series;
- any provisions relating to the conversion of debt securities into debt securities of another series or shares of our capital stock or any other equity securities;
- for the subordinated debt securities, whether the specific subordination provisions applicable to the subordinated debt securities are other than as set forth in the subordinated indenture;
- any provisions restricting defeasance of the debt securities;
- any covenants or other restrictions on our operations;
- conditions to any merger or consolidation; and
- any other terms of the debt securities.

Unless otherwise indicated in a prospectus supplement in respect of which this prospectus is being delivered, principal of, premium, if any, and interest, if any, on the debt securities (other than debt securities issued as global securities) will be payable, and the debt securities (other than debt securities issued as global securities) will be

exchangeable and transfers thereof will be registrable, at the office of the trustee with respect to such series of debt securities and at any other office maintained at that time by us for such purpose, provided that, at our option, payment of interest may be made by check mailed to the address of the holder as it appears in the register of the debt securities.

Unless otherwise indicated in a prospectus supplement relating thereto, the debt securities will be issued only in fully registered form, without coupons, in denominations of \$1,000 and integral multiples of \$1,000 thereafter. For certain information about debt securities issued in global form, see “— Global Securities” below. No service charge shall be made for any registration of transfer or exchange of the Securities, but we may require payment of a sum sufficient to cover any transfer tax or other governmental charge payable in connection therewith.

Debt securities bearing no interest or interest at a rate that at the time of issuance is below the prevailing market rate will be sold at a discount below their stated principal amount. Special U.S. federal income tax considerations applicable to any such discounted debt securities or to certain debt securities issued at par which are treated as having been issued at a discount for U.S. federal income tax purposes will be described in the prospectus supplement in respect of which this prospectus is being delivered, if applicable.

Debt securities may be issued, from time to time, with the principal amount payable on the applicable principal payment date, or the amount of interest payable on the applicable interest payment date, to be determined by reference to one or more currency exchange rates or other factors. In such cases, holders of such debt securities may receive a principal amount on any principal payment date, or a payment of interest on any interest payment date, that is greater than or less than the amount of principal or interest payable on such dates, depending upon the value on such dates of the applicable currency or other factor. Information, if any, as to the methods for determining the amount of principal or interest payable on any date, the currencies or the factors to which the amount payable on such date is linked and certain additional tax considerations applicable to the debt securities will be set forth in a prospectus supplement in respect of which this prospectus is being delivered.

The indentures provide that the trustee and the paying agent shall promptly pay to us upon request any money held by them for the payment of principal (and premium, if any) or interest that remains unclaimed for two years.

The base indentures do not limit the amount of additional unsecured indebtedness that we or any of our subsidiaries may incur. Unless otherwise specified in the resolutions or in any supplemental indenture establishing the terms of the debt securities, the terms of the debt securities do not afford holders of the debt securities protection in the event of a highly leveraged or other similar transaction involving us that may adversely affect the holders of the debt securities. Debt securities of any particular series need not be issued at the same time and, unless otherwise provided, a series may be re-opened, without the consent of the holders of such debt securities, for issuances of additional debt securities of that series, unless otherwise specified in the resolutions or any supplemental indenture establishing the terms of the debt securities.

Global securities

The debt securities of a series may be issued in whole or in part in the form of one or more global securities that will be deposited with the depository identified in the applicable prospectus supplement. Unless it is exchanged in whole or in part for debt securities in definitive form, a global security may not be transferred. However, transfers of the whole security between the depository for that global security and its nominees or its respective successors are permitted.

Unless otherwise provided in the applicable prospectus supplement, The Depository Trust Company, New York, New York, which we refer to in this prospectus as “DTC” will act as depository for each series of global securities. Beneficial interests in global securities will be shown on, and transfers of global securities will be effected only through, records maintained by DTC and its participants.

Amendment, supplement and waiver

Subject to certain exceptions, the indentures or the debt securities of any series may be amended or supplemented with the written consent of the holders of not less than a majority in principal amount of the then outstanding debt securities of the affected series; provided that we and the trustee may not, without the consent of the holder of each outstanding debt security of such series affected thereby, (a) reduce the amount of debt securities of such series whose holders must consent to an amendment, supplement or waiver, (b) reduce the rate of or extend the time for payment of interest on any debt security of such series, (c) reduce the principal of or extend the fixed maturity of any debt security of such series, (d) reduce the portion of the principal amount of a discounted security of such series payable upon acceleration of its maturity or (e) make any debt security of such series payable in money other than that stated in such debt security. Any past default or compliance with any provisions may be waived with the consent of the holders of a majority in principal amount of the debt securities of the affected series, except a default in payment of principal or interest or in respect of other provisions requiring the consent of the holder of each such debt security of that series in order to amend. Without the consent of any holder of debt securities of such series, we and the trustee may amend or supplement the indentures or the debt securities without notice to cure any ambiguity, omission, defect or inconsistency, to provide for uncertificated debt securities in addition to or in place of certificated debt securities, to comply with the provisions of the applicable indentures concerning mergers, consolidations and transfers of all or substantially all of our assets, to appoint a trustee other than Branch Banking & Trust Company (or any successor thereto) as trustee in respect of one or more series of debt securities, or to add, change or eliminate provisions of the applicable indentures as shall be necessary or desirable in accordance with any amendment to the Trust Indenture Act of 1939. In addition, without the consent of any holder of debt securities, we and the trustee may amend or supplement the indentures or the debt securities to make any change that does not materially adversely affect the rights of any holder of that series of debt securities. Whenever we request the trustee to take any action under the indentures, including a request to amend or supplement the applicable indentures without the consent of any holder of debt securities, we are required to furnish the trustee with an officers' certificate and an opinion of counsel to the effect that all conditions precedent to the action have been complied with. Without the consent of any holder of debt securities, the trustee may waive compliance with any provisions of the indentures or the debt securities if the waiver does not materially adversely affect the rights of any such holder.

Default and remedies

An event of default under the indentures in respect of any series of debt securities is: default for 30 days in payment of interest on the debt securities of that series; default in payment of principal on the debt securities of that series; failure by us for 90 days after notice to us to comply with any of our other agreements in the applicable indentures for the benefit of holders of debt securities of that series; certain events of bankruptcy or insolvency; and any other event of default specifically provided for by the terms of such series, as described in the related prospectus supplement.

If an event of default occurs and is continuing, the trustee or the holders of at least 25% in principal amount of the outstanding debt securities of the affected series may declare the debt securities of that series to be due and payable immediately, but under certain conditions such acceleration may be rescinded by the holders of a majority in principal amount of the outstanding debt securities of the affected series. No holder of debt securities may pursue any remedy against us under the applicable indentures (other than with respect to the right to receive payment of principal (and premium, if any) or interest, if any) unless such holder previously shall have given to the trustee written notice of default and unless the holders of at least 25% in principal amount of the debt securities of the affected series shall have requested the trustee to pursue the remedy and shall have offered the trustee indemnity satisfactory to it, the trustee shall not have complied with the request within 60 days of receipt of the request and the offer of indemnity, and the trustee shall not have received direction inconsistent with the request during such 60-day period from the holders of a majority in principal amount of the debt securities of the affected series.

Holders of debt securities may not enforce the indentures or the debt securities except as provided in the applicable indentures. The trustee may refuse to enforce the indentures or the debt securities unless it receives indemnity satisfactory to it from us or, under certain circumstances, the holders of debt securities seeking to direct the trustee to take certain actions under the applicable indentures, against any loss, liability or expense. Subject to

certain limitations, holders of a majority in principal amount of the debt securities of any series may direct the trustee in its exercise of any trust or power under the applicable indenture in respect of that series. The indentures provide that the trustee will give to the holders of debt securities of any particular series notice of all defaults known to it, within 90 days after the occurrence of any default with respect to such debt securities, unless the default shall have been cured or waived. The trustee may withhold from holders of debt securities notice of any continuing default (except a default in payment of principal or interest) if it determines in good faith that withholding such notice is in the interests of such holders.

Our directors, officers, employees and stockholders, as such, shall not have any liability for any of our obligations under the debt securities or the indentures or for any claim based on, in respect of, or by reason of such obligations or their creation. By accepting a debt security, each holder of such debt security waives and releases all such claims and liability. This waiver and release are part of the consideration for the issue of the debt securities.

Satisfaction, discharge and defeasance

The indentures provide, unless such provision is made inapplicable to the debt securities of any series issued pursuant to the applicable indenture, that we may, subject to certain conditions described below, discharge our indebtedness and our obligations or certain of our obligations under the applicable indenture in respect of debt securities of a series by depositing funds or, in the case of debt securities payable in United States dollars, U.S. government obligations, or debt securities of the same series with the trustee. The indentures provide that, upon satisfaction of certain conditions (1) we will be discharged from any obligation to comply with certain obligations under the indentures and any noncompliance with such obligations shall not be an event of default in respect of the series of debt securities or (2) provided that 91 days have passed from the date of the deposit referred to below and certain specified events of default have not occurred, we will be discharged from any and all obligations in respect of the series of debt securities (except for certain obligations, including obligations to register the transfer and exchange of the debt securities of such series, to replace mutilated, destroyed, lost or stolen debt securities of such series, to maintain paying agencies and to cause money to be held in trust), in either case upon the deposit with the trustee, in trust, of money, debt securities of the same series, and/or U.S. government obligations that, through the payment of interest and principal in accordance with their terms, will provide money in an amount sufficient to pay the principal of and each installment of interest on the series of debt securities on the date when such payments become due in accordance with the terms of the applicable indenture and the series of debt securities. Unless otherwise indicated in a prospectus supplement, in the event of any such defeasance under clause (1) above, our other obligations under the applicable indenture and the debt securities of the affected series shall remain in full force and effect. In the event of defeasance and discharge under clause (2) above, the holders of debt securities of the affected series are entitled to payment only from the trust fund created by such deposit for payment. In the case of our discharge from any and all obligations in respect of a series of debt securities as described in clause (2) above, the trust may be established only if, among other things, we shall have delivered to the trustee an opinion of counsel to the effect that, if the subject debt securities are then listed on a national securities exchange, such deposit, defeasance or discharge will not cause the debt securities to be delisted. Prospective purchasers should consult their tax advisors as to the possible tax effects of such a defeasance and discharge.

Pursuant to the escrow trust agreements that we may execute in connection with the defeasance of all or certain of our obligations under the indentures as provided above, we from time to time may elect to substitute U.S. government obligations or debt securities of the same series for any or all of the U.S. government obligations deposited with the trustee; provided that the money, U.S. government obligations, and/or debt securities of the same series in trust following such substitution or substitutions will be sufficient, through the payment of interest and principal in accordance with their terms, to pay the principal of and each installment of interest on the series of debt securities on the date when such payments become due in accordance with the terms of the applicable indenture and the series of debt securities. The escrow trust agreements also may enable us (1) to direct the trustee to invest any money received by the trustee in the U.S. government obligations comprising the trust in additional U.S. government obligations, and (2) to withdraw monies or U.S. government obligations from the trust from time to time; provided that the money and/or U.S. government obligations in trust following such withdrawal will be sufficient, through the payment of interest and principal in accordance with their terms, to pay the principal of and each installment of

interest on the series of debt securities on the date when such payments become due in accordance with the terms of the applicable indenture and the series of debt securities.

Subordinated indenture provisions

The subordinated debt securities will be issued under the subordinated indenture. The subordinated debt securities will rank on an equal basis with certain of our other subordinated debt that may be outstanding from time to time and will rank junior to all of our senior debt, as defined below, including any senior debt securities that may be outstanding from time to time.

Subordination. Holders of subordinated debt securities should recognize that contractual provisions in the subordinated indenture may prohibit us from making payments on those securities. Subordinated debt securities are subordinate and junior in right of payment, to the extent and in the manner stated in the subordinated indenture or any supplement thereto to all of our senior debt, including all debt securities we have issued and will issue under the senior indenture.

As used in the subordinated indenture and this prospectus, the term "senior debt" means the principal, premium, if any, unpaid interest and all fees and other amounts payable in connection with any debt for money borrowed other than (1) debt incurred (a) with respect to certain elections under the federal bankruptcy code, (b) debt to our subsidiaries, (c) debt to our employees, (d) tax liability, and (e) certain trade payables, (2) all obligations under interest rate, currency and commodity swaps, caps, floors, collars, hedge arrangements, forward contracts or similar agreements and (3) renewals, extensions, modifications and refunds of any such debt.

Unless otherwise indicated in the applicable prospectus supplement, we may not pay principal of, premium, if any, sinking fund or interest, if any, on any subordinated debt securities if:

- a default on senior debt exists that permits the holders of such senior debt to accelerate its maturity, and
- the default is the subject of judicial proceedings or we have received notice of such default.

We may resume payments on the subordinated debt securities when full payment of amounts then due for principal, premium, if any, sinking funds and interest on senior debt has been made or duly provided for.

Unless otherwise indicated in the applicable prospectus supplement, if there is any payment or distribution of our assets to creditors upon a total or partial liquidation or a total or partial dissolution or in a bankruptcy, reorganization, insolvency, receivership or similar proceeding, holders of all present and future senior debt (which will include interest accruing after, or which would accrue but for, the commencement of any bankruptcy, reorganization, insolvency, receivership or similar proceeding) are entitled to receive payment in full of the principal, premium, if any and interest due thereon before holders of the subordinated debt securities are entitled to receive any payment on the subordinated debt securities. In addition, any payments or distributions of our assets, whether in cash, property or securities which would otherwise be made on subordinated debt securities will generally be paid to the holders of senior debt, or their representatives, in accordance with the priorities existing among these creditors at that time until the senior debt is paid in full.

If the trustee under the subordinated indenture or any holders of the subordinated debt securities receive any payment or distribution of assets that is prohibited under the subordination provisions, before all senior debt is paid in full, such payment or distribution must be paid over to the holder of the senior debt.

After payment in full of all present and future senior debt, holders of subordinated debt securities will be subrogated to the rights of any holders of senior debt to receive payments or distributions that are applicable to the senior debt until all the subordinated debt securities are paid in full.

Even if the subordination provisions prevent us from making any payment when due on the subordinated debt securities of any series, we will be in default on our obligations under that series if we do not make the payment when due. This means that the trustee under the subordinated indenture and the holders of that series can take action against us, but they will not receive any money until the claims of the holders of senior debt have been fully satisfied.

Governing law

The debt securities and the indenture will be governed by the laws of the State of New York.

Trustee

Branch Banking & Trust Company is a lender under our credit facility, the trustee for our 6.6% senior notes due 2018, 6.25% senior notes due 2037 and floating rate senior notes due 2010 and from time to time performs other services for us in the normal course of business.

Additional information

The indenture is an exhibit to the registration statement of which this prospectus is a part. Any person who receives this prospectus may obtain a copy of the indenture without charge by writing to us at the address listed under the caption "Incorporation by reference."

Description of capital stock

The following description of our capital stock summarizes certain portions of our restated articles of incorporation, our restated bylaws and the North Carolina Business Corporation Act, or the Business Corporation Act. This information is not complete and is qualified in all respects by reference to the provisions of the restated articles of incorporation, our restated bylaws and the Business Corporation Act.

Common stock

We may issue shares of our common stock, either separately or together with other securities offered pursuant to this prospectus. Under our restated articles of incorporation, we are authorized to issue up to 100,000,000 shares of our common stock, par value of \$0.01 per share. At March 4, 2009, there were 41,406,842 shares of our common stock issued and outstanding. The approximate number of shareholders of record of our common stock as of March 4, 2009 was 822. You should read the applicable prospectus supplement relating to an offering of shares of our common stock, or of securities convertible, exchangeable or exercisable for shares of our common stock, for the terms of such offering, including the number of shares of common stock offered, the initial offering price and the market prices and dividend information relating to our common stock.

Each holder of a share of our common stock is entitled to one vote for each share held of record on the applicable record date on each matter voted on at a meeting of shareholders. Holders of our common stock are entitled to receive dividends as may be declared from time to time by our board of directors out of funds legally available therefor. Holders of our common stock are entitled to share pro rata, upon any liquidation or dissolution of the Company, in all remaining assets available for distribution to shareholders after payment or providing for the Company's liabilities and the liquidation preference of any outstanding preferred stock. The rights, preferences and privileges of the holders of our common stock are subject to and may be adversely affected by the rights of holders of shares of our Junior Participating Class B Preferred Stock, which we refer to as Class B preferred stock, and any other series of our preferred stock that we may designate and issue in the future.

Preferred stock

We currently have authorized 10,000,000 shares of preferred stock, par value of \$0.01 per share. On October 21, 2006, our board of directors adopted a rights agreement that reserved 200,000 shares of Class B preferred stock for issuance. There are no shares of preferred stock issued and outstanding as of the date of this prospectus.

General

Our board of directors is authorized to establish from time to time one or more series of preferred stock, the number of shares to be included in any series of preferred stock, and to fix the designations, preferences, limitations and relative rights of the shares of such series. The specific terms of any preferred stock to be sold under this prospectus will be described in the applicable prospectus supplement. If so indicated in such prospectus supplement, the terms of the preferred stock offered may differ from the general terms set forth below. Unless otherwise specified in the prospectus supplement relating to the preferred stock offered thereby, each series of preferred stock offered will rank equal in right of payment to all other series of our preferred stock, and holders thereof will have no preemptive rights. The preferred stock offered will, when issued, be fully paid and nonassessable.

You should read the applicable prospectus supplement for the terms of the preferred stock offered. The terms of the preferred stock set forth in such prospectus supplement may include the following, as applicable to the preferred stock offered thereby:

- the title and stated value of the preferred stock;
- the number of shares of the preferred stock offered;
- the liquidation preference and the offering price of the preferred stock;
- the dividend rates of the preferred stock and/or methods of calculation of such dividends;
- periods and/or payment dates for the preferred stock dividends;
- whether dividends on the preferred stock are cumulative;
- the liquidation rights of the preferred stock;
- the sinking fund provisions, if applicable, for the preferred stock;
- the redemption provisions, if applicable, for the preferred stock;
- whether the preferred stock will be convertible into or exchangeable for other securities and, if so, the terms and conditions of conversion or exchange, including the conversion price or exchange ratio and the conversion or exchange period or the method of determining the same;
- whether the preferred stock will have voting rights and, if so, the terms of such voting rights;
- whether the preferred stock will be listed on any securities exchange;
- whether the preferred stock will be issued with any other securities and, if so, the amount and terms of such other securities; and
- any other specific terms, preferences or rights of, or limitations or restrictions on, the preferred stock.

Our authorized shares of common stock and preferred stock are available for issuance without further action by our shareholders, unless such action is required by applicable law or the rules of the stock exchange or automated quotation system on which our securities may be listed or trade. If the approval of our shareholders is not required for the issuance of shares of our common stock or preferred stock, our board of directors may determine to issue such shares without seeking shareholders' approval.

Our board of directors could issue a series of preferred stock that could, depending on the terms of such series, delay, defer or prevent a change in control of our Company. Any determination to issue such shares will be made by our board of directors based on its judgment as to the best interests of our Company and our shareholders. Our board of directors, in so acting, could issue preferred stock having terms that could discourage an attempt to acquire our Company, including tender offers or other transactions that some, or a majority, of our shareholders might believe to be in their best interests, or in which our shareholders might receive a premium for their stock over the then current market price of such stock.

Rights agreement

On September 27, 2006, our board of directors approved the execution of a rights agreement between our Company and American Stock Transfer & Trust Company, as rights agent. To implement the purpose of the rights agreement, on September 27, 2006, our board of directors declared a dividend distribution of one right for each outstanding share of our common stock and with respect to our common stock issued thereafter until the distribution date (defined below). Each right, when it becomes exercisable, generally entitles the registered holder to purchase from our Company a unit consisting initially of one one-thousandth of a share, each a unit, of our Class B preferred stock, at a purchase price of \$315.00 per unit, subject to adjustment.

The rights will separate from our common stock and the distribution date generally will occur upon the earlier of (i) 10 days following public disclosure that a person or group of affiliated or associated persons has become an “acquiring person” (as defined below), or (ii) 10 business days following the commencement of a tender offer or exchange offer that would result in a person or group becoming an “acquiring person.” Except as set forth below, an “acquiring person” is a person or group of affiliated or associated persons who has acquired beneficial ownership of 15% or more of the outstanding shares of common stock, and excludes us, our subsidiaries, our employee benefit plans and any person or entity organized, appointed or established by our Company for or pursuant to the terms of any such plan. Until the occurrence of the distribution date, the rights will be attached to all certificates representing shares of our common stock then outstanding, and no separate certificates evidencing the rights will be issued. Pursuant to the rights agreement, our Company reserves the right to require prior to the occurrence of a triggering event (as defined below) that, upon any exercise of rights, a number of rights be exercised so that only whole shares of Class B preferred stock will be issued.

The rights are not exercisable until the occurrence of the distribution date and will expire at the close of business on October 21, 2016, unless such date is extended or the rights are earlier redeemed by our Company as described below.

At any time following the distribution date, each holder of a right will thereafter have the right to receive, upon exercise of the right, our common stock (or, in certain circumstances, cash, property or other securities of our Company) having a value equal to two times the exercise price of the right. However, at such time, all rights that are, or (under certain circumstances specified in the rights agreement) were, beneficially owned by any acquiring person will be null and void and nontransferable and any holder of any such right (including any transferee) will be unable to exercise or transfer any such right.

In the event that, at any time following the date on which there has been public disclosure that, or of facts indicating that, a person has become an acquiring person, which we refer to as the stock acquisition date, (i) our Company is acquired in a merger or other business combination transaction in which our Company is not the surviving corporation, (ii) all or part of the outstanding shares of our Company’s common stock is changed or exchanged in connection with a merger or consolidation, or (iii) 50% or more of our Company’s assets or earning power is sold, mortgaged or transferred, each holder of a right (except rights which previously have been voided as set forth above) shall thereafter have the right to receive, upon exercise, common stock of the acquiring company having a value equal to two times the exercise price of the right. The events set forth in this paragraph and in the preceding paragraph are referred to as the “triggering events.”

The purchase price payable, and the number of units issuable, upon exercise of the rights are subject to an anti-dilution adjustment (i) in the event of a stock dividend on, or a subdivision, combination or reclassification of, the Class B preferred stock, (ii) if holders of the Class B preferred stock are granted certain rights or warrants to subscribe for Class B preferred stock or convertible securities at less than the current market price of the Class B preferred stock, or (iii) upon the distribution to holders of the Class B preferred stock of evidences of indebtedness or assets (excluding regular quarterly cash dividends) or of subscription rights or warrants (other than those referred to above).

Our Company may, by a resolution adopted by a majority of the full board of directors, at its option, at any time prior to the earlier of (i) the tenth day following the stock acquisition date, or (ii) October 21, 2016 (unless extended), redeem all but not less than all of the then outstanding rights at a redemption price of \$0.001 per right. The redemption of the rights may be made effective at such time and on such terms and conditions as our board of

directors in its sole discretion may establish. Immediately following the action of our board of directors effecting the redemption of the rights, the rights will terminate.

At any time after the rights become exercisable for our common stock or other consideration of our Company, our board of directors may exchange the rights, in whole or in part, at an exchange ratio of one share of our common stock, or equity securities deemed to have the same value as one share of our common stock, per right, subject to adjustment.

Until a right is exercised, the holder thereof, as such, will have no rights as a shareholder of our Company, including the right to vote or to receive dividends. Any of the provisions of the rights agreement may be amended by resolution of a majority of the full Board of Directors prior to the distribution date.

Class B preferred stock

Ranking. The Class B preferred stock ranks ahead of our common stock with respect to the payment of dividends and the distribution of assets in the event of our liquidation or dissolution. The Class B preferred stock ranks junior to all other series of our Company's preferred stock as to the payment of dividends and the distribution of assets, unless the terms of any such series shall provide otherwise.

Dividends. Subject to the prior and superior rights of any shares of any series of preferred stock ranking prior and superior to the shares of Class B preferred stock with respect to dividends, the holders of shares of Class B preferred stock will receive when, as and if declared by our board of directors quarterly dividends out of funds legally available for the purpose. Dividends are payable in an amount per one one-thousandth of a share equal to one times the aggregate per share amount of all cash and non-cash dividends declared on the common stock and on the first day of January, April, July and October in each year, commencing on the first quarterly dividend payment date after the first issuance of a share or fraction of a share of Class B preferred stock.

So long as any dividends or distributions payable on Class B preferred stock are in arrears, no shares may be repurchased and no dividends may be declared or paid with respect to shares ranking junior to Class B preferred stock, including our common stock.

Voting Rights. Holders of shares of Class B preferred stock will be entitled to vote as one voting class with the holders of common stock on all matters submitted to a vote of our shareholders. Each one-thousandth of a share of Class B preferred stock entitles the holder to one vote on all matters submitted to a vote of our shareholders. In the event we shall at any time declare any dividend on common stock payable in shares of common stock, subdivide the outstanding common stock or combine the outstanding common stock into a smaller number of shares, the number of votes per share to which holders of shares of Class B preferred stock were entitled to immediately prior to such event shall be adjusted by multiplying such number by a fraction the numerator of which is the shares of common stock outstanding immediately after such event and the denominator of which is the number of shares of common stock that were outstanding immediately prior to such event.

If at any time dividends on any Class B preferred stock are in arrears in an amount equal to four quarterly dividends, all holders of preferred stock with dividends in arrears in an amount equal to four quarterly dividends, voting as a class, will have the right to elect two directors. Except as set forth in the articles of amendment with respect to the Class B preferred stock, holders of Class B preferred stock shall have no special voting rights and their consent shall not be required (except to the extent they are entitled to vote with holders of common stock as set forth herein) for taking any corporate action.

The affirmative vote of the holders of a majority of the outstanding shares of Class B preferred stock, voting separately as a class, is required if an alteration, amendment or repeal of any provision of the restated articles of incorporation would materially alter or change the powers, preferences or special rights of the Class B preferred stock.

Rights upon Liquidation, Dissolution or Winding Up. In the event of any voluntary or involuntary liquidation, dissolution or winding up of our Company, holders of Class B preferred stock will be entitled to receive, before any distribution is made to the holders of common stock or any other series of stock ranking junior to the Class B preferred stock, a liquidation preference in the amount of \$0.01 per one one-thousandth of a share, plus an

amount equal to accrued and unpaid dividends and distributions. Thereafter, the holders of Class B preferred stock will be entitled to receive an aggregate amount per one one-thousandth of a share equal to one times the aggregate amount to be distributed per share to holders of shares of common stock. Following the payment of the foregoing, the holders of Class B preferred stock and holders of shares of common stock shall receive their ratable and proportionate share of the remaining assets to be distributed. In the event that there are not sufficient assets to permit payment in full of the Class B preferred stock liquidation preference and the liquidation preferences of all other series of preferred stock, if any, which rank on parity with the Class B preferred stock, then such remaining assets will be distributed ratably to the holders of such parity shares in proportion to their respective liquidation preference.

Redemption. The shares of Class B preferred stock are not redeemable.

Transfer agent and registrar

The transfer agent and registrar for our common stock is American Stock Transfer & Trust Company. Its address is 59 Maiden Lane, Plaza Level, New York, NY 10038 and its telephone number is (800) 937-5449. The transfer agent and registrar of our preferred stock will be designated in the prospectus supplement through which such preferred stock is offered.

Listing

Our common stock is listed and traded on the New York Stock Exchange under the symbol “MLM.”

Certain anti-takeover matters

A number of provisions in our restated articles of incorporation, our restated bylaws, the rights agreement and the Business Corporation Act may make it more difficult to acquire control of us or remove our management.

Staggered Board. Our board of directors is divided into three classes. The directors in each class serve for a three year term, one class being elected each year by our shareholders. Subject to the rights of the holders of any outstanding series of preferred stock, vacancies on the board of directors may be filled only by a majority of the remaining directors or by the stockholders if the vacancy was caused by removal of the director by the stockholders. This provision could prevent a stockholder from obtaining majority representation on the board by enlarging the board of directors and filling the new directorships with its own nominees.

Removal of Directors. Directors may be removed only for cause by a majority vote of the shareholders. Cause for removal is deemed to exist only if the director has been convicted in a court of competent jurisdiction of a felony or has been adjudged by a court of competent jurisdiction to be liable for fraudulent or dishonest conduct, or gross abuse of authority or discretion, with respect to the Company, and such conviction or adjudication has become final and non-appealable. If a director is elected by a voting group of shareholders, only such shareholders may participate in the vote to remove such director.

Approval of Certain Mergers, Consolidations, Sales and Leases. Our restated articles of incorporation require any purchase by us of shares of our voting stock from an interested shareholder (as defined below) who has beneficially owned such securities for less than two years prior to the date of such purchase or any agreement to purchase, other than pursuant to an offer to all stockholders of the same class of shares, at a per share price in excess of the market price, be approved by the affirmative vote of the holders of a majority of our voting stock not beneficially owned by the interested shareholder, voting together as a single class.

In addition, our restated articles of incorporation require us to get the approval of not less than 66²/₃% of our voting stock not beneficially owned by an interested shareholder and 80% of all our voting stock, in addition to any vote required by law, before we may enter into various transactions with interested shareholders, including the following:

- any merger or consolidation of our Company or any of our subsidiaries with (i) any interested shareholder or (ii) any other corporation (whether or not itself an interested shareholder) which is, or after such merger or consolidation would be, an affiliate of an interested shareholder;

- any sale, lease, exchange, mortgage, pledge, transfer, or other disposition to or with any interested shareholder or any affiliate of any interested shareholder of any of our assets or any of our subsidiaries having an aggregate fair market value of \$10,000,000 or more;
- the issuance or transfer by us or any of our subsidiaries of any of our equity securities (including any convertible into equity securities) or any of our subsidiaries having an aggregate fair market value of \$10,000,000 or more to any interested shareholder or any affiliate of any interested shareholder in exchange for cash, securities, and/or other property;
- the adoption of any plan or proposal for the liquidation or dissolution of our Company proposed by or on behalf of an interested shareholder or any affiliate of any interested shareholder; or
- any reclassification of securities or recapitalization of our Company, or any merger or consolidation of our Company with any of our subsidiaries, or any other transaction (whether or not involving an interested shareholder) which has the effect, directly or indirectly, of increasing the proportionate share of the outstanding shares of any class of equity (including any securities convertible into equity securities) securities of our Company or any subsidiary which is directly or indirectly owned by any interested shareholder or any affiliate of any interested shareholder.

However, no such vote is required for (A) the purchase by us of shares of voting stock from an interested shareholder unless such vote is required by the first paragraph of this subsection, or (B) any transaction approved by a majority of our disinterested directors.

Our restated articles of incorporation define an interested shareholder as any individual, firm, corporation, partnership, or other entity who or which:

- is the beneficial owner, directly or indirectly, of 5% or more of our outstanding voting stock;
- is our affiliate and at any time within the two-year period immediately prior to the date as of which a determination is being made was the beneficial owner, directly or indirectly, of 5% or more of our outstanding voting stock; or
- is an assignee of or successor to any shares of our voting stock which were at any time within the immediately prior two-year period beneficially owned by any person described in above if such assignment or succession occurred in the course of one or more transactions not involving a public offering.

Advance Notice of Proposals and Nominations. Our restated bylaws provide that shareholders must provide timely written notice to bring business before an annual meeting of shareholders or to nominate candidates for election as directors at an annual meeting of shareholders. Generally, to be timely, notice for an annual meeting must be received at our principal office not less than 60 days nor more than 90 days prior to the first anniversary of the mailing of the preceding year's proxy statement in connection with the annual meeting of shareholders. Our restated bylaws also specify the form and content of a shareholder's notice. These provisions may prevent shareholders from bringing matters before an annual meeting of shareholders or from nominating candidates for election as directors at an annual meeting of shareholders.

Limits on Special Meetings. A special meeting of the shareholders may be called only by the chairman of our board of directors, the president, or by the board of directors or the executive committee.

Rights Agreement. See "— Preferred stock — Rights agreement" above.

Preferred Stock. See "— Preferred Stock — Class B preferred stock" above.

Indemnification of Directors, Officers and Employees

Our restated bylaws provide that we shall indemnify, to the full extent permitted by law, any person who at any time serves or has served as one of our officers, employees or directors, or who, while serving as such serves or has served at our request as a director, officer, partner, trustee, employee or agent of another enterprise, or as a trustee, other fiduciary or administrator under an employee benefit plan, against expenses, including attorneys' fees, incurred by him or her in connection with any threatened, pending or completed action, suit or proceeding

(including appeals), whether or not brought by or on our behalf, seeking to hold him or her liable by reason of the fact that such person is or was acting in such capacity, and payments made by such person in satisfaction of any liability, judgment, money decree, fine, penalty or settlement for which he or she may have become liable in any such action, suit or proceeding.

