

**UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION**

Washington, D.C. 20549

**FORM 10-K**

(Mark One)

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

For the fiscal year ended December 31, 2003

or

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

For the transition period from \_\_\_\_\_ to \_\_\_\_\_.

Commission File Number: 001-31911

**American Equity Investment Life Holding Company**

(Exact name of registrant as specified in its charter)

**Iowa**  
(State of Incorporation)

**42-1447959**  
(I.R.S. Employer Identification No.)

**5000 Westown Parkway, Suite 440**  
**West Des Moines, Iowa**  
(Address of principal executive offices)

**50266**  
(Zip Code)

Registrant's telephone number, including area code

**(515) 221-0002**  
(Telephone)

Securities registered pursuant to Section 12(b) of the Act:

| <b>Title of each class</b>  | <b>Name of each exchange on which registered</b> |
|-----------------------------|--|
| Common stock, par value \$1 | New York Stock Exchange                          |

Securities registered pursuant to Section 12(g) of the Act: Common Stock, par value \$1

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

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

Aggregate market value of the shares of the Registrant's common equity held by non-affiliates of the Registrant was \$393,652,138 based on the closing price of \$12.14 per share of common stock on the New York Stock Exchange on February 27, 2004.

Shares of common stock outstanding as of February 27, 2004: 36,099,035

Documents incorporated by reference: Portions of the Registrant's definitive proxy statement for the annual meeting of shareholders to be held June 10, 2004, which will be filed within 120 days after December 31, 2003, are incorporated by reference into Part III of this report.

Indicate by check mark if disclosure of delinquent filers pursuant to Item 405 of Regulation S-K is not contained herein, and will not be contained, to the best of registrant's knowledge, in definitive proxy or information statements incorporated by reference in Part III of this Form 10-K or any amendment to this Form 10-K.

## ITEM 1. BUSINESS

### Introduction

We were formed on December 15, 