Description of warrants

We may issue warrants to purchase debt securities, preferred stock, common stock or any combination thereof. Such warrants may be issued independently or together with any such securities and may be attached or separate from such securities. We will issue each series of warrants under a separate warrant agreement to be entered into between us and a warrant agent. The warrant agent will act solely as our agent and will not assume any obligation or relationship of agency for or with holders or beneficial owners of warrants.

General

The prospectus supplement relating to any offering of warrants will describe the particular terms of the warrants being offered, including the following:

- the title of such warrants;
- the aggregate number of such warrants;
- the price or prices at which such warrants will be issued;
- the currency or currencies, including composite currencies, in which the price of such warrants may be payable;
- the designation and terms of the securities purchasable upon exercise of such warrants and the number of such securities issuable upon exercise of such warrants;
- the price at which and the currency or currencies, including composite currencies, in which the securities purchasable upon exercise of such warrants may be purchased;
- the date on which the right to exercise such warrants shall commence and the date on which such right will expire;
- whether such warrants will be issued in registered form or bearer form;
- if applicable, the minimum or maximum amount of such warrants which may be exercised at any one time;
- if applicable, the designation and terms of the securities with which such warrants are issued and the number of such warrants issued with each such security;
- if applicable, the date on and after which such warrants and the related securities will be separately transferable;
- information with respect to book-entry procedures, if any; and
- any other terms of such warrants, including terms, procedures and limitations relating to the exchange and exercise of such warrants.

Amendments and supplements to warrant agreement

We and the warrant agent may amend or supplement the warrant agreement for a series of warrants without the consent of the holders of the warrants issued thereunder to effect changes that are not inconsistent with the provisions of the warrants and that do not materially and adversely affect the interests of the holders of the warrants.

Taxation

Any material U.S. federal income tax consequences relating to the purchase, ownership and disposition of any of the securities offered by this prospectus will be set forth in the prospectus supplement offering those securities.

Plan of distribution

We may offer and sell the offered securities in any one or more of the following ways from time to time on a delayed or continuous basis:

- to or through underwriters;
- to or through dealers;
- through agents; or
- directly to one or more purchasers, including our affiliates.

The prospectus supplement with respect to any offering of our securities will set forth the terms of the offering, including:

- the name or names of any underwriters, dealers or agents;
- the purchase price of the securities and the proceeds to us from the sale;
- any underwriting discounts and commissions or agency fees and other items constituting underwriters' or agents' compensation; and
- any delayed delivery arrangements.

The distribution of the securities may be effected from time to time in one or more transactions at a fixed price or prices, which may be changed, at market prices prevailing at the time of sale, at prices related to the prevailing market prices or at negotiated prices. We may engage in at the market offerings into an existing trading market in accordance with Rule 415(a) (4) of the Securities Act of 1933, as amended.

If securities are sold by means of an underwritten offering, we will execute an underwriting agreement with an underwriter or underwriters, and the names of the specific managing underwriter or underwriters, as well as any other underwriters, and the terms of the transaction, including commissions, discounts and any other compensation of the underwriters and dealers, if any, will be set forth in the prospectus supplement which will be used by the underwriters to sell the securities. If underwriters are utilized in the sale of the securities, the securities will be acquired by the underwriters for their own account and may be resold from time to time in one or more transactions, including negotiated transactions, at fixed public offering prices or at varying prices determined by the underwriters at the time of sale.

Our securities may be offered to the public either through underwriting syndicates represented by managing underwriters or directly by the managing underwriters. If any underwriter or underwriters are utilized in the sale of the securities, unless otherwise indicated in the prospectus supplement, the underwriting agreement will provide that the obligations of the underwriters are subject to conditions precedent and that the underwriters with respect to a sale of securities will be obligated to purchase all of those securities if they purchase any of those securities.

We may grant to the underwriters options to purchase additional securities to cover over-allotments, if any, at the public offering price with additional underwriting discounts or commissions. If we grant any over-allotment option, the terms of any over-allotment option will be set forth in the prospectus supplement relating to those securities.

If a dealer is utilized in the sales of securities in respect of which this prospectus is delivered, we will sell those securities to the dealer as principal. The dealer may then resell those securities to the public at varying prices to be determined by the dealer at the time of resale. Any reselling dealer may be deemed to be an underwriter, as the term is defined in the Securities Act of 1933, as amended, of the securities so offered and sold. The name of the dealer and the terms of the transaction will be set forth in the related prospectus supplement.

Offers to purchase securities may be solicited by agents designated by us from time to time. Any agent involved in the offer or sale of the securities in respect of which this prospectus is delivered will be named, and any commissions payable by us to the agent will be set forth, in the applicable prospectus supplement. Unless otherwise indicated in the prospectus supplement, any agent will be acting on a reasonable best efforts basis for the period of its appointment. Any agent may be deemed to be an underwriter, as that term is defined in the Securities Act of 1933, as amended, of the securities so offered and sold.

Offers to purchase securities may be solicited directly by us and the sale of those securities may be made by us directly to institutional investors or others, who may be deemed to be underwriters within the meaning of the Securities Act of 1933, as amended, with respect to any resale of those securities. The terms of any sales of this type will be described in the related prospectus supplement.

Underwriters, dealers, agents and remarketing firms may be entitled under relevant agreements entered into with us to indemnification by us against certain civil liabilities, including liabilities under the Securities Act of 1933, as amended, that may arise from any untrue statement or alleged untrue statement of a material fact or any omission or alleged omission to state a material fact in this prospectus, any supplement or amendment hereto, or in the registration statement of which this prospectus forms a part, or to contribution with respect to payments which the agents, underwriters or dealers may be required to make.

If so indicated in the prospectus supplement, we will authorize underwriters or other persons acting as our agents to solicit offers by institutions to purchase securities from us pursuant to contracts providing for payments and delivery on a future date. Institutions with which contracts of this type may be made include commercial and savings banks, insurance companies, pension funds, investment companies, educational and charitable institutions and others, but in all cases those institutions must be approved by us. The obligations of any purchaser under any contract of this type will be subject to the condition that the purchase of the securities shall not at the time of delivery be prohibited under the laws of the jurisdiction to which the purchaser is subject. The underwriters and other persons acting as our agents will not have any responsibility in respect of the validity or performance of those contracts.

One or more firms, referred to as "remarketing firms," may also offer or sell the securities, if the prospectus supplement so indicates, in connection with a remarketing arrangement upon their purchase. Remarketing firms will act as principals for their own accounts or as our agents. These remarketing firms will offer or sell the securities in accordance with a redemption or repayment pursuant to the terms of the securities. The prospectus supplement will identify any remarketing firm and the terms of its agreement, if any, with us and will describe the remarketing firm's compensation. Remarketing firms may be deemed to be underwriters in connection with the securities they remarket. Remarketing firms may be entitled under our agreements to indemnification by us against certain civil liabilities, including liabilities under the Securities Act of 1933, as amended, and may engage in transactions with or perform services for us in the ordinary course of business.

Disclosure in the prospectus supplement of our use of delayed delivery contracts will include the commission that underwriters and agents soliciting purchases of the securities under delayed contracts will be entitled to receive in addition to the date when we will demand payment and delivery of the securities under the delayed delivery contracts. These delayed delivery contracts will be subject only to the conditions that we describe in the prospectus supplement.

In connection with the offering of securities, persons participating in the offering, such as any underwriters, may purchase and sell securities in the open market. These transactions may include over-allotment and stabilizing transactions and purchases to cover syndicate short positions created in connection with the offering. Stabilizing transactions consist of bids or purchases for the purpose of preventing or retarding a decline in the market price of the securities, and syndicate short positions involve the sale by underwriters of a greater number of securities than they are required to purchase from any issuer in the offering. Underwriters also may impose a penalty bid, whereby selling concessions allowed to syndicate members or other broker-dealers in respect of the securities sold in the offering for their account may be reclaimed by the syndicate if the securities are repurchased by the syndicate in stabilizing or covering transactions. These activities may stabilize, maintain or otherwise affect the market price of the securities, which may be higher than the price that might prevail in the open market, and these activities, if commenced, may be discontinued at any time.

Any underwriters or agents to or through which securities are sold by us may make a market in the securities, but these underwriters or agents will not be obligated to do so and any of them may discontinue any market-making at any time without notice. No assurance can be given as to the liquidity of or trading market for any securities sold by us.

Any lock-up arrangements of us or our officers or directors will be set forth in a prospectus supplement.

Underwriters, dealers and agents may engage in transactions with, or perform services for, us and our affiliates in the ordinary course of business. Underwriters have from time to time in the past provided, and may from time to time in the future provide, investment banking services to us for which they have in the past received, and may in the future receive, customary fees.

This prospectus and any accompanying prospectus supplement or supplements may be made available in electronic format on the Internet sites of, or through online services maintained by, the underwriter, dealer, agent and/or selling group members participating in connection with any offering, or by their affiliates. In those cases, prospective investors may view offering terms online and, depending upon the particular underwriter, dealer, agent or selling group member, prospective investors may be allowed to place orders online. The underwriter, dealer or agent may agree with us to allocate a specific number of shares for sale to online brokerage account holders. Any such allocation for online distributions will be made by the underwriter, dealer or agent on the same basis as other allocations.

Other than the prospectus and accompanying prospectus supplement or supplements in electronic format, the information on the underwriter's, dealer's, agent's or any selling group member's web site and any information contained in any other web site maintained by the underwriter, dealer, agent or any selling group member is not part of this prospectus, the prospectus supplement or supplements or the registration statement of which this prospectus forms a part, has not been approved and/or endorsed by us or the underwriters, dealers, agents or any selling group member in its capacity as underwriter, dealer, agent or selling group member and should not be relied upon by investors.

Legal matters

In connection with particular offerings of the securities in the future, unless stated otherwise in the applicable prospectus supplements, the validity of those securities will be passed upon for us by Skadden, Arps, Slate, Meagher & Flom LLP, New York, New York and/or Robinson, Bradshaw & Hinson, P.A., Charlotte, North Carolina, and for any underwriters or agents by counsel named in the applicable prospectus supplement.

Experts

Ernst & Young LLP, independent registered public accounting firm, has audited our consolidated financial statements and schedule included in our Annual Report on Form 10-K for the year ended December 31, 2008, and the effectiveness of internal control over financial reporting as of December 31, 2008, as set forth in their reports, which are incorporated by reference in this prospectus and elsewhere in the registration statement. Our consolidated financial statements and schedule are incorporated by reference in reliance on Ernst & Young LLP's reports, given on their authority as experts in accounting and auditing.

Where you can find more information

We are required to file annual, quarterly and current reports, proxy statements and other information with the SEC. You may read and copy any document that we file with the SEC at the SEC's Public Reference Room at 100 F Street, N.E., Washington, D.C. 20549. You may obtain information about the Public Reference Room by calling the SEC for more information at 1-800-SEC-0330. Our SEC filings are also available at the SEC's web site at <http://www.sec.gov>.

Our common stock is listed on the New York Stock Exchange under the symbol "MLM" and we are required to file reports, proxy statements and other information with the New York Stock Exchange. You may read any

document we file with The New York Stock Exchange at the offices of the New York Stock Exchange at 20 Broad Street, New York, New York 10005. Information about us is also available on our website at <http://www.martinmarietta.com>. Such information on our website is not part of this prospectus.

Incorporation by reference

The rules of the SEC allow us to incorporate by reference information into this prospectus. The information incorporated by reference is considered to be a part of this prospectus, and information that we file later with the SEC will automatically update and supersede this information.

The following documents filed with the SEC are incorporated by reference in this prospectus:

- Our Annual Report on Form 10-K for the fiscal year ended December 31, 2008;
- Our Proxy Statement filed on April 22, 2008 for the 2008 Annual Meeting of Shareholders; and
- the descriptions of the common stock and preferred stock purchase rights set forth in our registration statements on Form 8-A filed pursuant to Section 12 of the Exchange Act on January 13, 1994 and October 19, 2006, respectively, and any amendment or report filed for the purpose of updating those descriptions.

All reports and other documents filed by us pursuant to Sections 13(a), 13(c), 14 or 15(d) of the Securities Exchange Act of 1934, as amended, subsequent to the date hereof and prior to the completion of the offering of all securities covered by the respective prospectus supplement, shall be deemed to be incorporated by reference in this prospectus and to be part of this prospectus from the date of filing of such reports and documents.

Any statement contained in a document incorporated or deemed to be incorporated by reference shall be deemed to be modified or superseded for purposes of this prospectus to the extent that a statement in this prospectus or in any other subsequently filed document which is incorporated or deemed to be incorporated by reference modifies or supersedes such statement. Any such statement so modified or superseded shall not be deemed, except as so modified or superseded, to constitute a part of this prospectus.

In reviewing any agreements incorporated by reference, please remember they are included to provide you with information regarding the terms of such agreement and are not intended to provide any other factual or disclosure information about our Company. The agreements may contain representations and warranties by us, which should not in all instances be treated as categorical statements of fact, but rather as a way of allocating the risk to one of the parties if those statements prove to be inaccurate. The representations and warranties were made only as of the date of the relevant agreement or such other date or dates as may be specified in such agreement and are subject to more recent developments. Accordingly, these representations and warranties alone may not describe the actual state of affairs as of the date they were made or at any other time.

We will provide, without charge, upon written or oral request, a copy of any or all of the documents that are incorporated by reference into this prospectus, excluding any exhibits to those documents unless the exhibit is specifically incorporated by reference as an exhibit in this prospectus. You should direct requests for documents to:

Martin Marietta Materials, Inc.
2710 Wycliff Road
Raleigh, North Carolina 27607-3033
Attn: Investor Relations
Telephone: (919) 781-4550

Part II**Information not required in prospectus****Item 14. Other expenses of issuance and distribution**

An estimate (other than the SEC registration fee) of the fees and expenses of issuance and distribution (other than underwriting discounts and commissions) of the securities offered hereby (all of which will be paid by Martin Marietta Materials, Inc. (the "Company")) is as follows:

	<u>Amount to be Paid*</u>
SEC registration fee	\$ -0-**
Trustee's fees and expenses	\$ 10,000
Blue Sky fees and expenses	\$ 10,000
Legal fees and expenses	\$ 200,000
Accounting fees and expenses	\$ 200,000
Printing expenses	\$ 25,000
Miscellaneous fees and expenses	\$ 20,000
Total	<u>\$ 465,000</u>

* The amounts shown are estimates of expenses payable by us in connection with the filing of this registration statement and one offering of securities hereunder.

** Because this registration statement covers an indeterminate amount of securities, the SEC registration fee is not currently determinable. Such fee is deferred in accordance with Rules 456(b) and 457(r) of the Securities Act.

Item 15. Indemnification of directors and officers

Our restated articles of incorporation eliminate, to the fullest extent permitted by the North Carolina Business Corporation Act, or the "Business Corporation Act," the personal liability of each of our directors to the Company and its shareholders for monetary damages for breach of duty as a director. This provision in the restated articles of incorporation does not change a director's duty of care, but it eliminates monetary liability for certain violations of that duty, including violations based on grossly negligent business decisions that may include decisions relating to attempts to change control of the Company. The provision does not affect the availability of equitable remedies for a breach of the duty of care, such as an action to enjoin or rescind a transaction involving a breach of fiduciary duty; in certain circumstances, however, equitable remedies may not be available as a practical matter. Under the Business Corporation Act, the limitation of liability provision is ineffective against liabilities for (i) acts or omissions that the director knew or believed at the time of the breach to be clearly in conflict with the best interests of the Company, (ii) unlawful distributions described in Business Corporation Act Section 55-8-33, (iii) any transaction from which the director derived an improper personal benefit, or (iv) acts or omissions occurring prior to the date the provision became effective. The provision also in no way affects a director's liability under the federal securities laws. Also, to the fullest extent permitted by the Business Corporation Act, our restated bylaws provide, in addition to the indemnification of directors and officers otherwise provided by the Business Corporation Act, for indemnification of our current or former directors, officers and employees against any and all liability and litigation expense, including reasonable attorneys' fees, arising out of their status or activities as directors, officers and employees, except for liability or litigation expense incurred on account of activities that were at the time known or believed by such director, officer or employee to be clearly in conflict with the best interests of the Company.

We also maintain a directors and officers insurance policy pursuant to which our directors and officers are insured against liability for actions in their capacity as directors and officers.

Item 16. Exhibits

Exhibit No.	Description of document
1.1*	Form of Underwriting Agreement.
3.1	Restated Articles of Incorporation of the Company, as amended (incorporated by reference to Exhibits 3.1 and 3.2 to the Martin Marietta Materials, Inc. Current Report on Form 8-K, filed on October 25, 1996) (Commission File No. 1-12744).
3.2	Articles of Amendment with Respect to the Junior Participating Class B Preferred Stock of the Company, dated as of October 19, 2006 (incorporated by reference to Exhibit 3.1 to the Martin Marietta Materials, Inc. Current Report on Form 8-K, filed on October 19, 2006) (Commission File No. 1-12744).
3.3	Restated Bylaws of the Company (incorporated by reference to Exhibit 3.01 to the Martin Marietta Materials, Inc. Current Report on Form 8-K, filed on November 8, 2007) (Commission File No. 1-12744).
4.1	Specimen Common Stock Certificate (incorporated by reference to Exhibit 4.01 to the Martin Marietta Materials, Inc. Annual Report on Form 10-K for the fiscal year ended December 31, 2003) (Commission File No. 1-12744).
4.2	Articles 2 and 8 of the Company's Restated Articles of Incorporation, as amended (incorporated by reference to Exhibit 4.02 to the Martin Marietta Materials, Inc. Annual Report on Form 10-K for the fiscal year ended December 31, 1996) (Commission File No. 1-12744).
4.3	Article I of the Company's Restated Bylaws (incorporated by reference to Exhibit 3.01 to the Martin Marietta Materials, Inc. Current Report on Form 8-K, filed on November 8, 2007) (Commission File No. 1-12744).
4.4	Rights Agreement, dated as of September 27, 2006, by and between Martin Marietta Materials, Inc. and American Stock Transfer & Trust Company (incorporated by reference to Exhibit 4.1 to the Martin Marietta Materials, Inc. Current Report on Form 8-K, filed on September 28, 2006) (Commission File No. 1-12744).
4.5	Form of Indenture for Senior Debt Securities.
4.6	Form of Indenture for Subordinated Debt Securities.
4.7	Form of senior note (included in Exhibit 4.5).
4.8	Form of subordinated note (included in Exhibit 4.6).
4.9*	Certificate of designation, preferences and rights with respect to any preferred stock issued hereunder.
4.10*	Form of Warrant Agreement (including form of warrant certificate).
5.1	Opinion of Skadden, Arps, Slate, Meagher & Flom LLP.
5.2	Opinion of Robinson, Bradshaw & Hinson, P.A.
12.1	Statement Regarding Computation of Ratios (incorporated by reference to Exhibit 12.01 to the Martin Marietta Materials, Inc. Annual Reports on Form 10-K for the fiscal year ended December 31, 2008, 2007, 2006, 2005 and 2004).
23.1	Consent of Ernst & Young LLP.
23.2	Consent of Skadden, Arps, Slate, Meagher & Flom LLP (included in Exhibit 5.1).
23.3	Consent of Robinson, Bradshaw & Hinson, P.A. (included in Exhibit 5.1).
24.1	Power of Attorney (included in Signature Page).
25.1	Statement of Eligibility of Trustee on Form T-1 under the Trust Indenture Act of 1939, as amended, of the trustee under the Senior Indenture for the Senior Debt Securities.
25.2	Statement of Eligibility of Trustee on Form T-1 under the Trust Indenture Act of 1939, as amended, of the trustee under the Subordinated Indenture for the Subordinated Debt Securities.

* To be filed by amendment or incorporated by reference in connection with the offering of any securities, as appropriate.

Item 17. Undertakings

(a) The undersigned Registrant hereby undertakes:

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

- (i) To include any prospectus required by Section 10(a)(3) of the Securities Act of 1933;
- (ii) To reflect in the prospectus any facts or events arising after the effective date of the registration statement (or the most recent post-effective amendment thereof) which, individually or in the aggregate, represent a fundamental change in the information set forth in the registration statement. Notwithstanding the foregoing, any increase or decrease in volume of securities offered (if the total dollar value of securities offered would not exceed that which was registered) and any deviation from the low or high end of the estimated maximum offering range may be reflected in the form of prospectus filed with the Securities and Exchange Commission pursuant to Rule 424(b) if, in the aggregate, the changes in volume and price represent no more than a 20 percent change in the maximum aggregate offering price set forth in the "Calculation of Registration Fee" table in the effective registration statement; and
- (iii) To include any material information with respect to the plan of distribution not previously disclosed in the registration statement or any material change to such information in the registration statement;

provided, however, that the undertakings set forth in paragraphs (a)(1)(i), (a)(1)(ii) and (a)(1)(iii) above do not apply if the information required to be included in a post-effective amendment by those paragraphs is contained in reports filed with or furnished to the Securities and Exchange Commission by the registrant pursuant to section 13 or section 15(d) of the Securities Exchange Act of 1934 that are incorporated by reference in the registration statement, or is contained in a form of prospectus filed pursuant to Rule 424(b) that is part of the registration statement.

- (2) That, for the purpose of determining any liability under the Securities Act of 1933, each such post-effective amendment shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial *bona fide* offering thereof;
- (3) To remove from registration by means of a post-effective amendment any of the securities being registered which remain unsold at the termination of the offering.
- (4) That, for the purpose of determining liability under the Securities Act of 1933 to any purchaser:
 - (i) Each prospectus filed by the registrants pursuant to Rule 424(b)(3) shall be deemed to be part of the registration statement as of the date the filed prospectus was deemed part of and included in the registration statement; and
 - (ii) Each prospectus required to be filed pursuant to Rule 424(b)(2), (b)(5), or (b)(7) as part of a registration statement in reliance on Rule 430B relating to an offering made pursuant to Rule 415(a)(1)(i), (vii), or (x) for the purpose of providing the information required by section 10(a) of the Securities Act of 1933 shall be deemed to be part of and included in the registration statement as of the earlier of the date such form of prospectus is first used after effectiveness or the date of the first contract of sale of securities in the offering described in the prospectus. As provided in Rule 430B, for liability purposes of the issuer and any person that is at that date an underwriter, such date shall be deemed to be a new effective date of the registration statement relating to the securities in the registration statement to which that prospectus relates, and the offering of such securities at that time shall be deemed to be the initial *bona fide* offering thereof. Provided, however, that no statement made in a registration statement or prospectus that is part of the registration statement or made in a document incorporated or deemed incorporated by reference into the registration statement or prospectus

that is part of the registration statement will, as to a purchaser with a time of contract of sale prior to such effective date, supersede or modify any statement that was made in the registration statement or prospectus that was part of the registration statement or made in any such document immediately prior to such effective date.

- (5) That, for the purpose of determining liability of the registrant under the Securities Act of 1933 to any purchaser in the initial distribution of the securities, the undersigned registrant undertakes that in a primary offering of securities of the undersigned registrant pursuant to this registration statement, regardless of the underwriting method used to sell the securities to the purchaser, if the securities are offered or sold to such purchaser by means of any of the following communications, the undersigned registrant will be a seller to the purchaser and will be considered to offer or sell such securities to such purchaser:
- (i) Any preliminary prospectus or prospectus of the undersigned registrant relating to the offering required to be filed pursuant to Rule 424;
 - (ii) Any free writing prospectus relating to the offering prepared by or on behalf of the undersigned registrant or used or referred to by the undersigned registrant;
 - (iii) The portion of any other free writing prospectus relating to the offering containing material information about the undersigned registrant or its securities provided by or on behalf of the undersigned registrant; and
 - (iv) Any other communication that is an offer in the offering made by the undersigned registrant to the purchaser.
- (b) The undersigned registrant hereby undertakes that, for purposes of determining any liability under the Securities Act of 1933, each filing of the registrant's Annual Report pursuant to Section 13(a) or Section 15(d) of the Securities Exchange Act of 1934 (and, where applicable, each filing of an employee benefit plan's annual report pursuant to Section 15(d) of the Securities Exchange Act of 1934) that is incorporated by reference in the registration statement shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.
- (c) Insofar as indemnification for liabilities arising under the Securities Act of 1933 may be permitted to directors, officers and controlling persons of the registrant pursuant to the foregoing provisions, or otherwise, each registrant has been advised that in the opinion of the Securities and Exchange Commission such indemnification is against public policy as expressed in the Securities Act of 1933 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 a 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 Securities Act of 1933 and will be governed by the final adjudication of such issue.
- (d) The undersigned Registrant hereby undertakes that:
- (1) For purposes of determining any liability under the Securities Act of 1933, the information omitted from the form of prospectus filed as part of this registration statement in reliance upon Rule 430A and contained in a form of prospectus filed by the Registrant pursuant to Rule 424(b)(1) or (4) or 497(h) under the Securities Act shall be deemed to be part of this registration statement as of the time it was declared effective; and
 - (2) For purpose of determining any liability under the Securities Act of 1933, each post-effective amendment that contains a form of prospectus shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.

- (e) The undersigned registrant hereby undertakes to file an application for the purpose of determining the eligibility of the trustee to act under subsection (a) of section 310 of the Trust Indenture Act in accordance with the rules and regulations prescribed by the Securities and Exchange Commission under section 305(b)(2) of the Trust Indenture Act.

<u>Signature</u>	<u>Title</u>	<u>Date</u>
<u>/s/ Frank H. Menaker, Jr.</u> Frank H. Menaker, Jr.	Director	February 28, 2009
<u>/s/ Laree E. Perez</u> Laree E. Perez	Director	February 28, 2009
<u>/s/ Michael J. Quillen</u> Michael J. Quillen	Director	February 28, 2009
<u>/s/ Dennis L. Rediker</u> Dennis L. Rediker	Director	February 28, 2009
<u>/s/ Richard A. Vinroot</u> Richard A. Vinroot	Director	February 28, 2009

Index to exhibits

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25.2	Statement of Eligibility of Trustee on Form T-1 under the Trust Indenture Act of 1939, as amended, of the trustee under the Subordinated Indenture for the Subordinated Debt Securities.

* To be filed by amendment or incorporated by reference in connection with the offering of any securities, as appropriate.

MARTIN MARIETTA MATERIALS, INC.

as Issuer

Branch Banking and Trust Company

as Trustee

FORM OF INDENTURE

Dated as of [_____]

SENIOR DEBT SECURITIES

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Note: This Table of Contents shall not, for any purpose, be deemed to be a part of the Indenture.

INDENTURE dated as of [_____], between **MARTIN MARIETTA MATERIALS, INC.** , a North Carolina corporation (the “Corporation”), and Branch Banking and Trust Company, a state banking corporation (the “Trustee”).

Each party agrees as follows for the benefit of the other party and, as to each series of Securities, for the equal and ratable benefit of the Holders of that series of the Corporation’s Securities issued pursuant to this Indenture:

ARTICLE 1.

DEFINITIONS AND INCORPORATION BY REFERENCE

Section 1.1 *Definitions.*

“Agent” means any Registrar, Paying Agent or co-registrar.

“Board of Directors” means the Board of Directors, or the Executive Committee or the Finance Committee or any other duly authorized committee of the Board of Directors, of the Corporation.

“Board Resolution” means a resolution of the Board of Directors or of a committee or person to which or to whom the Board of Directors has properly delegated the appropriate authority, a copy of which has been certified by the Secretary or an Assistant Secretary of the Corporation, to have been duly adopted by the Board of Directors and to be in full force and effect on the date of such certification and delivered to the Trustee.

“Corporation” means the party named as such in this Indenture until a successor replaces it and thereafter means the successor.

“Default” means any event which is, or after notice or passage of time or both would be, an Event of Default.

“Depository” means, with respect to the Securities of any series issuable or issued in whole or in part in the form of one or more Global Securities, The Depository Trust Company or such other party as may be designated as Depository by the Corporation pursuant to Section 2.3, until a successor Depository shall have become such pursuant to the applicable provisions hereof, and thereafter “Depository” shall mean or include each party who is then a Depository hereunder, and if at any time there is more than one such party, “Depository” as used in respect of the Securities on any such series shall mean the Depository with respect to the Securities of that series.

“Discounted Security” means any Security which provides for an amount (excluding any amounts attributable to accrued but unpaid interest) less than its principal amount to be due and payable upon a declaration of acceleration of the maturity of the Security pursuant to Section 6.2.

“Exchange Act” means the Securities Exchange Act of 1934, as it may be amended from time to time.

“Foreign Currency” means a currency issued by the government of any country other than the United States of America.

“Global Security” means a Security evidencing all or a part of a series of Securities, issued to the Depository for such series in accordance with Section 2.1, and bearing the legend prescribed in Section 2.1.

“Holder” or “Securityholder” means the person in whose name a Security is registered on the Registrar’s books.

“Indenture” means this Indenture as amended or supplemented from time to time.

“Market Exchange Rate” for any currency means, as appropriate, the noon U.S. dollar buying rate or selling rate for that currency for cable transfers quoted in the City of New York on the applicable date as certified for customs purposes by the Federal Reserve Bank of New York. If for any reason such rates are not available for one or more currencies for which a Market Exchange Rate is required, the Trustee shall use: (i) the quotation of the Federal Reserve Bank of New York as of the most recent available date, (ii) quotations from one or more major banks in the City of New York or in the country of issue of the currency in question, or (iii) such other quotations as the Trustee shall deem appropriate. Unless otherwise specified by the Trustee, if there is more than one market for dealing in any currency by reason of foreign exchange regulations or otherwise, the market to be used is that in which a nonresident issuer of securities designated in that currency would purchase that currency in order to make payments on those securities. All decisions and determinations of the Trustee regarding the Market Exchange Rate shall be in its sole discretion and shall, in the absence of manifest error, be conclusive for all purposes and irrevocably binding upon the Corporation and all holders.

“Officer” means the Chairman of the Board, the Chief Executive Officer, the President, any Vice President, the Treasurer or the Secretary of the Corporation.

“Officers’ Certificate” means the certificate signed by two Officers or by an Officer and an Assistant Treasurer or Assistant Secretary of the Corporation.

“Opinion of Counsel” means a written opinion from legal counsel who is acceptable to the Trustee. The counsel may be an employee of or counsel to the Corporation.

“principal” of a Security means the principal of the Security plus, when appropriate, the premium, if any, on the Security.

“SEC” means the Securities and Exchange Commission.

“Securities” means the securities issued pursuant to this Indenture from time to time, as such securities may be amended or supplemented from time to time.

“Series” when used with respect to the Securities means all Securities bearing the same title and authorized by the same Board Resolution or indenture supplemental hereto.

“Subsidiary” means an entity, a majority of the Voting Stock of which is owned by the Corporation, the Corporation and one or more Subsidiaries, or one or more Subsidiaries.

“TIA” means the Trust Indenture Act of 1939, as in effect (unless otherwise stated herein) on the date of this Indenture.

“Trustee” means the party named as such in this Indenture until a successor replaces it and thereafter means the successor. The term “Trustee” includes any additional Trustee appointed pursuant to Section 2.3 or Section 7.8 but, if at any time there is more than one Trustee, the term “Trustee” as used with respect to Securities of any series shall mean the Trustee with respect to Securities of that series.

“Trust Officer” means a Vice President or any other officer or assistant officer of the Trustee assigned by the Trustee to administer its corporate trust matters.

“United States” means the United States of America. The Commonwealth of Puerto Rico, the Virgin Islands and other territories and possessions are not part of the United States.

“Voting Stock” means capital stock or other equity interest having voting power under ordinary circumstances to elect directors or managers, as applicable.

Section 1.2 *Other Definitions.*

Term	Defined in Section
“Act”	10.16
“Bankruptcy Law”	6.1
“Custodian”	6.1
“Event of Default”	6.1
“Judgment Date”	10.13
“Legal Holiday”	10.8
“Paying Agent”	2.4
“Registrar”	2.4
“Substitute Date”	10.13
“U.S. Government Obligations”	8.2

Section 1.3 *Incorporation by Reference of TIA.* 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:

“Commission” means the SEC.

“indenture securities” means the Securities.

“indenture security holder” means a Securityholder.

“indenture to be qualified” means this Indenture.

“indenture trustee” or “institutional trustee” means the Trustee.

“obligor” on the indenture securities means the Corporation.

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

Section 1.4 *Rules of Construction*. Unless the context otherwise requires:

- (1) a term has the meaning assigned to it;
- (2) an accounting term not otherwise defined has the meaning assigned to it in accordance with generally accepted accounting principles in effect from time to time unless a different time is established in the applicable series of Securities;
- (3) “or” is not exclusive;
- (4) words in the singular include the plural, and in the plural include the singular;
- (5) any gender used in this Indenture shall be deemed to include the neuter, masculine or feminine gender; and
- (6) provisions apply to successive events and transactions.

ARTICLE 2.

THE SECURITIES

Section 2.1 *Form and Dating*. The Securities shall be issued substantially in the form or forms (including global form) as shall be established by or pursuant to a Board Resolution or Resolutions or any indenture supplemental hereto, in each case with such appropriate insertions, omissions, substitutions or other variations as are required or permitted by this Indenture. The Securities may have notations, legends or endorsements required by law, stock exchange rule or usage. Each Security shall be dated the date of its authentication.

Notwithstanding the foregoing, if any Security of a series is issuable in the form of a Global Security or securities, each such Global Security may provide that it shall represent the aggregate amount of Securities outstanding under the series from time to time endorsed thereon and also may provide that the aggregate amount of Securities outstanding under the series represented thereby may from time to time be reduced to reflect exchanges. Any endorsement of a Global Security to reflect the amount of Securities outstanding under the series represented thereby shall be made by the Trustee in accordance with the instructions of the Corporation and in such manner as shall be specified on such Global Security. Any instructions by the Corporation with respect to a Global Security, after its initial issuance, shall be in writing but need not comply with Section 10.4.

Before the first delivery of a Security of any series to the Trustee for authentication, the Corporation shall deliver to the Trustee the following:

(1) the Board Resolution by or pursuant to which the forms and terms of the Security have been approved;

(2) an Officers' Certificate of the Corporation dated the date of delivery stating that all conditions precedent provided for in this Indenture relating to the authentication and delivery of Securities in that series have been complied with and directing the Trustee to authenticate and deliver the Securities to or upon written order of the Corporation; and

(3) an Opinion of Counsel stating that all conditions precedent provided for in this Indenture relating to the authentication and delivery of Securities of that series have been complied with, the form and terms of the series have been established by or pursuant to a Board Resolution or Resolutions in conformity with this Indenture, and that Securities in such form when completed by appropriate insertions and executed by the Corporation and delivered by the Corporation to the Trustee for authentication in accordance with this Indenture, authenticated and delivered by the Trustee in accordance with this Indenture within the authorization as to aggregate principal amount established from time to time by the Board of Directors and sold in the manner specified in such Opinion of Counsel will be the legal, valid and binding obligations of the Corporation entitled to the benefits of this Indenture, subject to applicable bankruptcy, reorganization, insolvency and other similar laws generally affecting creditors rights and to general equity principles, and to such other qualifications as such counsel shall conclude do not materially affect the rights of Holders of Securities of that series or that are customarily included in similar opinions by lawyers experienced in such matters.

Notwithstanding the foregoing, if the Corporation shall establish pursuant to Section 2.3 that the Securities of a series are to be issued in whole or in part in the form of one or more Global Securities, then the Corporation shall execute and the Trustee shall, in accordance with this Section, Section 2.2 and the authentication order of the Corporation with respect to such series, authenticate and deliver one or more Global Securities in temporary or permanent form that shall (a) represent and be denominated in an aggregate amount equal to the aggregate principal amount of the Securities of such series to be represented by one or more Global Securities, (b) be registered in the name of the Depository for such Global Security or Global Securities or the nominee of such Depository, (c) be delivered by the Trustee to such Depository or pursuant to such Depository's instruction, and (d) bear a legend substantially to the following effect: "Unless and until it is exchanged in whole or in part for Securities in definitive form, this Security may not be transferred except as a whole by the Depository to a nominee of the Depository or by a nominee of the Depository to the Depository or another nominee of the Depository or by the Depository or any nominee to a successor Depository or a nominee of any successor Depository."

Section 2.2 *Execution and Authentication*. Two Officers shall sign the Securities for the Corporation by manual or facsimile signature. The Corporation's seal shall be impressed, affixed, imprinted or reproduced on the Securities. Securities shall be dated the date of their authentication.

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

A Security shall not be valid until the Trustee manually signs the certificate of authentication on the Security. The signature shall be conclusive evidence that the Security has been authenticated under this Indenture.

Notwithstanding the provisions of Section 2.3 and of the preceding paragraphs, if all Securities of a series are not to be originally issued at one time (including, for example, a series constituting a medium-term note program), it shall not be necessary to deliver the Officers' Certificate otherwise required pursuant to Section 2.1 or the Opinion of Counsel otherwise required pursuant to such preceding paragraphs at or prior to the time of authentication of each Security of such series if such documents are delivered at or prior to the time of authentication upon original issuance of the first Security of such series. In such case the Trustee may conclusively rely on the foregoing documents and opinions delivered pursuant to Section 2.1 and Section 2.3, and this Section, as applicable (unless revoked by superseding comparable documents or opinions), as to the matters set forth therein.

Notwithstanding the foregoing, if any Security shall have been duly authenticated and delivered hereunder but never issued and sold by the Corporation, and the Corporation shall deliver such Security to the Trustee for cancellation as provided in Section 2.11 together with a written statement (which need not comply with Section 2.1 and need not be accompanied by an Opinion of Counsel) stating that such Security has never been issued and sold by the Corporation, for all purposes of this Indenture such Security shall be deemed never to have been authenticated and delivered hereunder and shall never be entitled to the benefits of this Indenture.

If any Security of a series shall be represented by a Global Security, then, for purposes of this Section and Section 2.10, the notation of the record owners' interest therein upon original issuance of such Security shall be deemed to be delivery in connection with the original issuance of each beneficial owner's interest in such Global Security.

The Trustee's certificate of authentication on all Securities shall be in substantially the following form:

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

Date:

[_____], as Trustee

By:

Authorized Officer

If at any time there shall be an Authenticating Agent appointed with respect to any series of Securities, then the Trustee's certificate of authentication to be borne by the Securities of each such series shall be substantially as follows:

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

[_____], as Trustee

By: _____
as Authenticating Agent Officer

By: _____
Authorized Officer

The Trustee may appoint an authenticating agent acceptable to the Corporation to authenticate Securities. An authenticating agent may authenticate Securities 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 the Corporation.

Section 2.3 *Title, Amount and Terms of Securities*. The principal amount of Securities that may be authenticated and delivered and outstanding under this Indenture is not limited. The Securities may be issued in a total principal amount up to that authorized from time to time by or pursuant to relevant Board Resolutions or established in one or more indentures supplemental hereto.

The Securities may be issued in one or more series, each of which shall be issued pursuant to a Board Resolution or Resolutions of the Corporation, or established in one or more indentures supplemental hereto, which shall specify:

- (1) the title of the Securities of that series (which shall distinguish the Securities of that series from Securities of all other series);
- (2) any limit on the aggregate principal amount of the Securities of that series that may be authenticated and delivered under this Indenture (except for Securities authenticated and delivered upon registration or transfer of, in exchange for or in lieu of other Securities of that series pursuant to Section 2.7, 2.8 or 3.7);
- (3) the date or dates (or manner of determining the same) on which the principal of the Securities of that series is payable;
- (4) the rate or rates, or the method to be used in ascertaining the rate or rates (which may be fixed or variable), at which the Securities of that series shall bear interest (if any), the basis upon which interest shall be calculated if other than that of a 360-day year of 12 30-day months, the date or dates from which such interest shall

accrue, the interest payment dates on which such interest shall be payable and the record date for the interest payable on any interest payment date;

(5) if the trustee of that series is other than the Trustee initially named in this Indenture or any successor thereto, the trustee of that series;

(6) the place or places where the principal of and interest, if any, on Securities of that series shall be payable;

(7) the period or periods within which, the price or prices at which and the terms and conditions on which Securities of that series may be redeemed, in whole or in part, at the option of the Corporation;

(8) the obligation, if any, of the Corporation to redeem or purchase Securities of that series pursuant to any sinking fund or analogous provisions or at the option of Holders of Securities of that series, and the period or periods within which, the price or prices at which and the terms and conditions upon which Securities of that series shall be redeemed or purchased, in whole or in part, pursuant to such obligation;

(9) if denominated in U.S. dollars, and in denominations other than denominations of \$1,000 and any multiple of \$1,000, the denominations in which Securities of that series shall be issuable;

(10) if denominated in other than U.S. dollars, the currency or currencies, including composite currencies, in which the Securities of that series are denominated, and the denominations in which Securities of that series shall be issuable;

(11) if other than the currency in which the Securities of that series are denominated, the currency or currencies, including composite currencies, in which payment of the principal of and interest, if any, on Securities of that series shall be payable;

(12) if the amount of payments of the principal of and interest, if any, on the Securities of that series may be determined with reference to an index based on a currency or currencies other than that in which the Securities of that series are denominated, the manner in which such amounts shall be determined;

(13) if other than the full principal amount, the portion of the principal amount of Securities of that series which shall be payable upon a declaration of acceleration of the maturity pursuant to Section 6.2;

(14) if convertible into Securities of another series, or shares of capital stock of the Corporation, the terms upon which the Securities of that series will be convertible into Securities of such other series or shares of capital stock of the Corporation;

(15) the right, if any, of the Corporation to redeem all or any part of the Securities of that series before maturity and the period or periods within which, the price or

prices at which and the terms and conditions upon which Securities of that series may be redeemed;

(16) the provisions, if any, restricting defeasance of the Securities of that series;

(17) if other than or in addition to the events specified in Section 6.1, events of default with respect to the Securities of that series;

(18) if the Securities of that series are to be issued in whole or in part in the form of one or more Global Securities, the Depositary for such Global Security or Global Securities if other than The Depositary Trust Company, New York, New York and whether beneficial owners of interests in any such Global Securities may exchange such interests for other Securities of such series in the manner provided in Section 2.7, and the manner and the circumstances under which and the place or places where any such exchanges may occur if other than in the manner provided in Section 2.7, and any other terms of the series relating to the global nature of the Securities of such series and the exchange, registration or transfer thereof and the payment of any principal thereof or interest, if any, thereon;

(19) any covenants or other restrictions on the Corporation's operations;

(20) conditions to any merger or consolidation;

(21) any other terms of or relating to the Securities of that series; and

(22) the form of any notice to be delivered to the Trustee with respect to any such Security.

All Securities of any particular series shall be identical as to currency of denomination and otherwise shall be substantially identical except as to denomination and except as may otherwise be provided in or pursuant to the relevant Board Resolution or Resolutions or indentures supplemental hereto. All Securities of any particular series need not be issued at the same time and, unless otherwise provided, a series may be reopened, without the consent of the Holders, for issuances of additional Securities of that series, unless otherwise specified in Board Resolutions or one or more indentures supplemental hereto.

The Trustee need not authenticate the Securities in any series if their terms impose on the Trustee duties in addition to those imposed on the Trustee by this Indenture. If the Trustee does authenticate any such Securities, the authentication will evidence the Trustee's agreement to comply with any such additional duties.

Each Depositary for a Global Security in registered form shall, if required, at the time of its designation and at all times while it serves as a Depositary, be a clearing agency registered under the Exchange Act and any other applicable statute or regulation.

Section 2.4 *Registrar and Paying Agent*. The Corporation shall maintain an office or agency where Securities may be presented for registration of transfer or for exchange ("Registrar") and an office or agency where Securities may be presented for payment ("Paying Agent"). The

Registrar shall keep a register of the Securities and of their transfer and exchange. The Corporation may have one or more co-registrars and one or more additional paying agents. The term "Paying Agent" includes any additional paying agent. There may be separate Registrars and Paying Agents for different series of Securities.

The Corporation shall enter into an appropriate agency agreement with any Registrar, Paying Agent or co-registrar not a party to this Indenture. The agreements shall implement the provisions of this Indenture that relate to such Agent. The Corporation shall notify the Trustee of the name and address of any such Agent. If the Corporation fails to maintain a Registrar or Paying Agent, the Trustee shall act as such.

The Corporation initially appoints the Trustee as Registrar and Paying Agent.

Section 2.5 *Paying Agent to Hold Money in Trust.* Each Paying Agent for any series of Securities shall hold in trust for the benefit of Holders of Securities of the same series or the Trustee all money held by the Paying Agent for the payment of principal of or interest on such Securities and shall notify the Trustee of any default by the Corporation in making such payment. If the Corporation or a Subsidiary acts as Paying Agent with respect to a series of Securities, it shall segregate the money for that series and hold it as a separate trust fund. The Corporation at any time may require a Paying Agent to pay all money held by it to the Trustee. Upon doing so the Paying Agent shall have no further liability for the money.

Section 2.6 *Securityholder Lists.* For each series of Securities, 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 Holders of Securities of that series. If the Trustee is not the Registrar, the Corporation shall furnish or cause to be furnished to the Trustee on or before each interest payment date for each series of Securities 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 Holders of Securities of that series.

Section 2.7 *Transfer and Exchange.* Where a Security (other than a Global Security except as set forth herein) is presented to the Registrar or a co-registrar with a request to register a transfer, the Registrar shall register the transfer as requested. Where Securities (other than a Global Security except as set forth herein) of any series are presented to the Registrar or a co-registrar with a request to exchange them for an equal principal amount of Securities of other denominations of the same series with identical terms as the Securities exchanged, the Registrar shall make the exchange as requested if the same requirements are met. To permit transfers and exchanges, the Trustee shall authenticate Securities at the Registrar's request. No service charge shall be made for any registration of transfer or exchange of Securities, but the Corporation may require payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in connection with any registration of transfer or exchange of Securities, other than exchanges pursuant to Section 2.10, 3.7 or 9.5 not involving any transfer. The Corporation shall not be required to make transfers or exchanges of Securities of any series for a period of 15 days before a selection of Securities of the same series to be redeemed or before an interest payment.

Notwithstanding any other provision of this Section, unless and until it is exchanged in whole or in part for Securities in definitive form, a Global Security representing all or a portion of the

Securities of a series may not be transferred except as a whole by the Depositary for such series to a nominee of such Depositary or by a nominee of such Depositary to such Depositary or another nominee of such Depositary or by such Depositary or any such nominee to a successor Depositary for such series or a nominee of such successor Depositary.

None of the Corporation, the Trustee, the Paying Agent, the Registrar or any co-registrar shall have any responsibility or liability for any aspect of the records relating to or payments made on account of beneficial ownership interests of a Global Security or for maintaining, supervising or reviewing any records relating to such beneficial ownership interests.

If at any time the Depositary for the Securities of a series notifies the Corporation that it is unwilling or unable to continue as Depositary for the Securities of such series or if at any time the Depositary for the Securities of such series shall no longer be eligible under Section 2.3, the Corporation shall appoint a successor Depositary with respect to the Securities of such series. If a successor Depositary for the Securities of such series is not appointed by the Corporation within 90 days after the Corporation receives such notice or becomes aware of such ineligibility, the Corporation's election pursuant to Section 2.3(18) shall no longer be effective with respect to the Securities of such series and the Corporation will execute, and the Trustee, upon receipt of an order of the Corporation for the authentication and delivery of definitive Securities of such series, will authenticate and deliver Securities of such series in definitive form in the Global Security or Securities representing such series in exchange for such Global Security or Securities.

The Corporation may at any time and in its sole discretion determine that the Securities of any series issued in the form of one or more Global Securities shall no longer be represented by such Global Security or Securities. In such event the Corporation will execute, and the Trustee, upon receipt of an order of the Corporation for the authentication and delivery of definitive Securities of such series, will authenticate and deliver Securities of such series in definitive form in an aggregate principal amount equal to the principal amount of the Global Security or Securities representing such series in exchange for such Global Security or Securities.

If specified by the Corporation pursuant to Section 2.3 with respect to a series of Securities, the Depositary for such series of Securities may surrender a Global Security for such series of Securities in exchange in whole or in part for the Securities of such series in definitive form on such terms as are acceptable to the Corporation and such Depositary. Thereupon, the Corporation shall execute, and the Trustee shall authenticate and deliver:

(1) to each party specified by such Depositary a new Security or Securities of the same series, of any authorized denomination as requested by such party in aggregate principal amount equal to and in exchange for such party's beneficial interest in the Global Security; and

(2) to such Depositary a new Global Security in a denomination equal to the difference, if any, between the principal amount of the surrendered Global Security and the aggregate principal amount of Securities delivered to Holders thereof.

Upon the exchange of the Global Security for Securities in definitive form, such Global Security shall be canceled by the Trustee. Securities issued in exchange for a Global Security

pursuant to this Section 2.7 shall be registered in such names and in such authorized denominations as the Depositary for such Global Security, pursuant to instructions from its direct or indirect participants or otherwise, shall instruct the Trustee. The Trustee shall deliver such Securities to the parties in whose names such Securities are so registered.

Section 2.8 Replacement Securities. If the Holder of a Security claims that the Security has been mutilated, destroyed, lost or stolen, the Corporation may issue and the Trustee shall authenticate a replacement Security of the same series with identical terms as the Securities exchanged. Such holder shall furnish an indemnity bond sufficient in the judgment of the Corporation and the Trustee to protect the Corporation, the Trustee, the Paying Agent, the Registrar and any co-registrar from any loss which any of them may suffer if a Security is replaced. The Corporation and the Trustee may charge for their expenses in replacing a Security.

In case any such mutilated, destroyed, lost or stolen Security has become due and payable, the Corporation in its discretion may, instead of issuing a new Security, pay such Security (without surrender thereof except in the case of a mutilated Security) if the applicant for such payment shall furnish to the Corporation, the Trustee, the Paying Agent, the Registrar and any co-registrar for such Security such security or indemnity as may be required by them to hold each of them harmless, and in case of destruction, loss or theft, evidence satisfactory to the Corporation, the Trustee, the Paying Agent, the Registrar and any co-registrar, and any agent of any of them, of the destruction, loss or theft of such Security and the ownership thereof.

Upon the issuance of any new Security under this Section 2.8, the Corporation may require the payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in relation thereto and any other expenses (including all fees and expenses of the Trustee, the Paying Agent, the Registrar and any co-registrar for such Security) connected therewith.

Every new Security of any series issued pursuant to this Section 2.8 in lieu of any destroyed, lost or stolen Security or in exchange for any mutilated Security, shall constitute an original additional obligation of the Corporation, whether or not the destroyed, lost or stolen Security shall be at any time enforceable by anyone, and shall be entitled to all the benefits of this Indenture equally and proportionately with any and all other Securities of the same series.

The provisions of this Section 2.8 are exclusive and shall preclude (to the extent lawful) all other rights and remedies with respect to the replacement or payment of mutilated, destroyed, lost or stolen Securities.

Section 2.9 Outstanding Securities. Securities outstanding at any time are all Securities authenticated by the Trustee (and, in the case of Global Securities endorsed by the Trustee) except for those canceled by it, those delivered to it for cancellation and those described in this Section as not outstanding. A Security does not cease to be outstanding because the Corporation or an affiliate of the Corporation holds the Security.

If a Security is replaced pursuant to Section 2.8, it ceases to be outstanding unless the Trustee receives proof satisfactory to it that the replaced Security is held by a bona fide purchaser.

If the Paying Agent holds on a redemption date or maturity date money sufficient to pay Securities payable on that date, then on and after that date such Securities cease to be outstanding and interest on them ceases to accrue.

If a Security is redeemed (or as to which the full redemption price has been deposited with the Trustee on the applicable Redemption Date), the Corporation and the Trustee need not treat the Security as outstanding in determining whether Holders of the required principal amount of Securities have concurred in any direction, waiver or consent.

Section 2.10 Temporary Securities. Until definitive Securities of any series are ready for delivery or a permanent Global Security or Securities are prepared, as the case may be, the Corporation may prepare and the Trustee shall authenticate temporary Securities or one or more temporary Global Securities, as the case may be, of the same series in accordance with the terms and conditions of this Indenture. Temporary Securities of any series shall be substantially in the form of definitive Securities or permanent Global Securities, as the case may be, of the same series, but may have variations that the Corporation considers appropriate for temporary Securities. Without unreasonable delay, the Corporation shall prepare and the Trustee shall authenticate definitive Securities or a permanent Global Security or Securities, as the case may be, of the same series in exchange for temporary Securities. Until so exchanged, the temporary Securities of any series shall be entitled to the same benefits under this Indenture as definitive Securities or permanent Global Securities of such series.

Section 2.11 Cancellation. The Corporation at any time may deliver Securities to the Trustee for cancellation. The Registrar and the Paying Agent shall forward to the Trustee any Securities surrendered to them for transfer, exchange or payment. Upon the Corporation's request, the Trustee and no one else shall cancel or destroy all Securities surrendered for transfer, exchange, payment or cancellation, and shall so certify to the Corporation. The Corporation may not issue new Securities to replace Securities it has paid or delivered to the Trustee for cancellation.

Section 2.12 Defaulted Interest. If the Corporation defaults in a payment of interest on any Securities of any series, it shall pay the defaulted interest to the persons who are Holders of those Securities on a subsequent special record date. The Corporation shall fix the special record date and payment date at least 15 days before the special record date, the Corporation shall mail to each Holder of Securities of that series a notice that states the special record date, the payment date and the amount of defaulted interest to be paid. The Corporation may pay defaulted interest in any other lawful manner.

Section 2.13 Payment in Currencies. (a) Payment of the principal of and interest, if any, on the Securities shall be made in the currency or currencies specified below:

(1) for Securities of a series denominated in U.S. dollars, payment shall be made in U.S. dollars; and

(2) for Securities of a series denominated in a Foreign Currency, payment shall be made in that Foreign Currency unless the Holder of a Security of that series elects to receive payment in U.S. dollars and such election is permitted by the Board

Resolution or Resolutions or indentures supplemental hereto adopted pursuant to Section 2.3 in respect of that series.

A Holder may make the election referred to in clause (2) above by delivering to the Trustee a written notice of election substantially in the form contemplated by the Board Resolution or Resolutions or indentures supplemental hereto adopted pursuant to Section 2.3 or in any other form acceptable to the Trustee. For any payment, a notice of election will not be effective unless it is received by the Trustee not later than the close of business on the applicable record date. An election shall remain in effect until the Holder delivers to the Trustee a written notice specifying a change in the currency in which payment is to be made. No change in currency may be made for payments to be made on Securities of a series for which notice of redemption has been given pursuant to Article 3 or as to which the Corporation has accomplished a satisfaction, discharge or defeasance pursuant to Section 8.1, 8.2 or 8.3.

(b) The Trustee shall deliver to the Corporation, not later than the fourth business day after each record date for payment on Securities of a series denominated in a Foreign Currency, a written notice specifying, in the currency in which the Securities of that series are denominated, the aggregate amount of the principal of and interest, if any, on Securities of that series to be paid on the payment date. If at least one Holder has made the election referred to in clause (2) of paragraph (a) of this Section, the written notice shall also specify, in each currency elected, the amount of principal of and interest, if any, to be paid in that currency on the payment date.

(c) The amount payable to Holders of Securities of a series denominated in a Foreign Currency who have elected to receive payment in U.S. dollars shall be determined by the Trustee on the basis of the Market Exchange Rate in effect on the record date.

(d) If the Foreign Currency in which a series of Securities is denominated ceases to be used both by the government of the country that issued such currency and for the settlement of transactions by public institutions of or within the international banking community, then for each payment date on Securities of that series occurring after the last date on which the Foreign Currency was so used, all payments on Securities of that series shall be made in U.S. dollars. If payment is to be made in U.S. dollars to the Holders of Securities of any such series pursuant to the preceding sentence, then the amount to be paid in U.S. dollars on a payment date by the Corporation to the Trustee and by the Trustee or any Paying Agent to Securityholders shall be determined by the Trustee as of the applicable record date and shall be equal to the sum obtained by converting the specified Foreign Currency into U.S. dollars at the Market Exchange Rate on the last record date on which such Foreign Currency was so used in either such capacity.

(e) All decisions and determinations of the Trustee regarding the amount payable in accordance with paragraph (c) of this Section, conversion of Foreign Currency into U.S. dollars pursuant to paragraph (d) of this Section or the Market Exchange Rate shall, in the absence of manifest error, be conclusive for all purposes and irrevocably binding upon the Corporation and all Securityholders. If a Foreign Currency in which payment on Securities of a series may be made pursuant to paragraph (a) of this Section ceases to be used both by the government of the country that issued such currency and for the settlement of transactions by public institutions of or within the international banking community, the Corporation shall give notice to the Trustee and mail notice by first-class mail to each Holder of Securities of that series specifying the last

date on which the Foreign Currency was used for the payment of principal of or interest, if any, on Securities of that series.

Section 2.14 *CUSIP Numbers*. The Corporation in issuing the Securities may use "CUSIP" numbers (if then generally in use), and, if so, the Trustee shall use "CUSIP" numbers in notices of redemption as a convenience to Holders; provided that any such notice may state that no representation is made as to the correctness of such numbers either as printed on the Securities or as contained in any notice of a redemption and that reliance may be placed only on the other identification numbers printed on the Securities, and any such redemption shall not be affected by any defect in or omission of such numbers.

ARTICLE 3.

REDEMPTION

Section 3.1 *Applicability of this Article*. Securities of any series that are redeemable prior to their maturity shall be redeemable in accordance with their terms (except as otherwise specified in this Indenture for Securities of any series) and in accordance with this Article 3.

Section 3.2 *Notices to Trustee*. If the Corporation wants to redeem any Securities, it shall notify the Trustee of the redemption date and the principal amount of Securities to be redeemed in accordance with the terms of the Securities. If the redemption is of less than all the outstanding Securities of a series, the Corporation shall furnish to the Trustee a written statement signed by an Officer of the Corporation stating that with respect to that series there exists no Event of Default and no circumstance which, after notice or the passage of time or both, would constitute an Event of Default. The Corporation shall give the notice provided for in this Section at least 50 days before the redemption date.

Section 3.3 *Selection of Securities to be Redeemed*. If, at the option of the Corporation, less than all the Securities of a series are to be redeemed, the Trustee shall select the Securities of such series to be redeemed by a method the Trustee considers fair and appropriate, subject to any applicable stock exchange requirements. The Trustee shall make the selection from outstanding Securities of such series not previously called for redemption. The Trustee may select for redemption portions of the principal of Securities that have a denomination larger than \$1,000 (or the applicable minimum denomination for such Securities in the event the Securities are payable in a Foreign Currency or Currencies), Securities and portions of them it selects shall be in amounts of \$1,000 (or the applicable minimum denomination for such Securities in the event the Securities are payable in a Foreign Currency or Currencies) or a multiple of \$1,000 (or the applicable minimum denomination for such Securities in the event the Securities are payable in a Foreign Currency or Currencies). Provisions of this Indenture that apply to Securities called for redemption also apply to portions of Securities called for redemption.

The Trustee for the Securities of any series to be redeemed shall promptly notify the Corporation in writing of the Securities of such series selected for redemption and, in the case of any Securities selected for partial redemption, the principal amount thereof to be redeemed.

For all purposes of this Indenture, unless the context otherwise requires, all provisions relating to the redemption of Securities shall relate, in the case of any Security redeemed or to be redeemed only in part, to the portion of the principal amount of such Securities which has been or is to be redeemed.

Section 3.4 *Notice of Redemption*. At least 30 days but not more than 60 days before a date of redemption of Securities at the option of the Corporation, the Corporation shall mail a notice of redemption by first-class mail to each Holder of Securities to be redeemed.

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

- (1) the redemption date;
- (2) the redemption price;
- (3) the name and address of the Paying Agent;
- (4) that Securities called for redemption must be surrendered to the Paying Agent to collect the redemption price;
- (5) that interest on Securities called for redemption ceases to accrue on and after the redemption date; and
- (6) the CUSIP number for the Securities called for redemption.

At the Corporation's request, the Trustee shall give the notice of redemption in the Corporation's name and at its expense. In such event the Corporation will provide the Trustee with the information required by clauses (1) through (5).

Section 3.5 *Effect of Notice of Redemption*. Once notice of redemption is mailed, Securities called for redemption become due and payable on the redemption date and at the redemption price stated in the notice. Upon surrender to the Paying Agent, such Securities shall be paid at the redemption price stated in the notice, plus accrued interest to the redemption date; provided, however, that any regular payment of interest becoming due on the redemption date shall be payable to the Holder of any such Security being redeemed as provided in the Security.

Section 3.6 *Deposit of Redemption Price*. By the opening of business on the redemption date, the Corporation shall deposit with the Paying Agent money sufficient to pay the redemption price of and accrued interest on all Securities to be redeemed on that date.

Section 3.7 *Securities Redeemed in Part*. Upon surrender of a Security that is redeemed in part, the Trustee shall authenticate for the Holder a new Security equal in principal amount to the unredeemed portion of the Security surrendered.

ARTICLE 4.

COVENANTS

Section 4.1 *Payment of Securities*. The Corporation shall promptly pay the principal of and interest, if any, on the Securities on the dates and in the manner provided in the Securities. To the extent lawful, the Corporation shall pay interest on overdue principal at the rate borne by the Securities and shall pay interest on overdue installments of interest at the same rate.

ARTICLE 5.

SUCCESSOR CORPORATION

Section 5.1 *When the Corporation May Merge, etc.*. The Corporation shall not consolidate with or merge into, or transfer all or substantially all its assets to another entity, unless (1) the resulting, surviving or transferee entity assumes by supplemental indenture all the obligations of the Corporation under the Securities and this Indenture, (2) immediately after giving effect to such transaction no Event of Default and no circumstances which, after notice or lapse of time or both, would become an Event of Default, shall have happened and be continuing, and (3) the Corporation shall have delivered to the Trustee an Officers' Certificate and an Opinion of Counsel, each stating that such consolidation, merger or transfer and such supplemental indenture comply with this Indenture, and thereafter all such obligations of the Corporation shall terminate.

ARTICLE 6.

DEFAULTS AND REMEDIES

Section 6.1 *Events of Default*. An "Event of Default" occurs with respect to a series of Securities if:

- (1) the Corporation defaults in the payment of interest on any Security of that series when the same becomes due and payable and the default continues for a period of 30 days;
- (2) the Corporation defaults in the payment of the principal of any Security of that series when the same becomes due and payable at maturity, upon redemption or otherwise;
- (3) the Corporation fails to comply with any of its other agreements in the Securities of that series or this Indenture for the benefit of that series and the default continues for the period and after the notice specified in this Section;
- (4) the Corporation pursuant to or within the meaning of any Bankruptcy Law:
 - (A) commences a voluntary case,

- (B) consents to the entry of an order for relief against it in an involuntary case,
 - (C) consents to the appointment of a Custodian of it or for all or substantially all of its property, or
 - (D) makes a general assignment for the benefit of its creditors;
- (5) a court of competent jurisdiction enters an order or decree under any Bankruptcy Law that:
- (A) is for relief against the Corporation in an involuntary case,
 - (B) appoints a Custodian of the Corporation or for all or substantially all of the property of the Corporation, or
 - (C) orders the winding up or liquidation of the Corporation, and
 - (D) the order or decree remains unstayed and in effect for 60 days; or
- (6) there occurs any other event specifically described as an Event of Default by the Securities of that series.

The term "Bankruptcy Law" means Title 11, United States Code or any similar Federal or state law for the relief of debtors. The term "Custodian" means any receiver, trustee, assignee, liquidator, custodian or similar official under any Bankruptcy Law.

A default under clause (3) is not an Event of Default with respect to a series of Securities until the Trustee or the Holders of at least 25% in principal amount of the Securities of that series notify the Corporation of the default and the Corporation does not cure the default within 90 days after receipt of the notice. The notice must specify the default, demand that it be remedied and state that the notice is a "Notice of Default." Subject to Sections 7.1 and 7.2, the Trustee shall not be charged with knowledge of any default, or of the delivery to the Corporation of a notice of default by any Holder, unless written notice thereof shall have been given to the Trustee by the Corporation, the Paying Agent, the Holder of a Security or an agent of such Holder.

Section 6.2 *Acceleration*. If an Event of Default with respect to a series of Securities occurs and is continuing, the Trustee, by notice to the Corporation, or the Holders of at least 25% in principal amount of the Securities of that series by notice to the Corporation and the Trustee, may declare the principal (or, in the case of Discounted Securities, such amount of principal as may be provided for in such Securities) of and accrued interest on all the Securities of that series to be due and payable immediately. Upon a declaration such principal and interest shall be due and payable immediately. The Holders of a majority in principal amount of the Securities of any series by notice to the Trustee may rescind an acceleration (and upon such rescission any Event of Default caused by such acceleration shall be deemed cured) with respect to that series and its consequences if all existing Events of Default with respect to the series have been cured or waived, if the rescission would not conflict with any judgment or decree, and if all payments due to the Trustee and any predecessor Trustee under Section 7.7 have been made.

Section 6.3 *Other Remedies*. If an Event of Default with respect to a series of Securities occurs and is continuing, the Trustee may pursue any available remedy by proceeding at law or in equity to collect the payment of principal of (or, in the case of Discounted Securities, such amount of principal as may be provided for in such Securities) or interest on the Securities of that series or to enforce the performance of any provision of such Securities or this Indenture.

The Trustee may maintain a proceeding even if it does not possess any of the Securities or does not produce any of them in the proceeding. A delay or omission by the Trustee or any Securityholder in exercising any right or remedy accruing upon an Event of Default shall not impair the right or remedy or constitute a waiver of acquiescence in the Event of Default. No remedy is exclusive of any other remedy. All available remedies are cumulative to the extent permitted by law.

Section 6.4 *Waiver of Past Defaults*. Subject to Section 9.2, the Holders of a majority in principal amount of the Securities of a series by notice to the Trustee may waive an existing Default or Event of Default with respect to that series and its consequences. When a Default or Event of Default is waived, it is cured and stops continuing, but no such waiver shall extend to any subsequent or other Default or Event of Default or impair any right consequent thereto.

Section 6.5 *Control by Majority*. The Holders of a majority in principal amount of the Securities of a series may direct the time, method and place of conducting any proceeding for any remedy available to the Trustee or of exercising any trust of power conferred on it with respect to that series. However, the Trustee may refuse to follow any direction that conflicts with law or this Indenture, or, subject to Section 7.1, that the Trustee determines is unduly prejudicial to the rights of other Holders of Securities of the same series or would involve the Trustee in personal liability.

Section 6.6 *Limitation on Suits*. No Holder of a Security of any series may pursue any remedy with respect to this Indenture or the Securities unless:

- (1) the Holder gives to the Trustee written notice stating that an Event of Default with respect to the Securities of the series is continuing;
- (2) the Holders of at least 25% in principal amount of the Securities of that series make a written request to the Trustee to pursue the remedy;
- (3) such Holder or Holders offer to the Trustee indemnity satisfactory to the Trustee against any loss, liability or expense;
- (4) the Trustee does not comply with the request within 60 days after receipt of the request and the offer of indemnity; and
- (5) during such 60-day period the Holders of a majority in principal amount of the Securities of that series do not give the Trustee a direction inconsistent with the request.

A Securityholder may not use this Indenture to prejudice the rights of another Securityholder or to obtain a preference or priority over the other Securityholder.

Section 6.7 *Rights of Holders to Receive Payment*. Notwithstanding any other provision of this Indenture, the right of any Holder to receive payment of principal of and interest on the Security on or after the respective due dates expressed in the Security, or to bring suit for the enforcement of any such payment on or after such respective date, shall not be impaired or affected without the consent of the Holder.

Section 6.8 *Collection Suit by Trustee*. If an Event of Default in payment of interest or principal specified in Section 6.1(1) or (2) occurs and is continuing, the Trustee may recover judgment in its own name and as trustee of an express trust against the Corporation for the whole amount of principal and interest remaining unpaid.

Section 6.9 *Trustee May File Proofs of Claim*. The Trustee may 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 and the Securityholders allowed in any judicial proceedings relative to the Corporation, or any of its creditors or property, and unless prohibited by law or applicable regulations, may vote on behalf of the Holders in any election of a trustee in bankruptcy or other person performing similar functions.

Section 6.10 *Priorities*. If the Trustee collects any money pursuant to this Article with respect to the Securities of any series, it shall pay out the money in the following order:

First: to the Trustee for amounts due under Section 7.7;

Second: to Holders of Securities of that series for amounts due and unpaid on such Securities for principal and interest, ratably, without preference or priority of any kind, according to the amounts due and payable on such Securities for principal and interest, respectively; and

Third: to the Corporation.

The Trustee may fix a record date and payment date for any payment to Securityholders pursuant to this Section.

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 Trustee, a court in its discretion may require the filing by any party litigant in the suit other than the Trustee 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 pursuant to Section 6.7 or a suit by Holders of more than 10% in principal amount of the Securities of any series.

ARTICLE 7.

TRUSTEE

Section 7.1 *Duties of Trustee.* (a) If an Event of Default has occurred and is continuing, the Trustee shall with respect to Securities exercise its rights and powers and use the same degree of care and skill in their exercise as a prudent man would exercise or use under the circumstances in the conduct of his own affairs.

(b) Except during the continuance of an Event of Default:

(1) the Trustee need perform only those duties that are specifically and expressly set forth in this Indenture and no others; and

(2) 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, notices or opinions furnished to the Trustee and conforming to the requirements of this Indenture. However, the Trustee shall examine the certificates, notices and opinions to determine whether or not they conform to the requirements of this Indenture.

(c) The Trustee may not be relieved from liability for its own negligent action, its own negligent failure to act or its own willful misconduct except that:

(1) this paragraph does not limit the effect of paragraph (b) of this Section;

(2) the Trustee shall not be liable for any error of judgment made in good faith by a Trust Officer, unless it is proved that the Trustee was negligent in ascertaining the pertinent facts; and

(3) 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 6.5;

(d) 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) The Trustee may refuse to perform any duty or exercise any right or power unless it receives 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 with the Corporation.

Section 7.2 *Rights of Trustee.* (a) Subject to Section 7.1, the Trustee may rely on any document (whether in its original, electronic or facsimile form) 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. The Trustee shall not be liable for any action it takes or omits to take in good faith in reliance on the Officers' Certificate or Opinion of Counsel.

(c) The Trustee may act through 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 which it believes to be authorized or within its rights or powers.

Section 7.3 *Individual Rights of Trustee, etc.* The Trustee in its individual or any other capacity may become the owner or pledgee of Securities and may otherwise deal with the Corporation or any of its affiliates with the same rights it would have if it were not Trustee. Any Agent may do the same with like rights. However, the Trustee must comply with Sections 7.10 and 7.11.

Section 7.4 *Trustee's Disclaimer.* The Trustee makes no representations as to the validity or adequacy of this Indenture or the Securities, it shall not be accountable for the Corporation's use of the proceeds from the Securities, and it shall not be responsible for any statement in the Securities other than its certificate of authentication.

Section 7.5 *Notice of Defaults.* If a Default occurs with respect to a series of Securities and is continuing and if it is known to the Trustee, the Trustee shall mail to each Holder of Securities of that series notice of the Default within 90 days after it occurs. Except in the case of a default in payment on any Security, the Trustee may withhold the notice if and so long as a committee of its Trust Officers determines in good faith that withholding the notice is in the interests of such Holders.

Section 7.6 *Reports by Trustee to Holders.* If required pursuant to TIA § 313(a), the Trustee, within 60 days after each May 15, shall mail to each Securityholder a brief report dated as of May 15 that complies with TIA § 313(a). The Trustee also shall comply with the reporting obligations of TIA § 313(b).

A copy of each report at the time of its mailing to Securityholders shall be filed with the SEC and each stock exchange on which the Securities are listed. The Corporation agrees to notify the Trustee whenever the Securities become listed on any stock exchange.

Section 7.7 *Compensation and Indemnity.* The Corporation shall pay to the Trustee from time to time reasonable compensation for its services. The Corporation shall reimburse the Trustee upon request for all reasonable out-of-pocket expenses incurred by it. Such expenses shall include the reasonable compensation and expenses of the Trustee's agents and counsel. The Corporation shall indemnify the Trustee against any loss or liability incurred by it in connection with the administration of this trust and its duties hereunder. The Trustee shall notify the Corporation promptly of any claim for which it may seek indemnity. The Corporation need not pay for any settlement made without its consent. The Corporation need not reimburse any expense or indemnify against any loss or liability incurred by the Trustee through negligence or bad faith.

To secure the Corporation's payment obligations in this Section, the Trustee shall have a senior claim to which the Securities are hereby made subordinate on all money or property held or collected by the Trustee, except that held in trust to pay principal of and interest on particular Securities.

When the Trustee incurs expenses or renders services after an Event of Default specified in Section 6.1(4) or (5) occurs, the expenses and the compensation for the services are intended to constitute expenses of administration under any Bankruptcy Law.

Section 7.8 *Replacement of Trustee*. The Trustee may resign with respect to the Securities of one or more series by so notifying the Corporation. The Holders of a majority in principal amount of the Securities of any series may remove the Trustee with respect to that series by so notifying the removed Trustee and may appoint a successor Trustee with the Corporation's consent. The Corporation may remove the Trustee if:

- (1) the Trustee fails to comply with Section 7.10;
- (2) the Trustee is adjudged bankrupt or insolvent;
- (3) a receiver or other public officer takes charge of the Trustee or its property; or
- (4) the Trustee otherwise 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 Corporation shall promptly appoint a successor Trustee.

A successor Trustee shall deliver a written acceptance of its appointment to the retiring Trustee and to the Corporation. Immediately after that, the retiring Trustee shall transfer all property held by it as Trustee for the benefit of the series with respect to which it is retiring to the successor Trustee, the resignation or removal of the retiring Trustee shall then become effective, and the successor Trustee shall have all the rights, powers and duties of the Trustee under this Indenture with respect to that series. A successor Trustee shall mail notice of its succession to each Holder of the Securities of the series affected.

If pursuant to Section 2.3(5) a trustee, other than the Trustee initially named in this Indenture (or any successor thereto), is appointed with respect to one or more series of Securities, the Corporation, the Trustee initially named in this Indenture (or any successor thereto) and such newly appointed trustee shall execute and deliver a supplement to this Indenture which shall contain such provisions as shall be necessary or desirable to confirm that all the rights, powers, trusts and duties of the Trustee initially named in this Indenture (or any successor thereto) with respect to the Securities of any series as to which the Trustee is continuing as trustee hereunder shall continue to be vested in the Trustee initially named in this Indenture (or any successor thereto), and shall add to, supplement or change any of the provisions of this Indenture as shall be necessary or desirable to provide for or facilitate the administration of the trusts hereunder by more than one trustee, it being understood that nothing herein or in such supplemental indenture shall constitute such trustees co-trustees of the same trust and that each such trustee shall be trustee of a trust or trusts relating to the separate series of Securities as if it were acting under a separate indenture.

If a successor Trustee with respect to a series of Securities does not take office within 60 days after the retiring Trustee resigns or is removed, the retiring Trustee, the Corporation or the Holders of a majority in principal amount of the Securities of that series may petition any court of competent jurisdiction for the appointment of a successor Trustee.

If the Trustee with respect to a series of Securities fails to comply with Section 7.10, any Holder of Securities of that series may petition any court of competent jurisdiction for the removal of the Trustee and the appointment of a successor Trustee.

If there are two or more Trustees at any time under this Indenture, each will be the Trustee of a separate trust held under this Indenture for the benefit of the series of Securities for which it is acting as Trustee and the rights and obligations of each Trustee will be determined as if it were acting under a separate indenture.

Section 7.9 *Successor Trustee by Merger, etc.* If the Trustee consolidates with, merges or converts into or transfers all or substantially all its corporate trust assets to another corporation, the resulting, surviving or transferee corporation without any further act shall be the successor Trustee.

Section 7.10 *Eligibility; Disqualification.* This Indenture shall always have a Trustee that satisfies the requirements of TIA § 310(a). The Trustee shall have a combined capital and surplus of at least \$5,000,000 as set forth in its most recent published annual report of condition. The Trustee shall comply with TIA § 310(b), provided that the question whether the Trustee has a conflicting interest shall be determined as if each series of Securities were separate issues of securities issued under separate indentures.

Section 7.11 *Preferential Collection of Claims Against Corporation.* The Trustee shall comply with TIA § 311(a), excluding any creditor relationship listed in TIA § 311(b). A Trustee who has resigned or been removed shall be subject to TIA § 311(a) to the extent indicated therein.

ARTICLE 8.

SATISFACTION, DISCHARGE AND DEFEASANCE

Section 8.1 *Satisfaction and Discharge Under Limited Circumstances.* If at any time (a) all Securities of a series previously authenticated (other than any Securities destroyed, lost or stolen and replaced or paid as provided in Section 2.8) shall have been delivered to the Trustee for cancellation, or (b) all the Securities of a series not previously delivered to the Trustee for cancellation shall have become due and payable, the Corporation has deposited or caused to be deposited with the Trustee as trust funds the entire amount (other than moneys paid to the Corporation in accordance with Section 8.5) sufficient to pay at maturity or upon redemption all Securities of that series not previously delivered to the Trustee for cancellation, including principal and interest due, and if, in either case, the Corporation shall also pay all other sums then payable under this Indenture by the Corporation, then this Indenture shall cease to be of further effect with respect to Securities of that series, and the Trustee, on demand of and at the cost and expense of the Corporation, shall execute proper instruments acknowledging

satisfaction of and discharging this Indenture with respect to Securities of that series. The Corporation will reimburse the Trustee for any subsequent costs or expenses reasonably and properly incurred by the Trustee in connection with this Indenture or the Securities.

Section 8.2 Satisfaction and Discharge of Indenture. The Corporation may take any action provided for in this Section unless the Securities of the affected series specifically provide that this Section shall not apply to the series. The Corporation at any time at its option may terminate all of its obligations under the Securities of a series previously authenticated and its obligations under this Indenture with respect to such series (except as provided below), and the Trustee, at the expense of the Corporation, shall, upon the request of the Corporation, execute proper instruments acknowledging satisfaction of and discharging this Indenture with respect to Securities of that series, effective on the date the following conditions are satisfied:

(1) with reference to this Section, the Corporation has deposited or caused to be deposited with the Trustee, as trust funds in trust, specifically pledged as security for and dedicated solely to the benefit of the Holders of the Securities of that series, (a) lawful money, in the currency or currencies in which Securities of that series are payable, in an amount, or (b) if the Securities of that series are payable in U.S. dollars, U.S. Government Obligations which through the payment of interest and principal in respect thereof in accordance with their terms (and, as to callable U.S. Government Obligations, regardless of when they are called) will provide not later than the opening of business on the due dates of any payment of the principal of and any interest on the Securities of that series lawful money of the United States in an amount, or (c) Securities of that series, or (d) a combination thereof, sufficient to pay and discharge the principal of and interest on the Securities of that series on the date on which such payments are due and payable in accordance with the terms of this Indenture and of the Securities of that series and 91 days have passed during which no Event of Default under Section 6.1(4) or 6.1(5) has occurred;

(2) if the Securities of that series are then listed on any national securities exchange, the Corporation shall have delivered to the Trustee an Opinion of Counsel to the effect that such deposit, defeasance and discharge will not cause such Securities to be delisted; and

(3) the Corporation has delivered to the Trustee an Officers' Certificate and an Opinion of Counsel, complying with Section 10.4 relating to the Corporation's exercise of such option.

The trust established pursuant to subsection (1) above shall be irrevocable and shall be made under the terms of an escrow trust agreement in form and substance satisfactory to the Trustee. The escrow trust agreement may, at the Corporation's election, grant the Corporation the right to substitute U.S. Government Obligations or Securities of the same series from time to time for any or all of the U.S. Government Obligations deposited with the Trustee pursuant to this Section and the escrow trust agreement; provided, however, that the condition specified in subsection (1) above is satisfied immediately following any such substitution or substitutions. If any Securities of a series are to be redeemed prior to their stated maturity pursuant to optional redemption provisions the applicable escrow trust agreement shall provide therefor and the

Corporation shall make such arrangements as are satisfactory to the Trustee for the giving of notice of redemption by the Trustee in the name, and at the expense, of the Corporation.

Upon the satisfaction of the conditions set forth in this Section with respect to the Securities, the terms and conditions of the Securities, including the terms and conditions with respect thereto set forth in this Indenture, shall no longer be binding upon, or applicable to, the Corporation.

Notwithstanding the satisfaction and discharge of this Indenture, the following shall survive until otherwise terminated or discharged hereunder: (A) the rights of Holders of the Securities of such series to receive, solely from the trust fund described in Section 8.1 and as more fully set forth in such Section, payments in respect of the principal of and any premium and interest on the Securities of such series when such payments are due, (B) the Corporation's obligations with respect to such Securities under Sections 2.4, 2.5, 2.6, 2.7, 2.8, 2.10, 7.7 and 7.8, (C) the rights, powers, trusts, duties and immunities of the Trustee hereunder and (D) this Article Eight.

"U.S. Government Obligations" means the following obligations:

(1) direct obligations of the United States (for the payment of which its full faith and credit is pledged; or

(2) obligations of a person controlled or supervised by and acting as an agency or instrumentality of the United States the payment of which is unconditionally guaranteed as a full faith and credit obligation by the United States.

Section 8.3 *Defeasance of Certain Obligations*. The Corporation may take any action provided for in this Section unless the Securities of the affected series specifically provide that this Section shall not apply to the series. The Corporation at any time at its option may cease to be under any obligation to comply with Section 5.1 with respect to Securities of a series effective on the date the following conditions are satisfied:

(1) with reference to this Section, the Corporation has deposited or caused to be deposited with the Trustee, as trust funds in trust, specifically pledged as security for and dedicated solely to the benefit of the Holders of the Securities of that series, (a) lawful money, in the currency or currencies in which Securities of that series are payable, in an amount, or (b) if the Securities of that series are payable in U.S. dollars, U.S. Government Obligations which through the payment of interest and principal in respect thereof in accordance with their terms (and, as to callable U.S. Government Obligations, regardless of when they are called) will provide not later than the opening of business on the due dates of any payment of principal of and interest on the Securities of that series lawful money of the United States in an amount or (c) Securities of that issue, or (d) a combination thereof, sufficient to pay and discharge the principal of and interest on the Securities of that series on the day on which such payments are due and payable in accordance with the terms of this Indenture and of the Securities of that series; and

(2) the Corporation has delivered to the Trustee an Officers' Certificate and an Opinion of Counsel complying with Section 10.4 relating to the Corporation's exercise of such option.

The trust established pursuant to subsection (1) above shall be irrevocable and shall be made under the terms of an escrow trust agreement in form and substance satisfactory to the Trustee. The escrow trust agreement may, at the Corporation's election, grant the Corporation the right to substitute U.S. Government Obligations or Securities of the same series from time to time for any or all of the U.S. Government Obligations deposited with the Trustee pursuant to this Section and the escrow trust agreement; provided, however, that the condition specified in subsection (1) above is satisfied immediately following any such substitution or substitutions. If any Securities of a series are to be redeemed prior to their stated maturity pursuant to optional redemption provisions the applicable escrow trust agreement shall provide therefor and the Corporation shall make such arrangements as are satisfactory to the Trustee for the giving of notice of redemption by the Trustee in the name, and at the expense, of the Corporation.

The Corporation's exercise of its option under this Section shall not preclude the Corporation from subsequently exercising its option under Section 8.2 hereof and the Corporation may so exercise that option by providing the Trustee with written notice to such effect.

Section 8.4 Application of Trust Money. The Trustee shall hold in trust money, U.S. Government Obligations, and Securities of that series deposited with it pursuant to Sections 8.1, 8.2 or 8.3. It shall apply the deposited money and U.S. Government Obligations, through the Paying Agent and in accordance with this Indenture, to the payment of principal and interest on the Securities of the series for the payment of which such money and U.S. Government Obligations has been deposited. The Holder of any Security replaced pursuant to Section 2.8 shall not be entitled to any such payment and shall look only to the Corporation for any payment which such Holder may be entitled to collect. In connection with the satisfaction and discharge of this Indenture or the defeasance of certain obligations under this Indenture with respect to Securities of a series pursuant to Section 8.2 or Section 8.3 hereof, respectively, the escrow trust agreement may, at the Corporation's election, (1) enable the Corporation to direct the Trustee to invest any money received by the Trustee on the U.S. Government Obligations deposited in trust thereunder in additional U.S. Government Obligations and (2) enable the Corporation to withdraw moneys or U.S. Government Obligations from the trust from time to time; provided, however, that the condition specified in Section 8.2(1) or 8.3(1) is satisfied immediately following any investment of such money by the Trustee or the withdrawal of moneys or U. S. Government Obligations from the trust by the Corporation as the case may be.

Section 8.5 Repayment to Corporation. The Trustee and the Paying Agent shall promptly pay to the Corporation upon request any excess money or securities held by them at any time. The Trustee and the Paying Agent shall pay to the Corporation upon request any money held by them for the payment of principal or interest that remains unclaimed for two years.

ARTICLE 9.

AMENDMENTS, SUPPLEMENTS AND WAIVERS

Section 9.1 *Without Consent of Holders*. The Corporation may amend or supplement this Indenture or the Securities of any series without notice to or consent of any Securityholder of such series:

- (1) to cure any ambiguity, omission, defect or inconsistency;
- (2) to comply with Article 5;
- (3) to provide for uncertificated Securities in addition to or in place of certificated Securities;
- (4) to effectuate or comply with the provisions of Section 2.3 or 7.8;
- (5) to make any change that does not materially adversely affect the rights of any Holder of any Security of that series; or
- (6) to add or change or eliminate any provisions of this Indenture as shall be necessary or desirable in accordance with any amendments to the TLA.

The Trustee may waive compliance by the Corporation with any provision of this Indenture or the Securities of any series without notice to or consent of any Securityholder of such series if the waiver does not materially adversely affect the rights of any Holder of any Securities of that series.

Section 9.2 *With Consent of Holders*. The Corporation may amend or supplement this Indenture or the Securities with respect to any series without notice to any Securityholder but with the written consent of the Holders of not less than a majority in principal amount of the Securities of such series affected and the Trustee shall execute any such amendment or supplement at the direction of the Corporation. The Holders of a majority in principal amount of the Securities of such series affected may waive compliance by the Corporation with any provision of this Indenture or the Securities of such series without notice to any Securityholder. However, without the consent of each Securityholder of such series affected, an amendment, supplement or waiver, including a waiver pursuant to Section 6.4, may not:

- (1) reduce the amount of Securities of such series whose Holders must consent to an amendment, supplement or waiver;
- (2) reduce the rate of or extend the time for payment of interest on any Security of such series;
- (3) reduce the principal of or extend the fixed maturity of any Security of such series;

(4) reduce the portion of the principal amount of a Discounted Security of such series payable upon acceleration of its maturity; or

(5) make any Security of such series payable in money other than that stated in such Security.

It shall not be necessary for any Act of Holders under this Section to approve the particular form of any proposed supplement or amendment, but it shall be sufficient if such Act shall approve the substance thereof.

Section 9.3 *Compliance with Trust Indenture Act of 1939.* Every amendment to or supplement of this Indenture or the Securities shall comply with the TIA as then in effect.

Section 9.4 *Revocation and Effect of Consents.* A consent to an amendment, supplement or waiver by a Holder of a Security shall bind the Holder and every subsequent Holder of that Security or portion of the Security that evidences the same debt as the consenting Holder's Security, even if notation of the consent is not made on the Security. However, any such Holder or subsequent Holder may revoke the consent as to his Security or portion of the Security. The Trustee must receive the notice of revocation before the date the amendment, supplement or waiver becomes effective.

After an amendment, supplement or waiver becomes effective, it shall bind every Securityholder unless it makes a change described in clauses (2), (3), (4) or (5) of Section 9.2. In that case, the amendment, supplement or waiver shall bind each Holder of a Security who has consented to it and every subsequent Holder of a Security or portion of a Security that evidences the same debt as the consenting Holder's Security.

Section 9.5 *Notation on or Exchange of Securities.* If an amendment, supplement or waiver changes the terms of a Security, the Trustee may require the Holder of the Security to deliver it to the Trustee. The Trustee may place an appropriate notation on the Security about the changed terms and return it to the Holder. Alternatively, if the Corporation or the Trustee so determine, the Corporation in exchange for the Security shall issue and the Trustee shall authenticate a new Security that reflects the changed terms.

Section 9.6 *Trustee to Sign Amendments, etc.* The Trustee shall sign any amendment, supplement or waiver authorized pursuant to this Article if the amendment, supplement or waiver does not adversely affect the rights, duties, liabilities or immunities of the Trustee. If it does, the Trustee may but need not sign it. In signing such amendment, supplement or waiver the Trustee shall be entitled to receive, and (subject to Section 7.1) shall be fully protected in relying upon, an Opinion of Counsel stating that such amendment, supplement or waiver is authorized or permitted by this Indenture. The Corporation shall not sign an amendment or supplement unless authorized by an appropriate Board Resolution.

ARTICLE 10.
MISCELLANEOUS

Section 10.1 *TIA Controls*. If any provision of this Indenture limits, qualifies or conflicts with another provision which is required to be included in this Indenture by the TIA, the required provision shall control.

Section 10.2 *Notices*. Any notice or communication shall be sufficiently given if in writing and delivered in person, sent by facsimile or electronic delivery, or mailed by first-class mail addressed as follows:

if to the Corporation:

Martin Marietta Materials, Inc.
Attention: Chief Financial Officer
2710 Wycliff Road
Raleigh, North Carolina 27607

if to the Trustee:

Branch Banking and Trust Company
Attention: Corporate Trust Services
223 West Nash Street
Wilson, North Carolina 27893

The Corporation or the Trustee by notice to the other may designate additional or different addresses for subsequent notices or communications.

Any notice or communication mailed to a Securityholder shall be mailed to the Securityholder at the Securityholder's address as it appears on the registration books of the Registrar and shall be sufficiently given if so mailed within the time prescribed.

Failure to mail a notice of communication to a Securityholder or any defect in it shall not affect its sufficiency with respect to other Securityholders. If a notice or communication is mailed in the manner provided above, it is duly given, whether or not the addressee receives it.

Section 10.3 *Communication by Holders with Other Holders*. Securityholders may communicate pursuant to TIA § 312(b) with other Securityholders with respect to their rights under this Indenture or the Securities. The Corporation, the Trustee, the Registrar and anyone else shall have the protection of TIA § 312(c).

Section 10.4 *Certificate and Opinion as to Conditions Precedent*. Upon any request or application by the Corporation to the Trustee to take any action under this Indenture, the Corporation shall furnish to the Trustee:

- (1) an Officers' Certificate stating that, in the opinion of the signers, all conditions precedent, if any, provided for in this Indenture relating to the proposed action have been complied with; and
- (2) an Opinion of Counsel stating that, in the opinion of such counsel, all such conditions precedent have been complied with.

Section 10.5 *Statements Required in Certificate or Opinion.* Each certificate or opinion with respect to compliance with a condition or covenant provided for in this Indenture shall include:

- (1) a statement that the person making such certificate or opinion has read such covenant or condition;
- (2) 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;
- (3) a statement that, in the opinion of such person, the person has made such examination or investigation as is necessary to enable the person to express an informed opinion as to whether such covenant or condition has been complied with;
- (4) a statement as to whether or not, in the opinion of such person, such condition or covenant has been complied with.

Section 10.6 *When Treasury Securities Disregarded.* In determining whether the Holders of the required principal amount of Securities have concurred in any direction, waiver or consent, Securities owned by the Corporation or by any person directly or indirectly controlling or controlled by or under direct or indirect common control with the Corporation, shall be disregarded, except that for the purpose of determining whether the Trustee shall be protected in relying on any such direction, waiver or consent, only Securities which the Trustee knows are so owned shall be so disregarded. Also, subject to the foregoing, only Securities outstanding at the time shall be considered in any such determination.

Section 10.7 *Rules by Trustee, Paying Agent, Registrar.* The Trustee may make reasonable rules for action by or a meeting of Securityholders. The Paying Agent or Registrar may make reasonable rules for its functions.

Section 10.8 *Legal Holidays.* A "Legal Holiday" is a Saturday, a Sunday, a legal holiday or a day on which banking institutions are not required to be open. If a payment date is a Legal Holiday at a place of payment, payment shall be made at that place on the next succeeding day that is not a Legal Holiday, and no interest shall accrue for the intervening period. If a regular record date is a Legal Holiday in the state or other jurisdiction in which the Trustee maintains its principal place of business, then the record date shall be the next succeeding day that is not a Legal Holiday in such state or other jurisdiction.

Section 10.9 *Governing Law.* The laws of the State of New York shall govern this Indenture and the Securities.

Section 10.10 *No Adverse Interpretation of Other Agreements*. This Indenture may not be used to interpret another indenture, loan or debt agreement of the Corporation or any Subsidiary. Any such indenture, loan or debt agreement may not be used to interpret this Indenture.

Section 10.11 *No Recourse Against Others*. A director, officer, employee or stockholder, as such, of the Corporation shall not have any liability for any obligation of the Corporation under the Securities or the Indenture or for any claim based on, with respect to or by reason of such obligations or their creation. All such liability is waived and released as a condition of, and as partial consideration for, the execution of this Indenture and the issue of the Securities.

Section 10.12 *Securities in a Foreign Currency*. Unless otherwise specified in an Officers' Certificate delivered pursuant to Section 2.1 of this Indenture with respect to a particular series of Securities, whenever for purposes of this Indenture any action may be taken by the holders of a specified percentage in aggregate principal amount of Securities of all series at the time outstanding and, at such time, there are outstanding Securities of any series which are denominated in a Foreign Currency, then the principal amount of Securities of such series which shall be deemed to be outstanding for the purpose of taking such action shall be that amount of U.S. dollars that could be obtained for such amount at the Market Exchange Rate on the record date fixed for such action or, if no record date is fixed, on the New York Banking Day immediately preceding the date of such action.

Section 10.13 *Judgment Currency*. If, for the purpose of obtaining a judgment in any court with respect to any obligation of the Corporation hereunder or under any Security, it shall become necessary to convert into any other currency any amount in the currency due hereunder or under such Security, then such conversion shall be made by the Trustee (a) with respect to conversions between any Foreign Currency and U.S. dollars at the Market Exchange Rate as in effect on the date of entry of the judgment (the "Judgment Date") and (b) with respect to conversions of any Foreign Currency into any other Foreign Currency by (i) converting such Foreign Currency into U.S. dollars at the Market Exchange Rate as in effect on the Judgment Date and (ii) converting the sum of U.S. dollars so obtained into such other Foreign Currency at the Market Exchange Rate as in effect on the Judgment Date. If pursuant to any such judgment, conversion shall be made on a date (the "Substitute Date") other than the Judgment Date and there shall occur a change between any Market Exchange Rate used in such conversion as in effect on the Judgment Date and such Market Exchange Rate as in effect on the Substitute Date, the Corporation agrees to pay such additional amounts, if any, as may be necessary to ensure that the amount paid is equal to the amount in such other currency which, when converted at such Market Exchange Rate as in effect on the Judgment Date, is the amount due hereunder or under such Security. Any amount due from the Corporation under this Section shall be due as a separate debt and is not to be affected by or merged into any judgment being obtained for any other sums due hereunder or in respect of any Security. In no event, however, shall the Corporation be required to pay more in the currency due hereunder or under such Security at the Market Exchange Rate as in effect on the Judgment Date than the amount of currency stated to be due hereunder or under such Security so that in any event the Corporation's obligations hereunder or under such Security will be effectively maintained as obligations in such currency, and the Corporation shall be entitled to withhold (or be reimbursed for, as the case may be) any excess of the amount actually realized upon any such conversion on the Substitute Date over the amount due and payable on the Judgment Date.

Section 10.14 *Successors*. All agreements of the Corporation in this Indenture and the Securities shall bind its successor. All agreements of the Trustee in this Indenture shall bind its successor.

Section 10.15 *Duplicate Originals*. The parties may sign any number of copies of this Indenture. One signed copy is enough to prove this Indenture.

Section 10.16 *Acts of Holders; Record Dates*. (a) Any request, demand, authorization, direction, notice, consent, waiver or other action provided by this Indenture to be given or taken by Holders may be embodied in and evidenced by one or more instruments of substantially similar tenor signed by such Holders in person or by agent duly appointed in writing; and, except as herein otherwise expressly provided, such action shall become effective when such instrument or instruments are delivered to the Trustee and, where it is hereby expressly required, to the Corporation. Such instrument or instruments (and the action embodied therein and evidenced thereby) are herein sometimes referred to as the "Act" of the Holders signing such instrument or instruments. Proof of execution of any such instrument or of a writing appointing any such agent shall be sufficient for any purpose of this Indenture and (subject to Section 7.1(e)) conclusive in favor of the Trustee and the Corporation, if made in the manner provided in this Section.

(b) The fact and date of the execution by any Person of any such instrument or writing may be proved by the affidavit of a witness of such execution or by a certificate of a notary public or other officer authorized by law to take acknowledgements of deeds, certifying that the individual signing such instrument or writing acknowledged to such officer the execution thereof. Where such execution is by a signer acting in a capacity other than such signer's individual capacity, such certificate or affidavit shall also constitute sufficient proof of such signer's authority. The fact and date of the execution of any such instrument or writing, or the authority of the Person executing the same, may also be proved in any other manner which the Trustee deems sufficient.

(c) The Corporation may, in the circumstances permitted by the TIA, fix any day as the record date for the purpose of determining the Holders of Securities of any series entitled to give or take any request, demand, authorization, direction, notice, consent, waiver or other action, or to vote on any action, authorized or permitted to be given or taken by Holders of Securities of such series. If not set by the Corporation prior to the first solicitation of a Holder of Securities of such series made by any person in respect of any such action, or, in the case of any such vote, prior to such vote, the record date for any such action or vote shall be the 30th day (or, if later, the date of the most recent list of Holders required to be provided pursuant to Section 2.6) prior to such first solicitation or vote, as the case may be. With regard to any record date for action to be taken by the Holders of one or more series of Securities, only the Holders of Securities of such series on such date (or their duly designated proxies) shall be entitled to give or take, or vote on, the relevant action.

Section 10.17 *Force Majeure*. In no event shall the Trustee be responsible or liable for any failure or delay in the performance of its obligations hereunder arising out of or caused by, directly or indirectly, forces beyond its control, including, without limitation, strikes, work stoppages, accidents, acts of war or terrorism, civil or military disturbances, nuclear or natural catastrophes or acts of God, and interruptions, loss or malfunctions of utilities, communications or computer (software or hardware) services; it being understood that the Trustee shall use

reasonable efforts which are consistent with accepted practices in the banking industry to resume performance as soon as practicable under the circumstances.

SIGNATURES

MARTIN MARIETTA MATERIALS, INC.

By: _____

Name:

Title:

[CORPORATE SEAL]

Attest: _____

Secretary

BRANCH BANKING AND TRUST COMPANY

By: _____

Name:

Title:

[CORPORATE SEAL]

Attest: _____

Secretary

[If the [Note][Debenture] is a Discounted Security, insert — FOR PURPOSES OF SECTIONS 1273 AND 1275 OF THE INTERNAL REVENUE CODE, THE AMOUNT OF ORIGINAL ISSUE DISCOUNT ON THIS [NOTE][DEBENTURE] IS ___% OF ITS PRINCIPAL AMOUNT, THE ISSUE DATE IS _____, THE YIELD TO MATURITY IS __%, THE AMOUNT OF ORIGINAL ISSUE DISCOUNT APPLICABLE TO THE SHORT ACCRUAL PERIOD OF _____ TO _____, IS ___% OF THE PRINCIPAL AMOUNT OF THIS SECURITY AND THE METHOD USED TO DETERMINE THE SHORT ACCRUAL PERIOD ORIGINAL ISSUE DISCOUNT IS THE _____ METHOD.]

[FORM OF U.S. \$ DENOMINATED NOTE/DEBENTURE]

No.

\$ _____

MARTIN MARIETTA MATERIALS, INC.
[_____%] [Floating Rate] [Zero Coupon] [Note]
[Debenture] Due _____

MARTIN MARIETTA MATERIALS, INC., a North Carolina corporation, for value received, hereby promises to pay to _____, or registered assigns, the principal sum of _____ Dollars on _____.

Interest Payment Dates: _____ and _____ [if applicable]

Record Dates: _____ and _____ [if applicable]

Additional provisions of this [Note][Debenture] are set forth on the other side of this [Note] [Debenture].

Attest: _____
[SEAL]

MARTIN MARIETTA MATERIALS, INC.
By: _____

Secretary

Chief Executive Officer

Dated:

Authenticated:

This is one of the Securities of the series designated herein and referred to in the within-named Indenture.

as Trustee

By: _____

Authorized Officer

[If an Authenticating Agent has been appointed insert:

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

as Trustee

By: _____

as Authenticating Agent

By: _____

Authorized Officer]

MARTIN MARIETTA MATERIALS, INC.

as Issuer

Branch Banking and Trust Company

as Trustee

FORM OF INDENTURE

Dated as of [_____]

SUBORDINATED DEBT SECURITIES

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Note: This Table of Contents shall not, for any purpose, be deemed to be a part of the Indenture.

INDENTURE dated as of [_____], between **MARTIN MARIETTA MATERIALS, INC.** , a North Carolina corporation (the “Corporation”), and Branch Banking and Trust Company, a state banking corporation (the “Trustee”).

Each party agrees as follows for the benefit of the other party and, as to each series of Securities, for the equal and ratable benefit of the Holders of that series of the Corporation’s Securities issued pursuant to this Indenture:

ARTICLE 1.

DEFINITIONS AND INCORPORATION BY REFERENCE

Section 1.1 *Definitions.*

“Agent” means any Registrar, Paying Agent or co-registrar.

“Board of Directors” means the Board of Directors, or the Executive Committee or the Finance Committee or any other duly authorized committee of the Board of Directors, of the Corporation.

“Board Resolution” means a resolution of the Board of Directors or of a committee or person to which or to whom the Board of Directors has properly delegated the appropriate authority, a copy of which has been certified by the Secretary or an Assistant Secretary of the Corporation, to have been duly adopted by the Board of Directors and to be in full force and effect on the date of such certification and delivered to the Trustee.

“Corporation” means the party named as such in this Indenture until a successor replaces it and thereafter means the successor.

“Debt” means any debt for borrowed money which would appear on the balance sheet as a liability or any guarantee of such a debt and includes purchase money obligations. A Debt shall be counted only once even if the Corporation and one or more of its Subsidiaries may be responsible for the obligation.

“Default” means any event which is, or after notice or passage of time or both would be, an Event of Default.

“Depository” means, with respect to the Securities of any series issuable or issued in whole or in part in the form of one or more Global Securities, The Depository Trust Company or such other party as may be designated as Depository by the Corporation pursuant to Section 2.3, until a successor Depository shall have become such pursuant to the applicable provisions hereof, and thereafter “Depository” shall mean or include each party who is then a Depository hereunder, and if at any time there is more than one such party, “Depository” as used in respect of the Securities on any such series shall mean the Depository with respect to the Securities of that series.

“Discounted Security” means any Security which provides for an amount (excluding any amounts attributable to accrued but unpaid interest) less than its principal amount to be due and payable upon a declaration of acceleration of the maturity of the Security pursuant to Section 6.2.

“Exchange Act” means the Securities Exchange Act of 1934, as it may be amended from time to time.

“Foreign Currency” means a currency issued by the government of any country other than the United States of America.

“Global Security” means a Security evidencing all or a part of a series of Securities, issued to the Depository for such series in accordance with Section 2.1, and bearing the legend prescribed in Section 2.1.

“Holder” or “Securityholder” means the person in whose name a Security is registered on the Registrar’s books.

“Indenture” means this Indenture as amended or supplemented from time to time.

“Market Exchange Rate” for any currency means, as appropriate, the noon U.S. dollar buying rate or selling rate for that currency for cable transfers quoted in the City of New York on the applicable date as certified for customs purposes by the Federal Reserve Bank of New York. If for any reason such rates are not available for one or more currencies for which a Market Exchange Rate is required, the Trustee shall use: (i) the quotation of the Federal Reserve Bank of New York as of the most recent available date, (ii) quotations from one or more major banks in the City of New York or in the country of issue of the currency in question, or (iii) such other quotations as the Trustee shall deem appropriate. Unless otherwise specified by the Trustee, if there is more than one market for dealing in any currency by reason of foreign exchange regulations or otherwise, the market to be used is that in which a nonresident issuer of securities designated in that currency would purchase that currency in order to make payments on those securities. All decisions and determinations of the Trustee regarding the Market Exchange Rate shall be in its sole discretion and shall, in the absence of manifest error, be conclusive for all purposes and irrevocably binding upon the Corporation and all holders.

“Officer” means the Chairman of the Board, the Chief Executive Officer, the President, any Vice President, the Treasurer or the Secretary of the Corporation.

“Officers’ Certificate” means the certificate signed by two Officers or by an Officer and an Assistant Treasurer or Assistant Secretary of the Corporation.

“Opinion of Counsel” means a written opinion from legal counsel who is acceptable to the Trustee. The counsel may be an employee of or counsel to the Corporation.

“principal” of a Security means the principal of the Security plus, when appropriate, the premium, if any, on the Security.

“SEC” means the Securities and Exchange Commission.

“Securities” means the securities issued pursuant to this Indenture from time to time, as such securities may be amended or supplemented from time to time.

“Series” when used with respect to the Securities means all Securities bearing the same title and authorized by the same Board Resolution or indenture supplemental hereto.

“Senior Debt” means the principal of, premium, if any, unpaid interest and all fees and other amounts payable in connection with the following, whether outstanding on the date hereof or thereafter created, incurred, assumed or guaranteed, on (x) the Debt of the Corporation, for money borrowed other than (a) any Debt of the Corporation which when incurred and without respect to any election under Section 1111(b) of the Federal Bankruptcy Code, was without recourse to the Corporation, (b) any Debt of the Corporation to any of its Subsidiaries, (c) Debt to any employee of the Corporation, (d) any liability for taxes and (e) Trade Payables, unless the instrument creating or evidencing the same or pursuant to which the same is outstanding provides that such Debt is not senior or prior in right of payment to the Securities, (y) all obligations of the Corporation under interest rate, currency and commodity swaps, caps, floors, collars, hedge arrangements, forward contracts or similar agreements or arrangements and (z) renewals, extensions, modifications and refundings of any such Debt. This definition may be modified or superseded by a supplemental indenture.

“Subsidiary” means an entity, a majority of the Voting Stock of which is owned by the Corporation, the Corporation and one or more Subsidiaries, or one or more Subsidiaries.

“TIA” means the Trust Indenture Act of 1939, as in effect (unless otherwise stated herein) on the date of this Indenture.

“Trade Payables” means accounts payable or any other Debt or monetary obligations to trade creditors created or assumed by the Corporation or any Subsidiary of the Corporation in the ordinary course of business in connection with the receipt of materials or services.

“Trustee” means the party named as such in this Indenture until a successor replaces it and thereafter means the successor. The term “Trustee” includes any additional Trustee appointed pursuant to Section 2.3 or Section 7.8 but, if at any time there is more than one Trustee, the term “Trustee” as used with respect to Securities of any series shall mean the Trustee with respect to Securities of that series.

“Trust Officer” means a Vice President or any other officer or assistant officer of the Trustee assigned by the Trustee to administer its corporate trust matters.

“United States” means the United States of America. The Commonwealth of Puerto Rico, the Virgin Islands and other territories and possessions are not part of the United States.

“Voting Stock” means capital stock or other equity interest having voting power under ordinary circumstances to elect directors or managers, as applicable.

Section 1.2 *Other Definitions*.

Term	Defined in Section
“Act”	11.16

“Bankruptcy Law”	6.1
“Custodian”	6.1
“Event of Default”	6.1
“Judgment Date”	11.13
“Junior Securities”	10.13
“Legal Holiday”	11.8
“Paying Agent”	2.4
“Registrar”	2.4
“Substitute Date”	11.13
“U.S. Government Obligations”	8.2

Section 1.3 *Incorporation by Reference of TIA*. 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:

“Commission” means the SEC.

“indenture securities” means the Securities.

“indenture security holder” means a Securityholder.

“indenture to be qualified” means this Indenture.

“indenture trustee” or “institutional trustee” means the Trustee.

“obligor” on the indenture securities means the Corporation.

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

Section 1.4 *Rules of Construction*. Unless the context otherwise requires:

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

(2) an accounting term not otherwise defined has the meaning assigned to it in accordance with generally accepted accounting principles in effect from time to time unless a different time is established in the applicable series of Securities;

(3) “or” is not exclusive;

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

(5) any gender used in this Indenture shall be deemed to include the neuter, masculine or feminine gender; and

(6) provisions apply to successive events and transactions.

ARTICLE 2.

THE SECURITIES

Section 2.1 *Form and Dating*. The Securities shall be issued substantially in the form or forms (including global form) as shall be established by or pursuant to a Board Resolution or Resolutions or any indenture supplemental hereto, in each case with such appropriate insertions, omissions, substitutions or other variations as are required or permitted by this Indenture. The Securities may have notations, legends or endorsements required by law, stock exchange rule or usage. Each Security shall be dated the date of its authentication.

Notwithstanding the foregoing, if any Security of a series is issuable in the form of a Global Security or securities, each such Global Security may provide that it shall represent the aggregate amount of Securities outstanding under the series from time to time endorsed thereon and also may provide that the aggregate amount of Securities outstanding under the series represented thereby may from time to time be reduced to reflect exchanges. Any endorsement of a Global Security to reflect the amount of Securities outstanding under the series represented thereby shall be made by the Trustee in accordance with the instructions of the Corporation and in such manner as shall be specified on such Global Security. Any instructions by the Corporation with respect to a Global Security, after its initial issuance, shall be in writing but need not comply with Section 11.4.

Before the first delivery of a Security of any series to the Trustee for authentication, the Corporation shall deliver to the Trustee the following:

- (1) the Board Resolution by or pursuant to which the forms and terms of the Security have been approved;
- (2) an Officers' Certificate of the Corporation dated the date of delivery stating that all conditions precedent provided for in this Indenture relating to the authentication and delivery of Securities in that series have been complied with and directing the Trustee to authenticate and deliver the Securities to or upon written order of the Corporation; and
- (3) an Opinion of Counsel stating that all conditions precedent provided for in this Indenture relating to the authentication and delivery of Securities of that series have been complied with, the form and terms of the series have been established by or pursuant to a Board Resolution or Resolutions in conformity with this Indenture, and that Securities in such form when completed by appropriate insertions and executed by the Corporation and delivered by the Corporation to the Trustee for authentication in accordance with this Indenture, authenticated and delivered by the Trustee in accordance with this Indenture within the authorization as to aggregate principal amount established from time to time by the Board of Directors and sold in the manner specified in such Opinion of Counsel will be the legal, valid and binding obligations of the Corporation entitled to the benefits of this Indenture, subject to applicable bankruptcy, reorganization, insolvency and other similar laws generally affecting creditors rights and to general equity principles, and to such other

qualifications as such counsel shall conclude do not materially affect the rights of Holders of Securities of that series or that are customarily included in similar opinions by lawyers experienced in such matters.

Notwithstanding the foregoing, if the Corporation shall establish pursuant to Section 2.3 that the Securities of a series are to be issued in whole or in part in the form of one or more Global Securities, then the Corporation shall execute and the Trustee shall, in accordance with this Section, Section 2.2 and the authentication order of the Corporation with respect to such series, authenticate and deliver one or more Global Securities in temporary or permanent form that shall (a) represent and be denominated in an aggregate amount equal to the aggregate principal amount of the Securities of such series to be represented by one or more Global Securities, (b) be registered in the name of the Depository for such Global Security or Global Securities or the nominee of such Depository, (c) be delivered by the Trustee to such Depository or pursuant to such Depository's instruction, and (d) bear a legend substantially to the following effect: "Unless and until it is exchanged in whole or in part for Securities in definitive form, this Security may not be transferred except as a whole by the Depository to a nominee of the Depository or by a nominee of the Depository to the Depository or another nominee of the Depository or by the Depository or any nominee to a successor Depository or a nominee of any successor Depository."

Section 2.2 Execution and Authentication. Two Officers shall sign the Securities for the Corporation by manual or facsimile signature. The Corporation's seal shall be impressed, affixed, imprinted or reproduced on the Securities. Securities shall be dated the date of their authentication.

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

A Security shall not be valid until the Trustee manually signs the certificate of authentication on the Security. The signature shall be conclusive evidence that the Security has been authenticated under this Indenture.

Notwithstanding the provisions of Section 2.3 and of the preceding paragraphs, if all Securities of a series are not to be originally issued at one time (including, for example, a series constituting a medium-term note program), it shall not be necessary to deliver the Officers' Certificate otherwise required pursuant to Section 2.1 or the Opinion of Counsel otherwise required pursuant to such preceding paragraphs at or prior to the time of authentication of each Security of such series if such documents are delivered at or prior to the time of authentication upon original issuance of the first Security of such series. In such case the Trustee may conclusively rely on the foregoing documents and opinions delivered pursuant to Section 2.1 and Section 2.3, and this Section, as applicable (unless revoked by superseding comparable documents or opinions), as to the matters set forth therein.

Notwithstanding the foregoing, if any Security shall have been duly authenticated and delivered hereunder but never issued and sold by the Corporation, and the Corporation shall deliver such Security to the Trustee for cancellation as provided in Section 2.11 together with a written statement (which need not comply with Section 2.1 and need not be accompanied by an Opinion of Counsel) stating that such Security has never been issued and sold by the Corporation,

for all purposes of this Indenture such Security shall be deemed never to have been authenticated and delivered hereunder and shall never be entitled to the benefits of this Indenture.

If any Security of a series shall be represented by a Global Security, then, for purposes of this Section and Section 2.10, the notation of the record owners' interest therein upon original issuance of such Security shall be deemed to be delivery in connection with the original issuance of each beneficial owner's interest in such Global Security.

The Trustee's certificate of authentication on all Securities shall be in substantially the following form:

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

Date:

[_____], as Trustee

By:

Authorized Officer

If at any time there shall be an Authenticating Agent appointed with respect to any series of Securities, then the Trustee's certificate of authentication to be borne by the Securities of each such series shall be substantially as follows:

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

[_____], as Trustee

By: _____
as Authenticating Agent Officer

By: _____
Authorized Officer

The Trustee may appoint an authenticating agent acceptable to the Corporation to authenticate Securities. An authenticating agent may authenticate Securities 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 the Corporation.

Section 2.3 *Title, Amount and Terms of Securities*. The principal amount of Securities that may be authenticated and delivered and outstanding under this Indenture is not limited. The Securities may be issued in a total principal amount up to that authorized from time to time by or pursuant to relevant Board Resolutions or established in one or more indentures supplemental hereto.

The Securities may be issued in one or more series, each of which shall be issued pursuant to a Board Resolution or Resolutions of the Corporation, or established in one or more indentures supplemental hereto, which shall specify:

- (1) the title of the Securities of that series (which shall distinguish the Securities of that series from Securities of all other series);
- (2) any limit on the aggregate principal amount of the Securities of that series that may be authenticated and delivered under this Indenture (except for Securities authenticated and delivered upon registration or transfer of, in exchange for or in lieu of other Securities of that series pursuant to Section 2.7, 2.8 or 3.7);
- (3) the date or dates (or manner of determining the same) on which the principal of the Securities of that series is payable;
- (4) the rate or rates, or the method to be used in ascertaining the rate or rates (which may be fixed or variable), at which the Securities of that series shall bear interest (if any), the basis upon which interest shall be calculated if other than that of a 360-day year of 12 30-day months, the date or dates from which such interest shall

accrue, the interest payment dates on which such interest shall be payable and the record date for the interest payable on any interest payment date;

(5) if the trustee of that series is other than the Trustee initially named in this Indenture or any successor thereto, the trustee of that series;

(6) the place or places where the principal of and interest, if any, on Securities of that series shall be payable;

(7) the period or periods within which, the price or prices at which and the terms and conditions on which Securities of that series may be redeemed, in whole or in part, at the option of the Corporation;

(8) the obligation, if any, of the Corporation to redeem or purchase Securities of that series pursuant to any sinking fund or analogous provisions or at the option of Holders of Securities of that series, and the period or periods within which, the price or prices at which and the terms and conditions upon which Securities of that series shall be redeemed or purchased, in whole or in part, pursuant to such obligation;

(9) if denominated in U.S. dollars, and in denominations other than denominations of \$1,000 and any multiple of \$1,000, the denominations in which Securities of that series shall be issuable;

(10) if denominated in other than U.S. dollars, the currency or currencies, including composite currencies, in which the Securities of that series are denominated, and the denominations in which Securities of that series shall be issuable;

(11) if other than the currency in which the Securities of that series are denominated, the currency or currencies, including composite currencies, in which payment of the principal of and interest, if any, on Securities of that series shall be payable;

(12) if the amount of payments of the principal of and interest, if any, on the Securities of that series may be determined with reference to an index based on a currency or currencies other than that in which the Securities of that series are denominated, the manner in which such amounts shall be determined;

(13) if other than the full principal amount, the portion of the principal amount of Securities of that series which shall be payable upon a declaration of acceleration of the maturity pursuant to Section 6.2;

(14) if convertible into Securities of another series, or shares of capital stock of the Corporation, the terms upon which the Securities of that series will be convertible into Securities of such other series or shares of capital stock of the Corporation;

(15) the right, if any, of the Corporation to redeem all or any part of the Securities of that series before maturity and the period or periods within which, the price or

prices at which and the terms and conditions upon which Securities of that series may be redeemed;

(16) if other than or in addition to the subordination provisions in Article 10, the terms of subordination with respect to the Securities of that series;

(17) the provisions, if any, restricting defeasance of the Securities of that series;

(18) if other than or in addition to the events specified in Section 6.1, events of default with respect to the Securities of that series;

(19) if the Securities of that series are to be issued in whole or in part in the form of one or more Global Securities, the Depositary for such Global Security or Global Securities if other than The Depositary Trust Company, New York, New York and whether beneficial owners of interests in any such Global Securities may exchange such interests for other Securities of such series in the manner provided in Section 2.7, and the manner and the circumstances under which and the place or places where any such exchanges may occur if other than in the manner provided in Section 2.7, and any other terms of the series relating to the global nature of the Securities of such series and the exchange, registration or transfer thereof and the payment of any principal thereof or interest, if any, thereon;

(20) any covenants or other restrictions on the Corporation's operations;

(21) conditions to any merger or consolidation;

(22) any other terms of or relating to the Securities of that series; and

(23) the form of any notice to be delivered to the Trustee with respect to any such Security.

All Securities of any particular series shall be identical as to currency of denomination and otherwise shall be substantially identical except as to denomination and except as may otherwise be provided in or pursuant to the relevant Board Resolution or Resolutions or indentures supplemental hereto. All Securities of any particular series need not be issued at the same time and, unless otherwise provided, a series may be reopened, without the consent of the Holders, for issuances of additional Securities of that series, unless otherwise specified in Board Resolutions or one or more indentures supplemental hereto.

The Trustee need not authenticate the Securities in any series if their terms impose on the Trustee duties in addition to those imposed on the Trustee by this Indenture. If the Trustee does authenticate any such Securities, the authentication will evidence the Trustee's agreement to comply with any such additional duties.

Each Depositary for a Global Security in registered form shall, if required, at the time of its designation and at all times while it serves as a Depositary, be a clearing agency registered under the Exchange Act and any other applicable statute or regulation.

Section 2.4 *Registrar and Paying Agent*. The Corporation shall maintain an office or agency where Securities may be presented for registration of transfer or for exchange (“Registrar”) and an office or agency where Securities may be presented for payment (“Paying Agent”). The Registrar shall keep a register of the Securities and of their transfer and exchange. The Corporation may have one or more co-registrars and one or more additional paying agents. The term “Paying Agent” includes any additional paying agent. There may be separate Registrars and Paying Agents for different series of Securities.

The Corporation shall enter into an appropriate agency agreement with any Registrar, Paying Agent or co-registrar not a party to this Indenture. The agreements shall implement the provisions of this Indenture that relate to such Agent. The Corporation shall notify the Trustee of the name and address of any such Agent. If the Corporation fails to maintain a Registrar or Paying Agent, the Trustee shall act as such.

The Corporation initially appoints the Trustee as Registrar and Paying Agent.

Section 2.5 *Paying Agent to Hold Money in Trust*. Each Paying Agent for any series of Securities shall hold in trust for the benefit of Holders of Securities of the same series or the Trustee all money held by the Paying Agent for the payment of principal of or interest on such Securities and shall notify the Trustee of any default by the Corporation in making such payment. If the Corporation or a Subsidiary acts as Paying Agent with respect to a series of Securities, it shall segregate the money for that series and hold it as a separate trust fund. The Corporation at any time may require a Paying Agent to pay all money held by it to the Trustee. Upon doing so the Paying Agent shall have no further liability for the money.

Section 2.6 *Securityholder Lists*. For each series of Securities, 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 Holders of Securities of that series. If the Trustee is not the Registrar, the Corporation shall furnish or cause to be furnished to the Trustee on or before each interest payment date for each series of Securities 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 Holders of Securities of that series.

Section 2.7 *Transfer and Exchange*. Where a Security (other than a Global Security except as set forth herein) is presented to the Registrar or a co-registrar with a request to register a transfer, the Registrar shall register the transfer as requested. Where Securities (other than a Global Security except as set forth herein) of any series are presented to the Registrar or a co-registrar with a request to exchange them for an equal principal amount of Securities of other denominations of the same series with identical terms as the Securities exchanged, the Registrar shall make the exchange as requested if the same requirements are met. To permit transfers and exchanges, the Trustee shall authenticate Securities at the Registrar’s request. No service charge shall be made for any registration of transfer or exchange of Securities, but the Corporation may require payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in connection with any registration of transfer or exchange of Securities, other than exchanges pursuant to Section 2.10, 3.7 or 9.5 not involving any transfer. The Corporation shall not be required to make transfers or exchanges of Securities of any series for a period of 15 days before a selection of Securities of the same series to be redeemed or before an interest payment.

Notwithstanding any other provision of this Section, unless and until it is exchanged in whole or in part for Securities in definitive form, a Global Security representing all or a portion of the Securities of a series may not be transferred except as a whole by the Depository for such series to a nominee of such Depository or by a nominee of such Depository to such Depository or another nominee of such Depository or by such Depository or any such nominee to a successor Depository for such series or a nominee of such successor Depository.

None of the Corporation, the Trustee, the Paying Agent, the Registrar or any co-registrar shall have any responsibility or liability for any aspect of the records relating to or payments made on account of beneficial ownership interests of a Global Security or for maintaining, supervising or reviewing any records relating to such beneficial ownership interests.

If at any time the Depository for the Securities of a series notifies the Corporation that it is unwilling or unable to continue as Depository for the Securities of such series or if at any time the Depository for the Securities of such series shall no longer be eligible under Section 2.3, the Corporation shall appoint a successor Depository with respect to the Securities of such series. If a successor Depository for the Securities of such series is not appointed by the Corporation within 90 days after the Corporation receives such notice or becomes aware of such ineligibility, the Corporation's election pursuant to Section 2.3(18) shall no longer be effective with respect to the Securities of such series and the Corporation will execute, and the Trustee, upon receipt of an order of the Corporation for the authentication and delivery of definitive Securities of such series, will authenticate and deliver Securities of such series in definitive form in the Global Security or Securities representing such series in exchange for such Global Security or Securities.

The Corporation may at any time and in its sole discretion determine that the Securities of any series issued in the form of one or more Global Securities shall no longer be represented by such Global Security or Securities. In such event the Corporation will execute, and the Trustee, upon receipt of an order of the Corporation for the authentication and delivery of definitive Securities of such series, will authenticate and deliver Securities of such series in definitive form in an aggregate principal amount equal to the principal amount of the Global Security or Securities representing such series in exchange for such Global Security or Securities.

If specified by the Corporation pursuant to Section 2.3 with respect to a series of Securities, the Depository for such series of Securities may surrender a Global Security for such series of Securities in exchange in whole or in part for the Securities of such series in definitive form on such terms as are acceptable to the Corporation and such Depository. Thereupon, the Corporation shall execute, and the Trustee shall authenticate and deliver:

- (1) to each party specified by such Depository a new Security or Securities of the same series, of any authorized denomination as requested by such party in aggregate principal amount equal to and in exchange for such party's beneficial interest in the Global Security; and
- (2) to such Depository a new Global Security in a denomination equal to the difference, if any, between the principal amount of the surrendered Global Security and the aggregate principal amount of Securities delivered to Holders thereof.

Upon the exchange of the Global Security for Securities in definitive form, such Global Security shall be canceled by the Trustee. Securities issued in exchange for a Global Security pursuant to this Section 2.7 shall be registered in such names and in such authorized denominations as the Depository for such Global Security, pursuant to instructions from its direct or indirect participants or otherwise, shall instruct the Trustee. The Trustee shall deliver such Securities to the parties in whose names such Securities are so registered.

Section 2.8 *Replacement Securities.* If the Holder of a Security claims that the Security has been mutilated, destroyed, lost or stolen, the Corporation may issue and the Trustee shall authenticate a replacement Security of the same series with identical terms as the Securities exchanged. Such holder shall furnish an indemnity bond sufficient in the judgment of the Corporation and the Trustee to protect the Corporation, the Trustee, the Paying Agent, the Registrar and any co-registrar from any loss which any of them may suffer if a Security is replaced. The Corporation and the Trustee may charge for their expenses in replacing a Security.

In case any such mutilated, destroyed, lost or stolen Security has become due and payable, the Corporation in its discretion may, instead of issuing a new Security, pay such Security (without surrender thereof except in the case of a mutilated Security) if the applicant for such payment shall furnish to the Corporation, the Trustee, the Paying Agent, the Registrar and any co-registrar for such Security such security or indemnity as may be required by them to hold each of them harmless, and in case of destruction, loss or theft, evidence satisfactory to the Corporation, the Trustee, the Paying Agent, the Registrar and any co-registrar, and any agent of any of them, of the destruction, loss or theft of such Security and the ownership thereof.

Upon the issuance of any new Security under this Section 2.8, the Corporation may require the payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in relation thereto and any other expenses (including all fees and expenses of the Trustee, the Paying Agent, the Registrar and any co-registrar for such Security) connected therewith.

Every new Security of any series issued pursuant to this Section 2.8 in lieu of any destroyed, lost or stolen Security or in exchange for any mutilated Security, shall constitute an original additional obligation of the Corporation, whether or not the destroyed, lost or stolen Security shall be at any time enforceable by anyone, and shall be entitled to all the benefits of this Indenture equally and proportionately with any and all other Securities of the same series.

The provisions of this Section 2.8 are exclusive and shall preclude (to the extent lawful) all other rights and remedies with respect to the replacement or payment of mutilated, destroyed, lost or stolen Securities.

Section 2.9 *Outstanding Securities.* Securities outstanding at any time are all Securities authenticated by the Trustee (and, in the case of Global Securities endorsed by the Trustee) except for those canceled by it, those delivered to it for cancellation and those described in this Section as not outstanding. A Security does not cease to be outstanding because the Corporation or an affiliate of the Corporation holds the Security.

If a Security is replaced pursuant to Section 2.8, it ceases to be outstanding unless the Trustee receives proof satisfactory to it that the replaced Security is held by a bona fide purchaser.

If the Paying Agent holds on a redemption date or maturity date money sufficient to pay Securities payable on that date, then on and after that date such Securities cease to be outstanding and interest on them ceases to accrue.

If a Security is redeemed (or as to which the full redemption price has been deposited with the Trustee on the applicable Redemption Date), the Corporation and the Trustee need not treat the Security as outstanding in determining whether Holders of the required principal amount of Securities have concurred in any direction, waiver or consent.

Section 2.10 Temporary Securities. Until definitive Securities of any series are ready for delivery or a permanent Global Security or Securities are prepared, as the case may be, the Corporation may prepare and the Trustee shall authenticate temporary Securities or one or more temporary Global Securities, as the case may be, of the same series in accordance with the terms and conditions of this Indenture. Temporary Securities of any series shall be substantially in the form of definitive Securities or permanent Global Securities, as the case may be, of the same series, but may have variations that the Corporation considers appropriate for temporary Securities. Without unreasonable delay, the Corporation shall prepare and the Trustee shall authenticate definitive Securities or a permanent Global Security or Securities, as the case may be, of the same series in exchange for temporary Securities. Until so exchanged, the temporary Securities of any series shall be entitled to the same benefits under this Indenture as definitive Securities or permanent Global Securities of such series.

Section 2.11 Cancellation. The Corporation at any time may deliver Securities to the Trustee for cancellation. The Registrar and the Paying Agent shall forward to the Trustee any Securities surrendered to them for transfer, exchange or payment. Upon the Corporation's request, the Trustee and no one else shall cancel or destroy all Securities surrendered for transfer, exchange, payment or cancellation, and shall so certify to the Corporation. The Corporation may not issue new Securities to replace Securities it has paid or delivered to the Trustee for cancellation.

Section 2.12 Defaulted Interest. If the Corporation defaults in a payment of interest on any Securities of any series, it shall pay the defaulted interest to the persons who are Holders of those Securities on a subsequent special record date. The Corporation shall fix the special record date and payment date at least 15 days before the special record date, the Corporation shall mail to each Holder of Securities of that series a notice that states the special record date, the payment date and the amount of defaulted interest to be paid. The Corporation may pay defaulted interest in any other lawful manner.

Section 2.13 Payment in Currencies. (a) Payment of the principal of and interest, if any, on the Securities shall be made in the currency or currencies specified below:

- (1) for Securities of a series denominated in U.S. dollars, payment shall be made in U.S. dollars; and
- (2) for Securities of a series denominated in a Foreign Currency, payment shall be made in that Foreign Currency unless the Holder of a Security of that series elects to

receive payment in U.S. dollars and such election is permitted by the Board Resolution or Resolutions or indentures supplemental hereto adopted pursuant to Section 2.3 in respect of that series.

A Holder may make the election referred to in clause (2) above by delivering to the Trustee a written notice of election substantially in the form contemplated by the Board Resolution or Resolutions or indentures supplemental hereto adopted pursuant to Section 2.3 or in any other form acceptable to the Trustee. For any payment, a notice of election will not be effective unless it is received by the Trustee not later than the close of business on the applicable record date. An election shall remain in effect until the Holder delivers to the Trustee a written notice specifying a change in the currency in which payment is to be made. No change in currency may be made for payments to be made on Securities of a series for which notice of redemption has been given pursuant to Article 3 or as to which the Corporation has accomplished a satisfaction, discharge or defeasance pursuant to Section 8.1, 8.2 or 8.3.

(b) The Trustee shall deliver to the Corporation, not later than the fourth business day after each record date for payment on Securities of a series denominated in a Foreign Currency, a written notice specifying, in the currency in which the Securities of that series are denominated, the aggregate amount of the principal of and interest, if any, on Securities of that series to be paid on the payment date. If at least one Holder has made the election referred to in clause (2) of paragraph (a) of this Section, the written notice shall also specify, in each currency elected, the amount of principal of and interest, if any, to be paid in that currency on the payment date.

(c) The amount payable to Holders of Securities of a series denominated in a Foreign Currency who have elected to receive payment in U.S. dollars shall be determined by the Trustee on the basis of the Market Exchange Rate in effect on the record date.

(d) If the Foreign Currency in which a series of Securities is denominated ceases to be used both by the government of the country that issued such currency and for the settlement of transactions by public institutions of or within the international banking community, then for each payment date on Securities of that series occurring after the last date on which the Foreign Currency was so used, all payments on Securities of that series shall be made in U.S. dollars. If payment is to be made in U.S. dollars to the Holders of Securities of any such series pursuant to the preceding sentence, then the amount to be paid in U.S. dollars on a payment date by the Corporation to the Trustee and by the Trustee or any Paying Agent to Securityholders shall be determined by the Trustee as of the applicable record date and shall be equal to the sum obtained by converting the specified Foreign Currency into U.S. dollars at the Market Exchange Rate on the last record date on which such Foreign Currency was so used in either such capacity.

(e) All decisions and determinations of the Trustee regarding the amount payable in accordance with paragraph (c) of this Section, conversion of Foreign Currency into U.S. dollars pursuant to paragraph (d) of this Section or the Market Exchange Rate shall, in the absence of manifest error, be conclusive for all purposes and irrevocably binding upon the Corporation and all Securityholders. If a Foreign Currency in which payment on Securities of a series may be made pursuant to paragraph (a) of this Section ceases to be used both by the government of the country that issued such currency and for the settlement of transactions by public institutions of or within the international banking community, the Corporation shall give notice to the Trustee

and mail notice by first-class mail to each Holder of Securities of that series specifying the last date on which the Foreign Currency was used for the payment of principal of or interest, if any, on Securities of that series.

Section 2.14 *CUSIP Numbers*. The Corporation in issuing the Securities may use "CUSIP" numbers (if then generally in use), and, if so, the Trustee shall use "CUSIP" numbers in notices of redemption as a convenience to Holders; provided that any such notice may state that no representation is made as to the correctness of such numbers either as printed on the Securities or as contained in any notice of a redemption and that reliance may be placed only on the other identification numbers printed on the Securities, and any such redemption shall not be affected by any defect in or omission of such numbers.

ARTICLE 3.

REDEMPTION

Section 3.1 *Applicability of this Article*. Securities of any series that are redeemable prior to their maturity shall be redeemable in accordance with their terms (except as otherwise specified in this Indenture for Securities of any series) and in accordance with this Article 3.

Section 3.2 *Notices to Trustee*. If the Corporation wants to redeem any Securities, it shall notify the Trustee of the redemption date and the principal amount of Securities to be redeemed in accordance with the terms of the Securities. If the redemption is of less than all the outstanding Securities of a series, the Corporation shall furnish to the Trustee a written statement signed by an Officer of the Corporation stating that with respect to that series there exists no Event of Default and no circumstance which, after notice or the passage of time or both, would constitute an Event of Default. The Corporation shall give the notice provided for in this Section at least 50 days before the redemption date.

Section 3.3 *Selection of Securities to be Redeemed*. If, at the option of the Corporation, less than all the Securities of a series are to be redeemed, the Trustee shall select the Securities of such series to be redeemed by a method the Trustee considers fair and appropriate, subject to any applicable stock exchange requirements. The Trustee shall make the selection from outstanding Securities of such series not previously called for redemption. The Trustee may select for redemption portions of the principal of Securities that have a denomination larger than \$1,000 (or the applicable minimum denomination for such Securities in the event the Securities are payable in a Foreign Currency or Currencies), Securities and portions of them it selects shall be in amounts of \$1,000 (or the applicable minimum denomination for such Securities in the event the Securities are payable in a Foreign Currency or Currencies) or a multiple of \$1,000 (or the applicable minimum denomination for such Securities in the event the Securities are payable in a Foreign Currency or Currencies). Provisions of this Indenture that apply to Securities called for redemption also apply to portions of Securities called for redemption.

The Trustee for the Securities of any series to be redeemed shall promptly notify the Corporation in writing of the Securities of such series selected for redemption and, in the case of any Securities selected for partial redemption, the principal amount thereof to be redeemed.

For all purposes of this Indenture, unless the context otherwise requires, all provisions relating to the redemption of Securities shall relate, in the case of any Security redeemed or to be redeemed only in part, to the portion of the principal amount of such Securities which has been or is to be redeemed.

Section 3.4 *Notice of Redemption*. At least 30 days but not more than 60 days before a date of redemption of Securities at the option of the Corporation, the Corporation shall mail a notice of redemption by first-class mail to each Holder of Securities to be redeemed.

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

- (1) the redemption date;
- (2) the redemption price;
- (3) the name and address of the Paying Agent;
- (4) that Securities called for redemption must be surrendered to the Paying Agent to collect the redemption price;
- (5) that interest on Securities called for redemption ceases to accrue on and after the redemption date; and
- (6) the CUSIP number for the Securities called for redemption.

At the Corporation's request, the Trustee shall give the notice of redemption in the Corporation's name and at its expense. In such event the Corporation will provide the Trustee with the information required by clauses (1) through (5).

Section 3.5 *Effect of Notice of Redemption*. Once notice of redemption is mailed, Securities called for redemption become due and payable on the redemption date and at the redemption price stated in the notice. Upon surrender to the Paying Agent, such Securities shall be paid at the redemption price stated in the notice, plus accrued interest to the redemption date; provided, however, that any regular payment of interest becoming due on the redemption date shall be payable to the Holder of any such Security being redeemed as provided in the Security.

Section 3.6 *Deposit of Redemption Price*. By the opening of business on the redemption date, the Corporation shall deposit with the Paying Agent money sufficient to pay the redemption price of and accrued interest on all Securities to be redeemed on that date.

Section 3.7 *Securities Redeemed in Part*. Upon surrender of a Security that is redeemed in part, the Trustee shall authenticate for the Holder a new Security equal in principal amount to the unredeemed portion of the Security surrendered.

ARTICLE 4.

COVENANTS

Section 4.1 *Payment of Securities*. The Corporation shall promptly pay the principal of and interest, if any, on the Securities on the dates and in the manner provided in the Securities. To the extent lawful, the Corporation shall pay interest on overdue principal at the rate borne by the Securities and shall pay interest on overdue installments of interest at the same rate.

ARTICLE 5.

SUCCESSOR CORPORATION

Section 5.1 *When the Corporation May Merge, etc.*. The Corporation shall not consolidate with or merge into, or transfer all or substantially all its assets to another entity, unless (1) the resulting, surviving or transferee entity assumes by supplemental indenture all the obligations of the Corporation under the Securities and this Indenture, (2) immediately after giving effect to such transaction no Event of Default and no circumstances which, after notice or lapse of time or both, would become an Event of Default, shall have happened and be continuing, and (3) the Corporation shall have delivered to the Trustee an Officers' Certificate and an Opinion of Counsel, each stating that such consolidation, merger or transfer and such supplemental indenture comply with this Indenture, and thereafter all such obligations of the Corporation shall terminate.

ARTICLE 6.

DEFAULTS AND REMEDIES

Section 6.1 *Events of Default*. An "Event of Default" occurs with respect to a series of Securities if:

- (1) the Corporation defaults in the payment of interest on any Security of that series when the same becomes due and payable and the default continues for a period of 30 days;
- (2) the Corporation defaults in the payment of the principal of any Security of that series when the same becomes due and payable at maturity, upon redemption or otherwise;
- (3) the Corporation fails to comply with any of its other agreements in the Securities of that series or this Indenture for the benefit of that series and the default continues for the period and after the notice specified in this Section;
- (4) the Corporation pursuant to or within the meaning of any Bankruptcy Law:
 - (A) commences a voluntary case,

- (B) consents to the entry of an order for relief against it in an involuntary case,
 - (C) consents to the appointment of a Custodian of it or for all or substantially all of its property, or
 - (D) makes a general assignment for the benefit of its creditors;
- (5) a court of competent jurisdiction enters an order or decree under any Bankruptcy Law that:
- (A) is for relief against the Corporation in an involuntary case,
 - (B) appoints a Custodian of the Corporation or for all or substantially all of the property of the Corporation, or
 - (C) orders the winding up or liquidation of the Corporation, and
 - (D) the order or decree remains unstayed and in effect for 60 days; or
- (6) there occurs any other event specifically described as an Event of Default by the Securities of that series.

The term "Bankruptcy Law" means Title 11, United States Code or any similar Federal or state law for the relief of debtors. The term "Custodian" means any receiver, trustee, assignee, liquidator, custodian or similar official under any Bankruptcy Law.

A default under clause (3) is not an Event of Default with respect to a series of Securities until the Trustee or the Holders of at least 25% in principal amount of the Securities of that series notify the Corporation of the default and the Corporation does not cure the default within 90 days after receipt of the notice. The notice must specify the default, demand that it be remedied and state that the notice is a "Notice of Default." Subject to Sections 7.1 and 7.2, the Trustee shall not be charged with knowledge of any default, or of the delivery to the Corporation of a notice of default by any Holder, unless written notice thereof shall have been given to the Trustee by the Corporation, the Paying Agent, the Holder of a Security or an agent of such Holder.

Section 6.2 *Acceleration*. If an Event of Default with respect to a series of Securities occurs and is continuing, the Trustee, by notice to the Corporation, or the Holders of at least 25% in principal amount of the Securities of that series by notice to the Corporation and the Trustee, may declare the principal (or, in the case of Discounted Securities, such amount of principal as may be provided for in such Securities) of and accrued interest on all the Securities of that series to be due and payable immediately. Upon a declaration such principal and interest shall be due and payable immediately. The Holders of a majority in principal amount of the Securities of any series by notice to the Trustee may rescind an acceleration (and upon such rescission any Event of Default caused by such acceleration shall be deemed cured) with respect to that series and its consequences if all existing Events of Default with respect to the series have been cured or waived, if the rescission would not conflict with any judgment or decree, and if all payments due to the Trustee and any predecessor Trustee under Section 7.7 have been made.

Section 6.3 *Other Remedies*. If an Event of Default with respect to a series of Securities occurs and is continuing, the Trustee may pursue any available remedy by proceeding at law or in equity to collect the payment of principal of (or, in the case of Discounted Securities, such amount of principal as may be provided for in such Securities) or interest on the Securities of that series or to enforce the performance of any provision of such Securities or this Indenture.

The Trustee may maintain a proceeding even if it does not possess any of the Securities or does not produce any of them in the proceeding. A delay or omission by the Trustee or any Securityholder in exercising any right or remedy accruing upon an Event of Default shall not impair the right or remedy or constitute a waiver of acquiescence in the Event of Default. No remedy is exclusive of any other remedy. All available remedies are cumulative to the extent permitted by law.

Section 6.4 *Waiver of Past Defaults*. Subject to Section 9.2, the Holders of a majority in principal amount of the Securities of a series by notice to the Trustee may waive an existing Default or Event of Default with respect to that series and its consequences. When a Default or Event of Default is waived, it is cured and stops continuing, but no such waiver shall extend to any subsequent or other Default or Event of Default or impair any right consequent thereto.

Section 6.5 *Control by Majority*. The Holders of a majority in principal amount of the Securities of a series may direct the time, method and place of conducting any proceeding for any remedy available to the Trustee or of exercising any trust of power conferred on it with respect to that series. However, the Trustee may refuse to follow any direction that conflicts with law or this Indenture, or, subject to Section 7.1, that the Trustee determines is unduly prejudicial to the rights of other Holders of Securities of the same series or would involve the Trustee in personal liability.

Section 6.6 *Limitation on Suits*. No Holder of a Security of any series may pursue any remedy with respect to this Indenture or the Securities unless:

- (1) the Holder gives to the Trustee written notice stating that an Event of Default with respect to the Securities of the series is continuing;
- (2) the Holders of at least 25% in principal amount of the Securities of that series make a written request to the Trustee to pursue the remedy;
- (3) such Holder or Holders offer to the Trustee indemnity satisfactory to the Trustee against any loss, liability or expense;
- (4) the Trustee does not comply with the request within 60 days after receipt of the request and the offer of indemnity; and
- (5) during such 60-day period the Holders of a majority in principal amount of the Securities of that series do not give the Trustee a direction inconsistent with the request.

A Securityholder may not use this Indenture to prejudice the rights of another Securityholder or to obtain a preference or priority over the other Securityholder.

Section 6.7 *Rights of Holders to Receive Payment*. Notwithstanding any other provision of this Indenture, the right of any Holder to receive payment of principal of and interest on the Security on or after the respective due dates expressed in the Security, or to bring suit for the enforcement of any such payment on or after such respective date, shall not be impaired or affected without the consent of the Holder.

Section 6.8 *Collection Suit by Trustee*. If an Event of Default in payment of interest or principal specified in Section 6.1(1) or (2) occurs and is continuing, the Trustee may recover judgment in its own name and as trustee of an express trust against the Corporation for the whole amount of principal and interest remaining unpaid.

Section 6.9 *Trustee May File Proofs of Claim*. The Trustee may 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 and the Securityholders allowed in any judicial proceedings relative to the Corporation, or any of its creditors or property, and unless prohibited by law or applicable regulations, may vote on behalf of the Holders in any election of a trustee in bankruptcy or other person performing similar functions.

Section 6.10 *Priorities*. If the Trustee collects any money pursuant to this Article with respect to the Securities of any series, it shall pay out the money in the following order:

First: to the Trustee for amounts due under Section 7.7;

Second: to Holders of Securities of that series for amounts due and unpaid on such Securities for principal and interest, ratably, without preference or priority of any kind, according to the amounts due and payable on such Securities for principal and interest, respectively; and

Third: to the Corporation.

The Trustee may fix a record date and payment date for any payment to Securityholders pursuant to this Section.

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 Trustee, a court in its discretion may require the filing by any party litigant in the suit other than the Trustee 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 pursuant to Section 6.7 or a suit by Holders of more than 10% in principal amount of the Securities of any series.

ARTICLE 7.

TRUSTEE

Section 7.1 *Duties of Trustee.* (a) If an Event of Default has occurred and is continuing, the Trustee shall with respect to Securities exercise its rights and powers and use the same degree of care and skill in their exercise as a prudent man would exercise or use under the circumstances in the conduct of his own affairs.

(b) Except during the continuance of an Event of Default:

(1) the Trustee need perform only those duties that are specifically and expressly set forth in this Indenture and no others; and

(2) 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, notices or opinions furnished to the Trustee and conforming to the requirements of this Indenture. However, the Trustee shall examine the certificates, notices and opinions to determine whether or not they conform to the requirements of this Indenture.

(c) The Trustee may not be relieved from liability for its own negligent action, its own negligent failure to act or its own willful misconduct except that:

(1) this paragraph does not limit the effect of paragraph (b) of this Section;

(2) the Trustee shall not be liable for any error of judgment made in good faith by a Trust Officer, unless it is proved that the Trustee was negligent in ascertaining the pertinent facts; and

(3) 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 6.5;

(d) 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) The Trustee may refuse to perform any duty or exercise any right or power unless it receives 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 with the Corporation.

Section 7.2 *Rights of Trustee.* (a) Subject to Section 7.1, the Trustee may rely on any document (whether in its original, electronic or facsimile form) 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. The Trustee shall not be liable for any action it takes or omits to take in good faith in reliance on the Officers' Certificate or Opinion of Counsel.

(c) The Trustee may act through 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 which it believes to be authorized or within its rights or powers.

Section 7.3 *Individual Rights of Trustee, etc.* The Trustee in its individual or any other capacity may become the owner or pledgee of Securities and may otherwise deal with the Corporation or any of its affiliates with the same rights it would have if it were not Trustee. Any Agent may do the same with like rights. However, the Trustee must comply with Sections 7.10 and 7.11.

Section 7.4 *Trustee's Disclaimer.* The Trustee makes no representations as to the validity or adequacy of this Indenture or the Securities, it shall not be accountable for the Corporation's use of the proceeds from the Securities, and it shall not be responsible for any statement in the Securities other than its certificate of authentication.

Section 7.5 *Notice of Defaults.* If a Default occurs with respect to a series of Securities and is continuing and if it is known to the Trustee, the Trustee shall mail to each Holder of Securities of that series notice of the Default within 90 days after it occurs. Except in the case of a default in payment on any Security, the Trustee may withhold the notice if and so long as a committee of its Trust Officers determines in good faith that withholding the notice is in the interests of such Holders.

Section 7.6 *Reports by Trustee to Holders.* If required pursuant to TIA § 313(a), the Trustee, within 60 days after each May 15, shall mail to each Securityholder a brief report dated as of May 15 that complies with TIA § 313(a). The Trustee also shall comply with the reporting obligations of TIA § 313(b).

A copy of each report at the time of its mailing to Securityholders shall be filed with the SEC and each stock exchange on which the Securities are listed. The Corporation agrees to notify the Trustee whenever the Securities become listed on any stock exchange.

Section 7.7 *Compensation and Indemnity.* The Corporation shall pay to the Trustee from time to time reasonable compensation for its services. The Corporation shall reimburse the Trustee upon request for all reasonable out-of-pocket expenses incurred by it. Such expenses shall include the reasonable compensation and expenses of the Trustee's agents and counsel. The Corporation shall indemnify the Trustee against any loss or liability incurred by it in connection with the administration of this trust and its duties hereunder. The Trustee shall notify the Corporation promptly of any claim for which it may seek indemnity. The Corporation need not pay for any settlement made without its consent. The Corporation need not reimburse any expense or indemnify against any loss or liability incurred by the Trustee through negligence or bad faith.

To secure the Corporation's payment obligations in this Section, the Trustee shall have a senior claim to which the Securities are hereby made subordinate on all money or property held or collected by the Trustee, except that held in trust to pay principal of and interest on particular Securities.

When the Trustee incurs expenses or renders services after an Event of Default specified in Section 6.1(4) or (5) occurs, the expenses and the compensation for the services are intended to constitute expenses of administration under any Bankruptcy Law.

Section 7.8 *Replacement of Trustee*. The Trustee may resign with respect to the Securities of one or more series by so notifying the Corporation. The Holders of a majority in principal amount of the Securities of any series may remove the Trustee with respect to that series by so notifying the removed Trustee and may appoint a successor Trustee with the Corporation's consent. The Corporation may remove the Trustee if:

- (1) the Trustee fails to comply with Section 7.10;
- (2) the Trustee is adjudged bankrupt or insolvent;
- (3) a receiver or other public officer takes charge of the Trustee or its property; or
- (4) the Trustee otherwise 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 Corporation shall promptly appoint a successor Trustee.

A successor Trustee shall deliver a written acceptance of its appointment to the retiring Trustee and to the Corporation. Immediately after that, the retiring Trustee shall transfer all property held by it as Trustee for the benefit of the series with respect to which it is retiring to the successor Trustee, the resignation or removal of the retiring Trustee shall then become effective, and the successor Trustee shall have all the rights, powers and duties of the Trustee under this Indenture with respect to that series. A successor Trustee shall mail notice of its succession to each Holder of the Securities of the series affected.

If pursuant to Section 2.3(5) a trustee, other than the Trustee initially named in this Indenture (or any successor thereto), is appointed with respect to one or more series of Securities, the Corporation, the Trustee initially named in this Indenture (or any successor thereto) and such newly appointed trustee shall execute and deliver a supplement to this Indenture which shall contain such provisions as shall be necessary or desirable to confirm that all the rights, powers, trusts and duties of the Trustee initially named in this Indenture (or any successor thereto) with respect to the Securities of any series as to which the Trustee is continuing as trustee hereunder shall continue to be vested in the Trustee initially named in this Indenture (or any successor thereto), and shall add to, supplement or change any of the provisions of this Indenture as shall be necessary or desirable to provide for or facilitate the administration of the trusts hereunder by more than one trustee, it being understood that nothing herein or in such supplemental indenture shall constitute such trustees co-trustees of the same trust and that each such trustee shall be trustee of a trust or trusts relating to the separate series of Securities as if it were acting under a separate indenture.

If a successor Trustee with respect to a series of Securities does not take office within 60 days after the retiring Trustee resigns or is removed, the retiring Trustee, the Corporation or the Holders of a majority in principal amount of the Securities of that series may petition any court of competent jurisdiction for the appointment of a successor Trustee.

If the Trustee with respect to a series of Securities fails to comply with Section 7.10, any Holder of Securities of that series may petition any court of competent jurisdiction for the removal of the Trustee and the appointment of a successor Trustee.

If there are two or more Trustees at any time under this Indenture, each will be the Trustee of a separate trust held under this Indenture for the benefit of the series of Securities for which it is acting as Trustee and the rights and obligations of each Trustee will be determined as if it were acting under a separate indenture.

Section 7.9 *Successor Trustee by Merger, etc.* If the Trustee consolidates with, merges or converts into or transfers all or substantially all its corporate trust assets to another corporation, the resulting, surviving or transferee corporation without any further act shall be the successor Trustee.

Section 7.10 *Eligibility; Disqualification.* This Indenture shall always have a Trustee that satisfies the requirements of TIA § 310(a). The Trustee shall have a combined capital and surplus of at least \$5,000,000 as set forth in its most recent published annual report of condition. The Trustee shall comply with TIA § 310(b), provided that the question whether the Trustee has a conflicting interest shall be determined as if each series of Securities were separate issues of securities issued under separate indentures.

Section 7.11 *Preferential Collection of Claims Against Corporation.* The Trustee shall comply with TIA § 311(a), excluding any creditor relationship listed in TIA § 311(b). A Trustee who has resigned or been removed shall be subject to TIA § 311(a) to the extent indicated therein.

ARTICLE 8.

SATISFACTION, DISCHARGE AND DEFEASANCE

Section 8.1 *Satisfaction and Discharge Under Limited Circumstances.* If at any time (a) all Securities of a series previously authenticated (other than any Securities destroyed, lost or stolen and replaced or paid as provided in Section 2.8) shall have been delivered to the Trustee for cancellation, or (b) all the Securities of a series not previously delivered to the Trustee for cancellation shall have become due and payable, the Corporation has deposited or caused to be deposited with the Trustee as trust funds the entire amount (other than moneys paid to the Corporation in accordance with Section 8.5) sufficient to pay at maturity or upon redemption all Securities of that series not previously delivered to the Trustee for cancellation, including principal and interest due, and if, in either case, the Corporation shall also pay all other sums then payable under this Indenture by the Corporation, then this Indenture shall cease to be of further effect with respect to Securities of that series, and the Trustee, on demand of and at the cost and expense of the Corporation, shall execute proper instruments acknowledging

satisfaction of and discharging this Indenture with respect to Securities of that series. The Corporation will reimburse the Trustee for any subsequent costs or expenses reasonably and properly incurred by the Trustee in connection with this Indenture or the Securities.

Section 8.2 Satisfaction and Discharge of Indenture. The Corporation may take any action provided for in this Section unless the Securities of the affected series specifically provide that this Section shall not apply to the series. The Corporation at any time at its option may terminate all of its obligations under the Securities of a series previously authenticated and its obligations under this Indenture with respect to such series (except as provided below), and the Trustee, at the expense of the Corporation, shall, upon the request of the Corporation, execute proper instruments acknowledging satisfaction of and discharging this Indenture with respect to Securities of that series, effective on the date the following conditions are satisfied:

(1) with reference to this Section, the Corporation has deposited or caused to be deposited with the Trustee, as trust funds in trust, specifically pledged as security for and dedicated solely to the benefit of the Holders of the Securities of that series, (a) lawful money, in the currency or currencies in which Securities of that series are payable, in an amount, or (b) if the Securities of that series are payable in U.S. dollars, U.S. Government Obligations which through the payment of interest and principal in respect thereof in accordance with their terms (and, as to callable U.S. Government Obligations, regardless of when they are called) will provide not later than the opening of business on the due dates of any payment of the principal of and any interest on the Securities of that series lawful money of the United States in an amount, or (c) Securities of that series, or (d) a combination thereof, sufficient to pay and discharge the principal of and interest on the Securities of that series on the date on which such payments are due and payable in accordance with the terms of this Indenture and of the Securities of that series and 91 days have passed during which no Event of Default under Section 6.1(4) or 6.1(5) has occurred;

(2) if the Securities of that series are then listed on any national securities exchange, the Corporation shall have delivered to the Trustee an Opinion of Counsel to the effect that such deposit, defeasance and discharge will not cause such Securities to be delisted; and

(3) the Corporation has delivered to the Trustee an Officers' Certificate and an Opinion of Counsel, complying with Section 11.4 relating to the Corporation's exercise of such option.

The trust established pursuant to subsection (1) above shall be irrevocable and shall be made under the terms of an escrow trust agreement in form and substance satisfactory to the Trustee. The escrow trust agreement may, at the Corporation's election, grant the Corporation the right to substitute U.S. Government Obligations or Securities of the same series from time to time for any or all of the U.S. Government Obligations deposited with the Trustee pursuant to this Section and the escrow trust agreement; provided, however, that the condition specified in subsection (1) above is satisfied immediately following any such substitution or substitutions. If any Securities of a series are to be redeemed prior to their stated maturity pursuant to optional redemption provisions the applicable escrow trust agreement shall provide therefor and the

Corporation shall make such arrangements as are satisfactory to the Trustee for the giving of notice of redemption by the Trustee in the name, and at the expense, of the Corporation.

Upon the satisfaction of the conditions set forth in this Section with respect to the Securities, the terms and conditions of the Securities, including the terms and conditions with respect thereto set forth in this Indenture, shall no longer be binding upon, or applicable to, the Corporation.

Notwithstanding the satisfaction and discharge of this Indenture, the following shall survive until otherwise terminated or discharged hereunder: (A) the rights of Holders of the Securities of such series to receive, solely from the trust fund described in Section 8.1 and as more fully set forth in such Section, payments in respect of the principal of and any premium and interest on the Securities of such series when such payments are due, (B) the Corporation's obligations with respect to such Securities under Sections 2.4, 2.5, 2.6, 2.7, 2.8, 2.10, 7.7 and 7.8, (C) the rights, powers, trusts, duties and immunities of the Trustee hereunder and (D) this Article Eight.

"U.S. Government Obligations" means the following obligations:

(1) direct obligations of the United States (for the payment of which its full faith and credit is pledged; or

(2) obligations of a person controlled or supervised by and acting as an agency or instrumentality of the United States the payment of which is unconditionally guaranteed as a full faith and credit obligation by the United States.

Section 8.3 *Defeasance of Certain Obligations*. The Corporation may take any action provided for in this Section unless the Securities of the affected series specifically provide that this Section shall not apply to the series. The Corporation at any time at its option may cease to be under any obligation to comply with Section 5.1 with respect to Securities of a series effective on the date the following conditions are satisfied:

(1) with reference to this Section, the Corporation has deposited or caused to be deposited with the Trustee, as trust funds in trust, specifically pledged as security for and dedicated solely to the benefit of the Holders of the Securities of that series, (a) lawful money, in the currency or currencies in which Securities of that series are payable, in an amount, or (b) if the Securities of that series are payable in U.S. dollars, U.S. Government Obligations which through the payment of interest and principal in respect thereof in accordance with their terms (and, as to callable U.S. Government Obligations, regardless of when they are called) will provide not later than the opening of business on the due dates of any payment of principal of and interest on the Securities of that series lawful money of the United States in an amount or (c) Securities of that issue, or (d) a combination thereof, sufficient to pay and discharge the principal of and interest on the Securities of that series on the day on which such payments are due and payable in accordance with the terms of this Indenture and of the Securities of that series; and

(2) the Corporation has delivered to the Trustee an Officers' Certificate and an Opinion of Counsel complying with Section 11.4 relating to the Corporation's exercise of such option.

The trust established pursuant to subsection (1) above shall be irrevocable and shall be made under the terms of an escrow trust agreement in form and substance satisfactory to the Trustee. The escrow trust agreement may, at the Corporation's election, grant the Corporation the right to substitute U.S. Government Obligations or Securities of the same series from time to time for any or all of the U.S. Government Obligations deposited with the Trustee pursuant to this Section and the escrow trust agreement; provided, however, that the condition specified in subsection (1) above is satisfied immediately following any such substitution or substitutions. If any Securities of a series are to be redeemed prior to their stated maturity pursuant to optional redemption provisions the applicable escrow trust agreement shall provide therefor and the Corporation shall make such arrangements as are satisfactory to the Trustee for the giving of notice of redemption by the Trustee in the name, and at the expense, of the Corporation.

The Corporation's exercise of its option under this Section shall not preclude the Corporation from subsequently exercising its option under Section 8.2 hereof and the Corporation may so exercise that option by providing the Trustee with written notice to such effect.

Section 8.4 Application of Trust Money. The Trustee shall hold in trust money, U.S. Government Obligations, and Securities of that series deposited with it pursuant to Sections 8.1, 8.2 or 8.3. It shall apply the deposited money and U.S. Government Obligations, through the Paying Agent and in accordance with this Indenture, to the payment of principal and interest on the Securities of the series for the payment of which such money and U.S. Government Obligations has been deposited. The Holder of any Security replaced pursuant to Section 2.8 shall not be entitled to any such payment and shall look only to the Corporation for any payment which such Holder may be entitled to collect. In connection with the satisfaction and discharge of this Indenture or the defeasance of certain obligations under this Indenture with respect to Securities of a series pursuant to Section 8.2 or Section 8.3 hereof, respectively, the escrow trust agreement may, at the Corporation's election, (1) enable the Corporation to direct the Trustee to invest any money received by the Trustee on the U.S. Government Obligations deposited in trust thereunder in additional U.S. Government Obligations and (2) enable the Corporation to withdraw moneys or U.S. Government Obligations from the trust from time to time; provided, however, that the condition specified in Section 8.2(1) or 8.3(1) is satisfied immediately following any investment of such money by the Trustee or the withdrawal of moneys or U. S. Government Obligations from the trust by the Corporation as the case may be.

Section 8.5 Repayment to Corporation. The Trustee and the Paying Agent shall promptly pay to the Corporation upon request any excess money or securities held by them at any time. The Trustee and the Paying Agent shall pay to the Corporation upon request any money held by them for the payment of principal or interest that remains unclaimed for two years.

ARTICLE 9.

AMENDMENTS, SUPPLEMENTS AND WAIVERS

Section 9.1 *Without Consent of Holders*. The Corporation may amend or supplement this Indenture or the Securities of any series without notice to or consent of any Securityholder of such series:

- (1) to cure any ambiguity, omission, defect or inconsistency;
- (2) to comply with Article 5;
- (3) to provide for uncertificated Securities in addition to or in place of certificated Securities;
- (4) to effectuate or comply with the provisions of Section 2.3 or 7.8;
- (5) to make any change that does not materially adversely affect the rights of any Holder of any Security of that series; or
- (6) to add or change or eliminate any provisions of this Indenture as shall be necessary or desirable in accordance with any amendments to the TIA.

The Trustee may waive compliance by the Corporation with any provision of this Indenture or the Securities of any series without notice to or consent of any Securityholder of such series if the waiver does not materially adversely affect the rights of any Holder of any Securities of that series.

Section 9.2 *With Consent of Holders*. The Corporation may amend or supplement this Indenture or the Securities with respect to any series without notice to any Securityholder but with the written consent of the Holders of not less than a majority in principal amount of the Securities of such series affected and the Trustee shall execute any such amendment or supplement at the direction of the Corporation. The Holders of a majority in principal amount of the Securities of such series affected may waive compliance by the Corporation with any provision of this Indenture or the Securities of such series without notice to any Securityholder. However, without the consent of each Securityholder of such series affected, an amendment, supplement or waiver, including a waiver pursuant to Section 6.4, may not:

- (1) reduce the amount of Securities of such series whose Holders must consent to an amendment, supplement or waiver;
- (2) reduce the rate of or extend the time for payment of interest on any Security of such series;
- (3) reduce the principal of or extend the fixed maturity of any Security of such series;

(4) reduce the portion of the principal amount of a Discounted Security of such series payable upon acceleration of its maturity; or

(5) make any Security of such series payable in money other than that stated in such Security.

It shall not be necessary for any Act of Holders under this Section to approve the particular form of any proposed supplement or amendment, but it shall be sufficient if such Act shall approve the substance thereof.

Section 9.3 *Compliance with Trust Indenture Act of 1939.* Every amendment to or supplement of this Indenture or the Securities shall comply with the TIA as then in effect.

Section 9.4 *Revocation and Effect of Consents.* A consent to an amendment, supplement or waiver by a Holder of a Security shall bind the Holder and every subsequent Holder of that Security or portion of the Security that evidences the same debt as the consenting Holder's Security, even if notation of the consent is not made on the Security. However, any such Holder or subsequent Holder may revoke the consent as to his Security or portion of the Security. The Trustee must receive the notice of revocation before the date the amendment, supplement or waiver becomes effective.

After an amendment, supplement or waiver becomes effective, it shall bind every Securityholder unless it makes a change described in clauses (2), (3), (4) or (5) of Section 9.2. In that case, the amendment, supplement or waiver shall bind each Holder of a Security who has consented to it and every subsequent Holder of a Security or portion of a Security that evidences the same debt as the consenting Holder's Security.

Section 9.5 *Notation on or Exchange of Securities.* If an amendment, supplement or waiver changes the terms of a Security, the Trustee may require the Holder of the Security to deliver it to the Trustee. The Trustee may place an appropriate notation on the Security about the changed terms and return it to the Holder. Alternatively, if the Corporation or the Trustee so determine, the Corporation in exchange for the Security shall issue and the Trustee shall authenticate a new Security that reflects the changed terms.

Section 9.6 *Trustee to Sign Amendments, etc.* The Trustee shall sign any amendment, supplement or waiver authorized pursuant to this Article if the amendment, supplement or waiver does not adversely affect the rights, duties, liabilities or immunities of the Trustee. If it does, the Trustee may but need not sign it. In signing such amendment, supplement or waiver the Trustee shall be entitled to receive, and (subject to Section 7.1) shall be fully protected in relying upon, an Opinion of Counsel stating that such amendment, supplement or waiver is authorized or permitted by this Indenture. The Corporation shall not sign an amendment or supplement unless authorized by an appropriate Board Resolution.

ARTICLE 10.

SUBORDINATION OF SECURITIES

Section 10.1 *Securities Subordinate to Senior Debt.* The Corporation covenants and agrees, and each Holder of Securities of any Services by the Holder's acceptance thereof, likewise covenants and agrees, that, to the extent and in the manner hereinafter set forth in this Article, subject to the provisions of Article 8 and except as may otherwise be specified pursuant to Section 2.3 and set forth in the Securities of a series, the indebtedness represented by Securities of such series and the payment of the principal of and any premium and interest on each and all of the Securities of such series are hereby expressly made subordinate and junior in right of payment to the prior payment in full of all amounts then due and payable in respect of all Senior Debt of the Corporation, to the extent and in the manner herein set forth (unless a different manner is set forth in the Securities of such series). No provision of this Article shall prevent the occurrence of any default or Event of Default hereunder.

Senior Debt shall not be deemed to have been paid in full unless the holders thereof shall have received cash, securities or other property equal to the amount of such Senior Debt then outstanding.

Section 10.2 *Distribution on Dissolution, Liquidation and Reorganization; Subrogation of Securities.* Except as otherwise specified pursuant to Section 2.3 with respect to any series of Securities, upon any distribution of assets of the Corporation upon any dissolution, winding up, liquidation or reorganization of the Corporation, whether in bankruptcy, insolvency, reorganization or receivership proceedings or upon an assignment for the benefit of creditors or any other marshalling of the assets and liabilities of the Corporation or otherwise (subject to the power of a court of competent jurisdiction to make other equitable provision reflecting the rights conferred in this Indenture upon the Senior Debt and the holders thereof with respect to the Securities and the Holders thereof by a lawful plan of reorganization under applicable bankruptcy law):

(a) the holders of all Senior Debt shall be entitled to receive payment in full of the principal thereof, premium, if any, and interest due thereon before the Holders of the Securities are entitled to receive any payment upon the principal, premium, if any, or interest, if any, on Debt evidenced by the Securities; and

(b) any payment or distribution of assets of the Corporation of any kind or character, whether in cash, property or securities, to which the Holders of the Securities or the Trustee would be entitled except for the provisions of this Article 10 shall be paid by the liquidation trustee or agent or other person making such payment or distribution, whether a trustee in bankruptcy, a receiver or liquidating trustee or otherwise, directly to the holders of Senior Debt or their representative or representatives or to the trustee or trustees under any indenture under which any instruments evidencing any of such Senior Debt may have been issued, ratably according to the aggregate amounts remaining unpaid on account of the principal of, and premium, if any, and interest on the Senior Debt held or represented by each, to the extent necessary to make payment in full of all Senior Debt remaining unpaid, after giving effect to any concurrent payment or distribution to the holders of such Senior Debt; and

(c) in the event that, notwithstanding the foregoing, any payment or distribution of assets of the Corporation of any kind or character, whether in cash, property or securities, shall be received by the Trustee or the Holders of the Securities before all Senior Debt is paid in full, such payment or distribution shall be paid over, upon written notice to a Trust Officer, to the holder of such Senior Debt or his, her or its representative or representatives or to the trustee or trustees under any indenture under which any instrument evidencing any of such Senior Debt may have been issued, ratably as aforesaid, for application to payment of all Senior Debt remaining unpaid until all such Senior Debt shall have been paid in full, after giving effect to any concurrent payment or distribution to the holders of such Senior Debt.

Subject to the payment in full of all Senior Debt, the Holders of the Securities shall be subrogated to the rights of the holders of Senior Debt (to the extent that distributions otherwise payable to such holder have been applied to the payment of Senior Debt) to receive payments or distributions of cash, property or securities of the Corporation applicable to Senior Debt until the principal of, premium, if any and interest, if any, on the Securities shall be paid in full and no such payments or distributions to the Holders of the Securities of cash, property or securities otherwise distributable to the holders of Senior Debt shall, as between the Corporation, its creditors other than the holders of Senior Debt, and the Holders of the Securities be deemed to be a payment by the Corporation to or on account of the Securities. It is understood that the provisions of this Article 10 are and are intended solely for the purpose of defining the relative rights of the Holders of the Securities, on the one hand, and the holders of the Senior Debt, on the other hand. Nothing contained in this Article 10 or elsewhere in this Indenture or in the Securities is intended to or shall impair, as between the Corporation, its creditors other than the holders of Senior Debt, and the Holders of the Securities, the obligation of the Corporation, which is unconditional and absolute, to pay to the Holders of the Securities the principal of, premium, if any, and interest, if any, on the Securities as and when the same shall become due and payable in accordance with their terms, or to affect the relative rights of the Holders of the Securities and creditors of the Corporation other than the holders of Senior Debt, nor shall anything herein or in the Securities prevent the Trustee or the Holder of any Security from exercising all remedies otherwise permitted by applicable law upon default under this Indenture, subject to the rights, if any, under this Article 10 of the holders of Senior Debt in respect of cash, property or securities of the Corporation received upon the exercise of any such remedy. Upon any payment or distribution of assets of the Corporation referred to in this Article 10, the Trustee, subject to the provisions of Section 10.5, shall be entitled to rely upon a certificate of the liquidating trustee or agent or other person making any distribution to the Trustee for the purpose of ascertaining the Persons entitled to participate in such distribution, the holders of Senior Debt and other Debt of the Corporation, the amount thereof or payable thereon, the amount or amounts paid or distributed thereof and all other facts pertinent thereto or to this Article 10.

Section 10.3 *No Payment on Securities in Event of Default on Senior Debt*. Except as otherwise specified pursuant to Section 2.3 with respect to any series of Securities, no payment by the Corporation on account of principal, premium, if any, sinking funds or interest, if any, on the Securities shall be made at anytime if: (a) a default on Senior Debt exists that permits the holders of such Senior Debt to accelerate its maturity and (b) the default is the subject of judicial proceedings or the Corporation has received notice of such default. The Corporation may resume payments on the Securities when full payment of amounts then due for principal, premium, if

any, sinking funds and interest on Senior Debt has been made or duly provided for in money or money's worth.

Section 10.4 *Payments on Securities Permitted*. Except as otherwise specified pursuant to Section 2.3 with respect to any series of Securities, nothing contained in this Indenture or in any of the Securities shall (a) affect the obligation of the Corporation to make, or prevent the Corporation from making, at any time except as provided in Sections 10.2 and 10.3, payments of principal of, premium, if any, or interest, if any, on the Securities or (b) prevent the application by the Trustee of any moneys or assets deposited with it hereunder to the payment of or on account of the principal of, premium, if any, or interest, if any, on the Securities, unless a Trust Officer shall have received at its office written notice of any fact prohibiting the making of such payment from the Corporation or from the holder of any Senior Debt or from the trustee for any such holder, together with proof satisfactory to the Trustee of such holding of Senior Debt or of the authority of such trustee more than two business days prior to the date fixed for such payment.

Section 10.5 *Authorization of Securityholders to Trustee to Effect Subordination*. Except as otherwise specified pursuant to Section 2.3 with respect to any series of Securities, each Holder of Securities by his acceptance thereof authorizes and directs the Trustee on his, her or its behalf to take such action as may be reasonably necessary or appropriate to effectuate the subordination as provided in this Article 10 and appoints the Trustee his, her or its attorney-in-fact for any and all such purposes.

Section 10.6 *Notices to Trustee*. Except as otherwise specified pursuant to Section 2.3 with respect to any series of Securities, notwithstanding the provisions of this Article 10 or any other provisions of this Indenture, neither the Trustee nor any Paying Agent (other than the Corporation or a Subsidiary) shall be charged with knowledge of the existence of any Senior Debt or of any fact which would prohibit the making of any payment of moneys or assets to or by the Trustee or such Paying Agent, unless and until a Trust Officer or such Paying Agent shall have received (in the case of a Trust Officer, at the office of the Trustee) written notice thereof from the Corporation or from the holder of any Senior Debt or from the trustee for any such holder, together with proof satisfactory to the Trustee of such holding of Senior Debt or of the authority of such trustee and, prior to the receipt of any such written notice, the Trustee shall be entitled in all respects conclusively to presume that no such facts exist; provided, however, that if at least two business days prior to the date upon which by the terms hereof any such moneys or assets may become payable for any purpose (including, without limitation, the payment of either the principal, premium, if any, or interest, if any, on any Security) a Trust Officer shall not have received with respect to such moneys or assets the notice provided for in this Section 10.6, then, anything herein contained to the contrary notwithstanding, the Trustee shall have full power and authority to receive such moneys or assets and to apply the same to the purpose for which they were received, and shall not be affected by any notice to the contrary which may be received by it within two business days prior to such date. The Trustee shall be entitled to rely on the delivery to it of a written notice by a Person representing himself to be a holder of Senior Debt (or a trustee on behalf of such holder) to establish that such a notice has been given by a holder of Senior Debt or a trustee on behalf of any such holder. In the event that the Trustee determines in good faith that further evidence is required with respect to the right of any Person as a holder of Senior Debt to participate in any payment or distribution pursuant to this Article 10, the

Trustee may request such Person to furnish evidence to the reasonable satisfaction of the Trustee as to the amount of Senior Debt held by such Person, the extent to which such Person is entitled to participate in such payment or distribution and any other facts pertinent to the rights of such Person under this Article 10 and, if such evidence is not furnished, the Trustee may defer any payment to such Person pending judicial determination as to the right of such Person to receive such payment.

Section 10.7 *Trustee as Holder of Senior Debt.* Except as otherwise specified pursuant to Section 2.3 with respect to any series of Securities, the Trustee in its individual capacity shall be entitled to all the rights set forth in this Article 10 in respect of any Senior Debt at any time held by it to the same extent as any other holder of Senior Debt and nothing in this Indenture shall be construed to deprive the Trustee of any of its rights as such holder. Nothing in this Article 10 shall apply to claims of, or payments to, the Trustee under or pursuant to Sections 6.10 or 7.7.

Section 10.8 *Modifications of Terms of Senior Debt.* Except as otherwise specified pursuant to Section 2.3 with respect to any series of Securities, any renewal or extension of the time of payment of any Senior Debt or the exercise by the holders of Senior Debt of any of their rights under any instrument creating or evidencing Senior Debt, including, without limitation, the waiver of default thereunder, may be made or done all without notice to or assent from the Holders of the Securities or the Trustee. No compromise, alteration, amendment, modification, extension, renewal or other change of, or waiver, consent or other action in respect of, any liability or obligation under or in respect of, or of any of the terms, covenants or conditions of any indenture or other instrument under which any Senior Debt is outstanding or of such Senior Debt, whether or not such release is in accordance with the provisions of any applicable document, shall in any way alter or affect any of the provisions of this Article 10 or of the Securities relating to the subordination thereof.

Section 10.9 *Reliance on Judicial Order or Certificate of Liquidating Agent.* Upon any payment or distribution of assets of the Corporation referred to in this Article 10, the Trustee and the Holders of the Securities shall be entitled to rely upon any order or decree entered by any court of competent jurisdiction in which such insolvency, bankruptcy, receivership, liquidation, reorganization, dissolution, winding up or similar case or proceeding is pending, or a certificate of the trustee in bankruptcy, liquidating trustee, custodian, receiver, assignee for the benefit of creditors, agent or other person making such payment or distribution, delivered to the Trustee or to the Holders of Securities, for the purpose of ascertaining the persons entitled to participate in such payment or distribution to holders of Senior Debt and other Debt of the Corporation, 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 10.10 *Satisfaction and Discharge.* Except as otherwise specified pursuant to Section 2.3 with respect to any series of Securities, amounts and U.S. Government Obligations deposited in trust with the Trustee pursuant to and in accordance with Article 8 and not, at the time of such deposit, prohibited to be deposited under Sections 10.2 or 10.3 shall not be subject to this Article 10.

Section 10.11 *Trustee Has No Fiduciary Duty to Holders of Senior Debt.* With respect to the holders of Senior Debt, the Trustee undertakes to perform or to observe only such of its

covenants and objectives as are specifically set forth in this Indenture, 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 it shall mistakenly pay over or deliver to the Holders or the Corporation or any other Person, money or assets to which any holders of Senior Debt of the Corporation shall be entitled by virtue of this Article or otherwise.

Section 10.12 *Paying Agents Other than the Trustee*. In case at any time any Paying Agent other than the Trustee shall have been appointed by the Corporation and be then acting hereunder, the term "Trustee" as used in this Article shall in such case (unless the context shall otherwise require) be construed as extending to and including such Paying Agent within its meaning as fully for all intents and purposes as if such Paying Agent were named in this Article in addition to or in place of the Trustee; provided, however, that Sections 10.6, 10.7 and 10.11 shall not apply to the Corporation if it acts as Paying Agent.

Section 10.13 *Certain Conversions or Exchanges Deemed Payment*. For the purposes of this Article only, (a) the issuance and delivery of securities which are subordinate in right of payment to all then outstanding Senior Debt to substantially the same extent as the Securities are so subordinate ("Junior Securities") (or cash paid in lieu of fractional shares) upon conversion or exchange of Securities of any series as specified pursuant to Section 2.3, shall not be deemed to constitute a payment or distribution on account of the principal of or premium or interest on Securities of such series or on account of the purchase or other acquisition of Securities of such series and (b) the payment, issuance or delivery of cash, property or securities (other than Junior Securities and cash paid in lieu of fractional shares) upon conversion or exchange of Securities of any series shall be deemed to constitute payment on account of the principal of such Securities of such series. Nothing contained in this Article or elsewhere in the Indenture or in the Securities of any series is intended to or shall impair, as among the Corporation, its creditors other than holders of Senior Debt and the Holders of Securities of such series the right, which is absolute and unconditional, of the Holder of any Securities of such series to convert or exchange such Securities of such series in accordance with the terms specified as specified pursuant to Section 2.3.

Section 10.14 *Defeasance of this Article 10*. The subordination of the Securities provided by this Article 10 is expressly made subject to the provisions for defeasance or covenant defeasance in Article 8 hereof and, anything herein to the contrary notwithstanding, upon the effectiveness of any such defeasance or covenant defeasance, the Securities then outstanding shall thereupon cease to be subordinated pursuant to this Article 10.

ARTICLE 11.

MISCELLANEOUS

Section 11.1 *TIA Controls*. If any provision of this Indenture limits, qualifies or conflicts with another provision which is required to be included in this Indenture by the TIA, the required provision shall control.

Section 11.2 *Notices*. Any notice or communication shall be sufficiently given if in writing and delivered in person, sent by facsimile or electronic delivery, or mailed by first-class mail addressed as follows:

if to the Corporation:

Martin Marietta Materials, Inc.
Attention: Chief Financial Officer
2710 Wycliff Road
Raleigh, North Carolina 27607

if to the Trustee:

Branch Banking and Trust Company
Attention: Corporate Trust Services
223 West Nash Street
Wilson, North Carolina 27893

The Corporation or the Trustee by notice to the other may designate additional or different addresses for subsequent notices or communications.

Any notice or communication mailed to a Securityholder shall be mailed to the Securityholder at the Securityholder's address as it appears on the registration books of the Registrar and shall be sufficiently given if so mailed within the time prescribed.

Failure to mail a notice of communication to a Securityholder or any defect in it shall not affect its sufficiency with respect to other Securityholders. If a notice or communication is mailed in the manner provided above, it is duly given, whether or not the addressee receives it.

Section 11.3 *Communication by Holders with Other Holders*. Securityholders may communicate pursuant to TIA § 312(b) with other Securityholders with respect to their rights under this Indenture or the Securities. The Corporation, the Trustee, the Registrar and anyone else shall have the protection of TIA § 312(c).

Section 11.4 *Certificate and Opinion as to Conditions Precedent*. Upon any request or application by the Corporation to the Trustee to take any action under this Indenture, the Corporation shall furnish to the Trustee:

- (1) an Officers' Certificate stating that, in the opinion of the signers, all conditions precedent, if any, provided for in this Indenture relating to the proposed action have been complied with; and
- (2) an Opinion of Counsel stating that, in the opinion of such counsel, all such conditions precedent have been complied with.

Section 11.5 *Statements Required in Certificate or Opinion*. Each certificate or opinion with respect to compliance with a condition or covenant provided for in this Indenture shall include:

- (1) a statement that the person making such certificate or opinion has read such covenant or condition;
- (2) 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;
- (3) a statement that, in the opinion of such person, the person has made such examination or investigation as is necessary to enable the person to express an informed opinion as to whether such covenant or condition has been complied with;
- (4) a statement as to whether or not, in the opinion of such person, such condition or covenant has been complied with.

Section 11.6 *When Treasury Securities Disregarded*. In determining whether the Holders of the required principal amount of Securities have concurred in any direction, waiver or consent, Securities owned by the Corporation or by any person directly or indirectly controlling or controlled by or under direct or indirect common control with the Corporation, shall be disregarded, except that for the purpose of determining whether the Trustee shall be protected in relying on any such direction, waiver or consent, only Securities which the Trustee knows are so owned shall be so disregarded. Also, subject to the foregoing, only Securities outstanding at the time shall be considered in any such determination.

Section 11.7 *Rules by Trustee, Paying Agent, Registrar*. The Trustee may make reasonable rules for action by or a meeting of Securityholders. The Paying Agent or Registrar may make reasonable rules for its functions.

Section 11.8 *Legal Holidays*. A "Legal Holiday" is a Saturday, a Sunday, a legal holiday or a day on which banking institutions are not required to be open. If a payment date is a Legal Holiday at a place of payment, payment shall be made at that place on the next succeeding day that is not a Legal Holiday, and no interest shall accrue for the intervening period. If a regular record date is a Legal Holiday in the state or other jurisdiction in which the Trustee maintains its principal place of business, then the record date shall be the next succeeding day that is not a Legal Holiday in such state or other jurisdiction.

Section 11.9 *Governing Law*. The laws of the State of New York shall govern this Indenture and the Securities.

Section 11.10 *No Adverse Interpretation of Other Agreements*. This Indenture may not be used to interpret another indenture, loan or debt agreement of the Corporation or any Subsidiary. Any such indenture, loan or debt agreement may not be used to interpret this Indenture.

Section 11.11 *No Recourse Against Others*. A director, officer, employee or stockholder, as such, of the Corporation shall not have any liability for any obligation of the Corporation under the Securities or the Indenture or for any claim based on, with respect to or by reason of such obligations or their creation. All such liability is waived and released as a condition of, and as partial consideration for, the execution of this Indenture and the issue of the Securities.

Section 11.12 *Securities in a Foreign Currency*. Unless otherwise specified in an Officers' Certificate delivered pursuant to Section 2.1 of this Indenture with respect to a particular series of Securities, whenever for purposes of this Indenture any action may be taken by the holders of a specified percentage in aggregate principal amount of Securities of all series at the time outstanding and, at such time, there are outstanding Securities of any series which are denominated in a Foreign Currency, then the principal amount of Securities of such series which shall be deemed to be outstanding for the purpose of taking such action shall be that amount of U.S. dollars that could be obtained for such amount at the Market Exchange Rate on the record date fixed for such action or, if no record date is fixed, on the New York Banking Day immediately preceding the date of such action.

Section 11.13 *Judgment Currency*. If, for the purpose of obtaining a judgment in any court with respect to any obligation of the Corporation hereunder or under any Security, it shall become necessary to convert into any other currency any amount in the currency due hereunder or under such Security, then such conversion shall be made by the Trustee (a) with respect to conversions between any Foreign Currency and U.S. dollars at the Market Exchange Rate as in effect on the date of entry of the judgment (the "Judgment Date") and (b) with respect to conversions of any Foreign Currency into any other Foreign Currency by (i) converting such Foreign Currency into U.S. dollars at the Market Exchange Rate as in effect on the Judgment Date and (ii) converting the sum of U.S. dollars so obtained into such other Foreign Currency at the Market Exchange Rate as in effect on the Judgment Date. If pursuant to any such judgment, conversion shall be made on a date (the "Substitute Date") other than the Judgment Date and there shall occur a change between any Market Exchange Rate used in such conversion as in effect on the Judgment Date and such Market Exchange Rate as in effect on the Substitute Date, the Corporation agrees to pay such additional amounts, if any, as may be necessary to ensure that the amount paid is equal to the amount in such other currency which, when converted at such Market Exchange Rate as in effect on the Judgment Date, is the amount due hereunder or under such Security. Any amount due from the Corporation under this Section shall be due as a separate debt and is not to be affected by or merged into any judgment being obtained for any other sums due hereunder or in respect of any Security. In no event, however, shall the Corporation be required to pay more in the currency due hereunder or under such Security at the Market Exchange Rate as in effect on the Judgment Date than the amount of currency stated to be due hereunder or under such Security so that in any event the Corporation's obligations hereunder or under such Security will be effectively maintained as obligations in such currency, and the Corporation shall be entitled to withhold (or be reimbursed for, as the case may be) any excess of the amount actually realized upon any such conversion on the Substitute Date over the amount due and payable on the Judgment Date.

Section 11.14 *Successors*. All agreements of the Corporation in this Indenture and the Securities shall bind its successor. All agreements of the Trustee in this Indenture shall bind its successor.

Section 11.15 *Duplicate Originals*. The parties may sign any number of copies of this Indenture. One signed copy is enough to prove this Indenture.

Section 11.16 *Acts of Holders; Record Dates*. (a) Any request, demand, authorization, direction, notice, consent, waiver or other action provided by this Indenture to be given or taken

by Holders may be embodied in and evidenced by one or more instruments of substantially similar tenor signed by such Holders in person or by agent duly appointed in writing; and, except as herein otherwise expressly provided, such action shall become effective when such instrument or instruments are delivered to the Trustee and, where it is hereby expressly required, to the Corporation. Such instrument or instruments (and the action embodied therein and evidenced thereby) are herein sometimes referred to as the "Act" of the Holders signing such instrument or instruments. Proof of execution of any such instrument or of a writing appointing any such agent shall be sufficient for any purpose of this Indenture and (subject to Section 7.1(e)) conclusive in favor of the Trustee and the Corporation, if made in the manner provided in this Section.

(b) The fact and date of the execution by any Person of any such instrument or writing may be proved by the affidavit of a witness of such execution or by a certificate of a notary public or other officer authorized by law to take acknowledgements of deeds, certifying that the individual signing such instrument or writing acknowledged to such officer the execution thereof. Where such execution is by a signer acting in a capacity other than such signer's individual capacity, such certificate or affidavit shall also constitute sufficient proof of such signer's authority. The fact and date of the execution of any such instrument or writing, or the authority of the Person executing the same, may also be proved in any other manner which the Trustee deems sufficient.

(c) The Corporation may, in the circumstances permitted by the TIA, fix any day as the record date for the purpose of determining the Holders of Securities of any series entitled to give or take any request, demand, authorization, direction, notice, consent, waiver or other action, or to vote on any action, authorized or permitted to be given or taken by Holders of Securities of such series. If not set by the Corporation prior to the first solicitation of a Holder of Securities of such series made by any person in respect of any such action, or, in the case of any such vote, prior to such vote, the record date for any such action or vote shall be the 30th day (or, if later, the date of the most recent list of Holders required to be provided pursuant to Section 2.6) prior to such first solicitation or vote, as the case may be. With regard to any record date for action to be taken by the Holders of one or more series of Securities, only the Holders of Securities of such series on such date (or their duly designated proxies) shall be entitled to give or take, or vote on, the relevant action.

Section 11.17 *Force Majeure*. In no event shall the Trustee be responsible or liable for any failure or delay in the performance of its obligations hereunder arising out of or caused by, directly or indirectly, forces beyond its control, including, without limitation, strikes, work stoppages, accidents, acts of war or terrorism, civil or military disturbances, nuclear or natural catastrophes or acts of God, and interruptions, loss or malfunctions of utilities, communications or computer (software or hardware) services; it being understood that the Trustee shall use reasonable efforts which are consistent with accepted practices in the banking industry to resume performance as soon as practicable under the circumstances.

SIGNATURES

MARTIN MARIETTA MATERIALS, INC.

By: _____

Name:

Title:

[CORPORATE SEAL]

Attest:

Secretary

BRANCH BANKING AND TRUST COMPANY

By: _____

Name:

Title:

[CORPORATE SEAL]

Attest:

Secretary

[If the [Note][Debenture] is a Discounted Security, insert — FOR PURPOSES OF SECTIONS 1273 AND 1275 OF THE INTERNAL REVENUE CODE, THE AMOUNT OF ORIGINAL ISSUE DISCOUNT ON THIS [NOTE][DEBENTURE] IS ___% OF ITS PRINCIPAL AMOUNT, THE ISSUE DATE IS _____, THE YIELD TO MATURITY IS __%, THE AMOUNT OF ORIGINAL ISSUE DISCOUNT APPLICABLE TO THE SHORT ACCRUAL PERIOD OF _____ TO _____, IS ___% OF THE PRINCIPAL AMOUNT OF THIS SECURITY AND THE METHOD USED TO DETERMINE THE SHORT ACCRUAL PERIOD ORIGINAL ISSUE DISCOUNT IS THE _____ METHOD.]

[FORM OF U.S. \$ DENOMINATED NOTE/DEBENTURE]

No.

\$ _____

MARTIN MARIETTA MATERIALS, INC.
[_____%] [Floating Rate] [Zero Coupon] [Note]
[Debenture] Due _____

MARTIN MARIETTA MATERIALS, INC., a North Carolina corporation, for value received, hereby promises to pay to _____, or registered assigns, the principal sum of _____ Dollars on _____.

Interest Payment Dates: _____ and _____ [if applicable]

Record Dates: _____ and _____ [if applicable]

Additional provisions of this [Note][Debenture] are set forth on the other side of this [Note] [Debenture].

Attest: _____
[SEAL]

MARTIN MARIETTA MATERIALS, INC.
By: _____

Secretary

Chief Executive Officer

Dated:

Authenticated:

This is one of the Securities of the series designated herein and referred to in the within-named Indenture.

as Trustee

By: _____

Authorized Officer

[If an Authenticating Agent has been appointed insert:

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

as Trustee

By: _____

as Authenticating Agent

By: _____

Authorized Officer]

Skadden, Arps, Slate, Meagher & Flom LLP
Four Times Square
New York 10036-6522

March 5, 2009

Martin Marietta Materials, Inc.
2710 Wycliff Road
Raleigh, NC 27607

Re: Martin Marietta Materials, Inc.
Shelf Registration Statement on Form S-3

Ladies and Gentlemen:

We have acted as special counsel to Martin Marietta Materials, Inc., a North Carolina corporation (the "Company"), in connection with the preparation of the Registration Statement on Form S-3 (the "Registration Statement"), to be filed on the date hereof by the Company with the Securities and Exchange Commission (the "Commission"). The Registration Statement relates to, among other things, the issuance and sale from time to time by the Company, pursuant to Rule 415 of the General Rules and Regulations promulgated under the Securities Act of 1933, as amended, (the "Act"), of the following securities of the Company: (i) shares of common stock, \$0.01 par value per share, of the Company ("Common Stock"); (ii) shares of preferred stock, \$0.01 par value per share, of the Company (the "Preferred Stock"), in one or more series; (iii) senior or subordinated debt securities, which may be in one or more series (the "Debt Securities"), which may be issued under the Senior Indenture (the "Senior Indenture"), proposed to be entered into by and between the Company and Branch Banking and Trust Company, Inc., as trustee, and the Subordinated Indenture (the "Subordinated Indenture"), proposed to be entered into by and between the Company and Branch Banking and Trust Company, Inc., as trustee, respectively, forms of each of which are filed as an exhibit to the Registration Statement (collectively, the "Indentures" and each trustee, a "Trustee"); (iv) warrants representing the right to receive, upon exercise, Common Stock, Preferred Stock or Debt Securities, (collectively, the "Warrants"), which may be issued pursuant to one or more warrant agreements (the "Warrant Agreements"), proposed to be entered into with one or more warrant agents to be named (the "Warrant Agents"); and (v) such indeterminate amount of Debt Securities and number of shares of Common Stock and Preferred Stock as may be issued upon conversion, exchange, exercise or settlement of any Preferred Stock, Debt Securities and Warrants, including as may be issued pursuant to anti-dilution adjustments, in amounts, at prices and on terms to be determined at the time of offering (the "Indeterminate Securities").

This opinion is being delivered in accordance with the requirements of Item 601(b)(5) of Regulation S-K under the Act.

In connection with this opinion, we have examined originals or copies, certified or otherwise identified to our satisfaction, of (i) the Registration Statement; (ii)

the Senior Indenture; (ii) the Statement of Eligibility of the Senior Indenture Trustee on Form T-1; (iii) the Subordinated Indenture; and (iv) the Statement of Eligibility of the Subordinated Indenture Trustee on Form T-1. We have also examined originals or copies, certified or otherwise identified to our satisfaction, of such records of the Company and such agreements, certificates of public officials, certificates of officers or other representatives of the Company and others, and such other documents, certificates and records as we have deemed necessary or appropriate as a basis for the opinions set forth herein.

In our examination, we have assumed the legal capacity of all natural persons, the genuineness of all signatures, the authenticity of all documents submitted to us as originals, the conformity to original documents of all documents submitted to us as facsimile, electronic, certified, conformed or photostatic copies and the authenticity of the originals of such latter documents. In making our examination of executed documents or documents to be executed, we have assumed that the parties thereto, including the Company, had or will have the power, corporate or other, to enter into and perform all obligations thereunder and have also assumed the due authorization by all requisite action, corporate or other, and execution and delivery by such parties of such documents and, except as to the Company with respect to the Debt Securities as to which we express our opinion herein, the validity and binding effect on such parties. We have also assumed that (i) the Company has been duly organized and is validly existing in good standing under the laws of the state of North Carolina and that the Company has complied and will comply with all aspects of applicable laws of jurisdictions other than the United States of America and the State of New York in connection with the transactions contemplated by the Indentures and the Registration Statement, (ii) the choice of New York law to govern the Indentures is a valid and legal provision, and (iii) the Indentures will be duly authorized, executed and delivered by the Trustee thereunder and any Debt Securities that may be issued will be duly authenticated in accordance with the applicable Indentures. As to any facts material to the opinions expressed herein which we have not independently established or verified, we have relied upon statements and representations of officers and other representatives of the Company and others.

Our opinions set forth below are limited to the laws of the State of New York that are normally applicable to transactions of the type contemplated by the Registration Statement and, to the extent that judicial or regulatory orders or decrees or consents, approvals, licenses, authorizations, validations, filings, recordings or registrations with governmental authorities are relevant, to those required under such laws (all of the foregoing being referred to as "Opined on Law"). We do not express any opinion with respect to the law of any jurisdiction other than Opined on Law or as to the effect of any such non opined law on the opinions herein stated. The Debt Securities may be issued from time to time on a delayed or continuous basis, and this opinion is limited to the laws, including the rules and regulations under the Act, as in effect on the date hereof.

Based upon and subject to the foregoing and to the other qualifications and limitations set forth herein, we are of the opinion that:

With respect to any series of Debt Securities (the "Offered Debt Securities"), when (i) the Registration Statement, as finally amended (including all necessary post-effective amendments), has become effective under the Act and the applicable Indenture has been qualified under the Trust Indenture Act; (ii) an appropriate prospectus supplement with respect to the Offered Debt Securities has been prepared, delivered and filed in compliance with the Act and the applicable rules and regulations thereunder; (iii) if the Offered Debt Securities are to be sold pursuant to a firm commitment underwritten offering, the underwriting agreement with respect to the Offered Debt Securities has been duly authorized, executed and delivered by the Company and the other parties thereto; (iv) the Board of Directors, including any appropriate committee appointed thereby, and appropriate officers of the Company have taken all necessary corporate action to approve the issuance and terms of the Offered Debt Securities and related matters; (v) the terms of the Offered Debt Securities and of their issuance and sale have been duly established in conformity with the applicable Indenture so as not to violate any applicable law, the Amended and Restated Certificate of Incorporation or the Restated Bylaws of the Company, or result in a default under or breach of any agreement or instrument binding upon the Company and so as to comply with any requirement or restriction imposed by any court or governmental body having jurisdiction over the Company; and (vi) the Offered Debt Securities have been duly executed and authenticated in accordance with the provisions of the applicable Indenture and duly delivered to the purchasers thereof upon payment of the agreed-upon consideration therefor, the Offered Debt Securities (including any Debt Securities duly issued upon conversion, exchange or exercise of any Preferred Stock, Debt Securities or Warrants), when issued and sold in accordance with the applicable Indenture and the applicable underwriting agreement, if any, or any other duly authorized, executed and delivered valid and binding purchase or agency agreement, will be valid and binding obligations of the Company, enforceable against the Company in accordance with their respective terms, except to the extent that enforcement thereof may be limited by (a) bankruptcy, insolvency, reorganization, fraudulent conveyance, moratorium or other similar laws now or hereafter in effect relating to creditors' rights generally, (b) general principles of equity (regardless of whether enforceability is considered in a proceeding at law or in equity), (c) public policy considerations which may limit the rights of parties to obtain remedies, (d) the waivers of any usury defense contained in the Indentures or Offered Debt Securities which may be unenforceable, (e) requirements that a claim with respect to any Offered Debt Securities denominated in a currency, currency unit or composite currency other than United States dollars (or a judgment denominated other than in United States dollars in respect of such claim) be converted into United States dollars at a rate of exchange prevailing on a date determined pursuant to applicable law, and (f) governmental authority to limit, delay or prohibit the making of payments outside the United States or in foreign currencies, currency units or composite currencies.

In rendering the opinions set forth above, we have assumed that the execution and delivery by the Company of the Indentures and the performance by the Company of its obligations thereunder 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 that are listed in Part II of the Registration Statement.

Robinson, Bradshaw & Hinson, P.A., North Carolina counsel to the Company, may rely on this opinion, subject to the limitations and assumptions set forth in this opinion, as if it were addressed to him in rendering his opinion dated the date hereof, which is to be filed herewith as Exhibit 5.2 to the Registration Statement.

We hereby consent to the filing of this opinion with the Commission as an exhibit to the Registration Statement. We also consent to the reference to our firm under the caption "Legal Matters" in the Registration Statement. In giving this consent, we do not thereby admit that we are included in the category of persons whose consent is required under Section 7 of the Act or the rules and regulations of the Commission. This opinion is expressed as of the date hereof unless otherwise expressly stated, and we disclaim any undertaking to advise you of any subsequent changes of the facts stated or assumed herein or any subsequent changes in applicable law.

Very truly yours,

/s/ Skadden, Arps, Slate, Meagher & Flom LLP

ROBINSON, BRADSHAW & HINSON, P.A.

101 North Tryon Street, Suite 1900
Charlotte, North Carolina 28246

March 5, 20098

Martin Marietta Materials, Inc.
2710 Wycliff Road
Raleigh, North Carolina 27607
Attention: Ms. Anne H. Lloyd

Ladies and Gentlemen:

We have served as North Carolina counsel to Martin Marietta Materials, Inc. (the "Company") in connection with the preparation of an automatic shelf registration statement on Form S-3 (the "Registration Statement") to be filed today by the Company with the Securities and Exchange Commission (the "Commission") under the Securities Act of 1933, as amended (the "Securities Act"). The Registration Statement relates to the issuance and sale from time to time, pursuant to Rule 415 of the General Rules and Regulations of the Commission promulgated under the Securities Act, of the following securities: (i) one or more series of debt securities of the Company (the "Debt Securities"); (ii) one or more series of Series Preferred Stock, par value \$0.01 per share, of the Company (the "Preferred Stock"); (iii) Common Stock, par value \$0.01 per share, of the Company (the "Common Stock"); (iv) warrants entitling holders to purchase Common Stock, Preferred Stock or Debt Securities, or any combination thereof, from the Company at a future date or dates (the "Warrants" and, together with the Debt Securities, the Preferred Stock and the Common Stock, the "Securities").

The Debt Securities will be issued pursuant to the Indenture, dated April 30, 2007 (as amended or supplemented from time to time, the "Indenture"), between the Company and Branch Banking and Trust Company, as Trustee (the "Trustee"), filed as Exhibit 4.5 to the Registration Statement.

This opinion is being furnished in accordance with the requirements of Item 601(b)(5) of Regulation S-K promulgated under the Securities Act. A copy of this opinion letter is also being provided to Skadden, Arps, Slate, Meagher & Flom LLP, counsel assisting the Company in the issuance of the Registration Statement, with the understanding that Skadden, Arps, Slate, Meagher & Flom LLP will rely upon this opinion letter in providing its opinion in accordance with the requirements of Item 601(b)(5) of Regulation S-K promulgated under the Securities Act.

In rendering the opinions expressed herein, we have reviewed such matters of law and examined original, or copies certified or otherwise identified, of the Amended and Restated Articles of Incorporation of the Company and the Restated Bylaws of the Company (collectively, the "Governing Instruments"), the Indenture and such other documents, records, agreements and certificates as we have deemed necessary as a basis for the opinions expressed herein. In such review, we have assumed the genuineness of all signatures, the capacity of all natural persons, the authenticity of all documents and certificates submitted to us as originals or duplicate

originals, the conformity to original documents and certificates of the documents and certificates submitted to us as certified, photostatic, conformed, electronic or facsimile copies, the authenticity of the originals of such latter documents and certificates, the accuracy and completeness of all statements contained in all such documents and certificates, and the integrity and completeness of the minute books and records of the Company to the date hereof. As to all questions of fact material to the opinions expressed herein that have not been independently established, we have relied, without investigation or analysis of any underlying data, upon certificates and statements of public officials and representatives of the Company. We have also assumed that the Indenture has been duly authorized, executed and delivered by the Trustee, an assumption that we have not independently verified. To the extent that the Company's obligations will depend on the enforceability of a document against other parties to such document, we have assumed that such document is enforceable against such other parties.

The opinions set forth herein are further subject to the following assumptions, qualifications, limitations and exceptions being true and correct at the time of delivery of any Securities to be offered and sold under the Registration Statement:

(a) the Registration Statement and any amendments thereto (including post-effective amendments) shall be effective under the Securities Act, and the Indenture shall have been qualified under the Trust Indenture Act of 1939, as amended;

(b) a prospectus supplement describing such Equity Securities shall have been prepared, delivered and filed with the Commission in accordance with the Securities Act and the applicable rules and regulations thereunder;

(c) such Securities shall be offered, issued and sold in compliance with applicable federal and state securities laws and in the manner described in the Registration Statement and the applicable prospectus supplement;

(d) all necessary corporate action shall have been taken to authorize the issuance of such Securities and any other securities issuable upon conversion, exchange, exercise, redemption or settlement thereof, and to establish the terms thereof, so as not to violate any applicable law, result in a default under or breach of any agreement or instrument binding upon the Company or conflict with any requirement, restriction or order imposed by any court or governmental body having jurisdiction over the Company;

(e) a definitive purchase, underwriting or similar agreement with respect to the issuance and sale of such Equity Securities (the "Purchase Agreement") shall have been duly authorized, validly executed and delivered by the Company and the other parties thereto;

(f) any securities issuable upon conversion, exchange, exercise, redemption or settlement of such Equity Securities shall have been duly authorized, created and, if appropriate, reserved for issuance upon such conversion, exchange, exercise, redemption or settlement;

(g) such Securities shall have been delivered (i) in accordance with the provisions of the applicable Purchase Agreement upon receipt by the Company of the consideration therein provided, which consideration shall be lawful, or (ii) upon conversion, exchange, exercise, redemption or settlement of any other Security, in accordance with the terms of such Security or the instrument governing such Security providing for such conversion, exchange, exercise, redemption or settlement and upon receipt by the Company of the consideration specified by such Security or instrument, which consideration shall be lawful;

(h) in the case of any series of Debt Securities issuable under the Indenture:

- all necessary corporate action shall have been taken to authorize, designate and establish the terms of such Debt Securities in accordance with the terms of the Indenture so as not to violate any applicable law, and such Debt Securities shall not include any provision that is unenforceable;
- any required supplement, amendment or modification to the Indenture (a "Supplemental Indenture") shall have been executed and delivered by the Company and the Trustee; and
- forms of such Debt Securities complying with the terms of the Indenture and evidencing such Debt Securities shall have been duly executed, authenticated, issued and delivered in accordance with the provisions of the Indenture;

(i) in the case of shares of Preferred Stock of any series, all necessary corporate action shall have been taken to authorize, designate and establish the terms of such series and fix the designations, relative rights, preferences and limitations thereof, and the Company shall have filed with the Secretary of State of the State of North Carolina, as required by Section 55-6-02(b) of the North Carolina Business Corporation Act, articles of amendment (the "Articles of Amendment") with respect to such Preferred Stock;

(j) in the case of shares of Preferred Stock or Common Stock, certificates representing such shares in the proper form shall have been duly executed, countersigned, registered and delivered, or if uncertificated, valid book-entry notations shall have been

made in the share register of the Company, in each case in accordance with the Governing Instruments; there shall be sufficient shares of Preferred Stock or Common Stock, as the case may be, authorized under the Governing Instruments and not otherwise issued or reserved for issuance; and the purchase price payable to the Company for such shares, or if shares are issuable upon conversion, exchange, exercise, redemption or settlement of other Securities, the consideration payable to the Company for such conversion, exchange, exercise, redemption or settlement, shall be lawful consideration that is not less than the amount of adequate consideration therefor as set by the Board of Directors of the Company or an authorized committee thereof;

(k) in the case of the Warrants, all necessary corporate action shall have been taken to authorize and establish the terms thereof and the terms of the Securities purchasable thereunder, including the actions referred to in paragraphs (h) and (i) above with respect to any Debt Securities and Preferred Stock, respectively, purchasable under such Warrants; the warrant agreement or agreements relating to the Warrants have been duly authorized and validly executed and delivered by the Company and the warrant agent appointed by Company; the Warrants or certificates representing the Warrants have been duly executed, countersigned, registered and delivered in accordance with the appropriate warrant agreement or agreements; and

(l) in the case of any Supplemental Indenture, Articles of Amendment, Purchase Agreement or other agreement or instrument pursuant to which any Securities are to be issued, there shall be no terms or provisions contained therein that would affect the validity of any of the opinions rendered herein.

Based upon the foregoing, and subject to all the assumptions, qualifications, limitations and exceptions set forth herein, we are of the opinion that:

1. The Company is a corporation duly incorporated and validly existing under the laws of the State of North Carolina.
2. The shares of Preferred Stock and Common Stock included in the Securities will, when issued, have been duly authorized and validly issued and will be fully paid and nonassessable.
3. The Debt Securities will, when issued, have been duly authorized, executed and delivered by the Company.
4. The Warrants will, when issued, have been duly authorized, executed and delivered by the Company.

The foregoing opinions are limited to the federal laws of the United States and the laws of the State of North Carolina, and we are expressing no opinion as to the effect of the laws of

other jurisdictions. This opinion is limited to the matters stated herein, and no opinion is implied or may be inferred beyond the matters expressly stated herein. This opinion is given as of the date hereof, and we assume no obligation to advise you after the date hereof of facts or circumstances that come to our attention or changes in law that occur, which could affect the opinions contained herein.

We are members of the Bar of the State of North Carolina and do not purport to be experts in the laws of any jurisdiction other than the State of North Carolina and the federal laws of the United States of America.

We hereby consent to the filing of this opinion as an exhibit to the Registration Statement and to the reference to us under the caption "Legal Matters" in the Prospectus that is included in the Registration Statement. In giving such consent, we do not thereby admit that we are in the category of persons whose consent is required under Section 7 of the Securities Act.

Very truly yours,

ROBINSON, BRADSHAW & HINSON, P.A.

/s/ Stephen M. Lynch

Stephen M. Lynch

cc: Skadden, Arps, Slate, Meagher & Flom LLP

Consent of Independent Registered Public Accounting Firm

We consent to the reference to our firm under the caption "Experts" in the Registration Statement and related Prospectus of Martin Marietta Materials, Inc. for the registration of debt securities, preferred stock, common stock and warrants and to the incorporation by reference therein of our reports dated February 16, 2009, with respect to the consolidated financial statements and schedule of Martin Marietta Materials, Inc., and the effectiveness of internal control over financial reporting of Martin Marietta Materials, Inc., included in its Annual Report (Form 10-K) for the year ended December 31, 2008, filed with Securities and Exchange Commission.

/s/ Ernst & Young

March 4, 2009
Raleigh, North Carolina

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

FORM T-1

Statement of Eligibility Under the
Trust Indenture Act of 1939 of a Corporation
Designated to Act as Trustee

o Check if an application to determine eligibility of a trustee
pursuant to section 305(b)(2)

Branch Banking and Trust Company
(Exact name of trustee as specified in its charter)

North Carolina
(Jurisdiction of incorporation or organization
if not a U.S. national bank)

56-0149200
(I.R.S. Employer Identification Number)

223 West Nash Street
Wilson, North Carolina 27893
(Address of principal executive offices) (Zip Code)

Frances B. Jones, Esq.
c/o BB&T Corporation
200 West Second Street
Winston-Salem, North Carolina 27101
(336) 733-2000
(Name, address and telephone number of agent for service)

Martin Marietta Materials, Inc.
(Exact name of obligor as specified in its charter)

North Carolina
(State or other jurisdiction of
incorporation or organization)

56-1848578
(I.R.S. Employer Identification Number)

2710 Wycliff Road
Raleigh, North Carolina 27607-3033
(Address of principal executive offices) (Zip Code)

Senior Debt Securities
(Title of the indenture securities)

1. **General information.**

Furnish the following information as to the trustee:

- (a) Name and address of each examining or supervising authority to which it is subject.

NORTH CAROLINA COMMISSIONER OF BANKS

RALEIGH, NORTH CAROLINA 27603

FEDERAL RESERVE BANK

RICHMOND, VIRGINIA 23219

FEDERAL DEPOSIT INSURANCE CORPORATION

WASHINGTON, D.C. 20429

- (b) 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 INCLUDED FOR ITEMS 3 THROUGH 12. RESPONSES TO THOSE ITEMS ARE NOT REQUIRED BECAUSE, AS PROVIDED IN GENERAL INSTRUCTION B AND AS SET FORTH IN ITEMS 13(a) AND 13(b) BELOW, TO THE BEST OF THE TRUSTEE'S KNOWLEDGE, THE OBLIGOR IS NOT IN DEFAULT ON ANY SECURITIES ISSUED UNDER INDENTURES UNDER WHICH BRANCH BANKING AND TRUST COMPANY 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.

TO THE BEST OF THE TRUSTEE'S KNOWLEDGE, THERE IS NOT AND HAS NOT BEEN ANY 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.
-

TO THE BEST OF THE TRUSTEE'S KNOWLEDGE, 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 AND AS SET FORTH IN ITEMS 13(a) AND 13(b) ABOVE, TO THE BEST OF THE TRUSTEE'S KNOWLEDGE, THE OBLIGOR IS NOT IN DEFAULT ON ANY SECURITIES ISSUED UNDER INDENTURES UNDER WHICH BRANCH BANKING AND TRUST COMPANY IS A TRUSTEE.

16. **List of exhibits.**

List below all exhibits filed as a part of this statement of eligibility; exhibits identified by an asterisk or asterisks are filed with the Securities and Exchange Commission and are incorporated herein by reference as exhibits hereto pursuant to Rule 7a-29 under the Trust Indenture Act of 1939, as amended.

- 1.* A copy of the restated articles of incorporation of Branch Banking and Trust Company.
- 2.* A copy of the certificate of authority of the trustee to commence business.
- 3.** A copy of the authorization of the trustee to exercise corporate trust powers.
- 4.* A copy of the existing by-laws of the trustee as now in effect.
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.
8. Not applicable.
9. Not applicable.

* Incorporated by reference to the exhibit of the same number to the trustee's Statement of Eligibility on Form T-1 filed as Exhibit 25.1 to the Registration Statement on Form S-3ASR (Commission File No. 333-142343) filed on April 25, 2007.

** Incorporated by reference to the exhibit of the same number to the trustee's Statement of Eligibility on Form T-1 filed as Exhibit 25.1 to the Registration Statement on Form S-3ASR (Commission File No. 333-149371) filed on February 25, 2008.

Signature

Pursuant to the requirements of the Trust Indenture Act of 1939 the trustee, Branch Banking and Trust Company, a state banking corporation organized and existing under the laws of the State of North Carolina, has duly caused this statement of eligibility to be signed on its behalf by the undersigned, thereunto duly authorized, all in the City of Wilson and the State of North Carolina, on the 17th day of February, 2009.

Branch Banking and Trust Company

By: /s/ Gregory Yanok
Gregory Yanok
Vice President

Exhibit 1 to Form T-1

ARTICLES OF ASSOCIATION
OF
BRANCH BANKING AND TRUST COMPANY

Incorporated by reference to the exhibit of the same number to the trustee's
Statement of Eligibility on Form T-1 filed as Exhibit 25.1 to the
Registration Statement on Form S-3ASR
(Commission File No. 333-142343) filed on April 25, 2007.

Exhibit 2 to Form T-1

**CERTIFICATE OF AUTHORITY OF
BRANCH BANKING AND TRUST COMPANY
TO COMMENCE BUSINESS**

Incorporated by reference to the exhibit of the same number to the trustee's
Statement of Eligibility on Form T-1 filed as Exhibit 25.1 to the
Registration Statement on Form S-3ASR
(Commission File No. 333-142343) filed on April 25, 2007.

Exhibit 3 to Form T-1

**AUTHORIZATION OF
BRANCH BANKING AND TRUST COMPANY
TO EXERCISE CORPORATE TRUST POWERS**

Incorporated by reference to the exhibit of the same number to the trustee's Statement of Eligibility on Form T-1 filed as Exhibit 25.1 to the Registration Statement on Form S-3ASR (Commission File No. 333-149371) filed on February 25, 2008.

Exhibit 4 to Form T-1

**BYLAWS OF
BRANCH BANKING AND TRUST COMPANY**

Incorporated by reference to the exhibit of the same number to the trustee's
Statement of Eligibility on Form T-1 filed as Exhibit 25.1 to the
Registration Statement on Form S-3ASR
(Commission File No. 333-142343) filed on April 25, 2007.

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 the Senior Debt Securities of Martin Marietta Materials, Inc., Branch Banking and Trust Company 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.

Branch Banking and Trust Company

February 17, 2009

By: /s/ Gregory Yanok
Gregory Yanok
Vice President

Exhibit 7 to Form T-1

REPORT OF CONDITION
BRANCH BANKING AND TRUST COMPANY

At the close of business December 31, 2008, published in accordance with Federal regulatory authority instructions.

	Dollar Amounts in Thousands
ASSETS	
Cash and balances due from depository institutions:	
Noninterest-bearing balances and currency and coin	1,675,910
Interest-bearing balances	540,503
Securities:	
Held-to-maturity securities	0
Available-for-sale securities	32,018,286
Federal funds sold and securities purchased under agreements to resell:	
Federal funds sold in domestic offices	10,676
Securities purchased under agreements to resell	0
Loans and lease financing receivables:	
Loans and leases held for sale	1,412,772
Loans and leases, net of unearned income	94,751,712
LESS: Allowance for loan and lease losses	1,352,369
Loans and leases, net of unearned income and allowance	93,399,343
Trading assets	1,025,932
Premises and fixed assets (including capitalized leases)	1,547,129
Other real estate owned	558,263
Investments in unconsolidated subsidiaries and associated companies	1,425
Not applicable	
Intangible assets:	
Goodwill	5,263,195
Other intangible assets	972,527
Other assets:	9,057,685
Total assets	147,483,646

Dollar Amounts
in Thousands

LIABILITIES	
Deposits:	
In domestic offices	89,122,999
Noninterest-bearing	13,704,847
Interest-bearing	75,418,152
In foreign offices, Edge and Agreement subsidiaries, and IBFs:	9,384,877
Noninterest-bearing	254,421
Interest-bearing	9,130,456
Federal funds purchased and securities sold under agreements to repurchase:	
Federal funds purchased in domestic offices	83,771
Securities sold under agreements to repurchase	2,648,500
Trading liabilities	758,415
Other borrowed money (includes mortgage indebtedness and obligations under capitalized leases)	19,312,965
Not applicable	
Not applicable	
Subordinated notes and debentures	1,661,571
Other liabilities	8,005,900
Total liabilities	<u>130,978,998</u>
Minority interest in consolidated subsidiaries	2,938,586
EQUITY CAPITAL	
Perpetual preferred stock and related surplus	0
Common stock	24,437
Surplus (excludes all surplus related to preferred stock)	10,591,486
Not available	
Retained earnings	3,685,159
Accumulated other comprehensive income	(735,020)
Other equity capital components	0
Total equity capital	<u>13,566,062</u>
Total liabilities, minority interest, and equity capital	<u>147,483,646</u>

Exhibit 8 to Form T-1

(Intentionally Omitted. Not Applicable.)

Exhibit 9 to Form T-1

(Intentionally Omitted. Not Applicable.)

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

FORM T-1

Statement of Eligibility Under the
Trust Indenture Act of 1939 of a Corporation
Designated to Act as Trustee

o Check if an application to determine eligibility of a trustee
pursuant to section 305(b)(2)

Branch Banking and Trust Company
(Exact name of trustee as specified in its charter)

North Carolina
(Jurisdiction of incorporation or organization
if not a U.S. national bank)

56-0149200
(I.R.S. Employer Identification Number)

223 West Nash Street
Wilson, North Carolina 27893
(Address of principal executive offices) (Zip Code)

Frances B. Jones, Esq.
c/o BB&T Corporation
200 West Second Street
Winston-Salem, North Carolina 27101
(336) 733-2000
(Name, address and telephone number of agent for service)

Martin Marietta Materials, Inc.
(Exact name of obligor as specified in its charter)

North Carolina
(State or other jurisdiction of
incorporation or organization)

56-1848578
(I.R.S. Employer Identification Number)

2710 Wycliff Road
Raleigh, North Carolina 27607-3033
(Address of principal executive offices) (Zip Code)

Subordinated Debt Securities
(Title of the indenture securities)

1. **General information.**

Furnish the following information as to the trustee:

- (a) Name and address of each examining or supervising authority to which it is subject.

NORTH CAROLINA COMMISSIONER OF BANKS

RALEIGH, NORTH CAROLINA 27603

FEDERAL RESERVE BANK

RICHMOND, VIRGINIA 23219

FEDERAL DEPOSIT INSURANCE CORPORATION

WASHINGTON, D.C. 20429

- (b) 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 INCLUDED FOR ITEMS 3 THROUGH 12. RESPONSES TO THOSE ITEMS ARE NOT REQUIRED BECAUSE, AS PROVIDED IN GENERAL INSTRUCTION B AND AS SET FORTH IN ITEMS 13(a) AND 13(b) BELOW, TO THE BEST OF THE TRUSTEE'S KNOWLEDGE, THE OBLIGOR IS NOT IN DEFAULT ON ANY SECURITIES ISSUED UNDER INDENTURES UNDER WHICH BRANCH BANKING AND TRUST COMPANY 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.

TO THE BEST OF THE TRUSTEE'S KNOWLEDGE, THERE IS NOT AND HAS NOT BEEN ANY 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.
-

TO THE BEST OF THE TRUSTEE'S KNOWLEDGE, 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 AND AS SET FORTH IN ITEMS 13(a) AND 13(b) ABOVE, TO THE BEST OF THE TRUSTEE'S KNOWLEDGE, THE OBLIGOR IS NOT IN DEFAULT ON ANY SECURITIES ISSUED UNDER INDENTURES UNDER WHICH BRANCH BANKING AND TRUST COMPANY IS A TRUSTEE.

16. **List of exhibits.**

List below all exhibits filed as a part of this statement of eligibility; exhibits identified by an asterisk or asterisks are filed with the Securities and Exchange Commission and are incorporated herein by reference as exhibits hereto pursuant to Rule 7a-29 under the Trust Indenture Act of 1939, as amended.

- 1.* A copy of the restated articles of incorporation of Branch Banking and Trust Company.
- 2.* A copy of the certificate of authority of the trustee to commence business.
- 3.** A copy of the authorization of the trustee to exercise corporate trust powers.
- 4.* A copy of the existing by-laws of the trustee as now in effect.
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.
8. Not applicable.
9. Not applicable.

* Incorporated by reference to the exhibit of the same number to the trustee's Statement of Eligibility on Form T-1 filed as Exhibit 25.1 to the Registration Statement on Form S-3ASR (Commission File No. 333-142343) filed on April 25, 2007.

** Incorporated by reference to the exhibit of the same number to the trustee's Statement of Eligibility on Form T-1 filed as Exhibit 25.1 to the Registration Statement on Form S-3ASR (Commission File No. 333-149371) filed on February 25, 2008.

Signature

Pursuant to the requirements of the Trust Indenture Act of 1939 the trustee, Branch Banking and Trust Company, a state banking corporation organized and existing under the laws of the State of North Carolina, has duly caused this statement of eligibility to be signed on its behalf by the undersigned, thereunto duly authorized, all in the City of Wilson and the State of North Carolina, on the 17th day of February, 2009.

Branch Banking and Trust Company

By: /s/ Gregory Yanok
Gregory Yanok
Vice President

Exhibit 1 to Form T-1

ARTICLES OF ASSOCIATION
OF
BRANCH BANKING AND TRUST COMPANY

Incorporated by reference to the exhibit of the same number to the trustee's
Statement of Eligibility on Form T-1 filed as Exhibit 25.1 to the
Registration Statement on Form S-3ASR
(Commission File No. 333-142343) filed on April 25, 2007.

Exhibit 2 to Form T-1

**CERTIFICATE OF AUTHORITY OF
BRANCH BANKING AND TRUST COMPANY
TO COMMENCE BUSINESS**

Incorporated by reference to the exhibit of the same number to the trustee's
Statement of Eligibility on Form T-1 filed as Exhibit 25.1 to the
Registration Statement on Form S-3ASR
(Commission File No. 333-142343) filed on April 25, 2007.

Exhibit 3 to Form T-1

**AUTHORIZATION OF
BRANCH BANKING AND TRUST COMPANY
TO EXERCISE CORPORATE TRUST POWERS**

Incorporated by reference to the exhibit of the same number to the trustee's Statement of Eligibility on Form T-1 filed as Exhibit 25.1 to the Registration Statement on Form S-3ASR (Commission File No. 333-149371) filed on February 25, 2008.

Exhibit 4 to Form T-1

**BYLAWS OF
BRANCH BANKING AND TRUST COMPANY**

Incorporated by reference to the exhibit of the same number to the trustee's
Statement of Eligibility on Form T-1 filed as Exhibit 25.1 to the
Registration Statement on Form S-3ASR
(Commission File No. 333-142343) filed on April 25, 2007.

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 the Subordinated Debt Securities of Martin Marietta Materials, Inc., Branch Banking and Trust Company 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.

February 17, 2009

Branch Banking and Trust Company

By: /s/ Gregory Yanok
Gregory Yanok
Vice President

Exhibit 7 to Form T-1

REPORT OF CONDITION
BRANCH BANKING AND TRUST COMPANY

At the close of business December 31, 2008, published in accordance with Federal regulatory authority instructions.

	Dollar Amounts in Thousands
ASSETS	
Cash and balances due from depository institutions:	
Noninterest-bearing balances and currency and coin	1,675,910
Interest-bearing balances	540,503
Securities:	
Held-to-maturity securities	0
Available-for-sale securities	32,018,286
Federal funds sold and securities purchased under agreements to resell:	
Federal funds sold in domestic offices	10,676
Securities purchased under agreements to resell	0
Loans and lease financing receivables:	
Loans and leases held for sale	1,412,772
Loans and leases, net of unearned income	94,751,712
LESS: Allowance for loan and lease losses	1,352,369
Loans and leases, net of unearned income and allowance	93,399,343
Trading assets	1,025,932
Premises and fixed assets (including capitalized leases)	1,547,129
Other real estate owned	558,263
Investments in unconsolidated subsidiaries and associated companies	1,425
Not applicable	
Intangible assets:	
Goodwill	5,263,195
Other intangible assets	972,527
Other assets:	9,057,685
Total assets	147,483,646

	Dollar Amounts in Thousands
LIABILITIES	
Deposits:	
In domestic offices	89,122,999
Noninterest-bearing	13,704,847
Interest-bearing	75,418,152
In foreign offices, Edge and Agreement subsidiaries, and IBFs:	9,384,877
Noninterest-bearing	254,421
Interest-bearing	9,130,456
Federal funds purchased and securities sold under agreements to repurchase:	
Federal funds purchased in domestic offices	83,771
Securities sold under agreements to repurchase	2,648,500
Trading liabilities	758,415
Other borrowed money (includes mortgage indebtedness and obligations under capitalized leases)	19,312,965
Not applicable	
Not applicable	
Subordinated notes and debentures	1,661,571
Other liabilities	8,005,900
Total liabilities	<u>130,978,998</u>
Minority interest in consolidated subsidiaries	2,938,586
EQUITY CAPITAL	
Perpetual preferred stock and related surplus	0
Common stock	24,437
Surplus (excludes all surplus related to preferred stock)	10,591,486
Not available	
Retained earnings	3,685,159
Accumulated other comprehensive income	(735,020)
Other equity capital components	0
Total equity capital	<u>13,566,062</u>
Total liabilities, minority interest, and equity capital	<u>147,483,646</u>

Exhibit 8 to Form T-1

(Intentionally Omitted. Not Applicable.)

Exhibit 9 to Form T-1

(Intentionally Omitted. Not Applicable.)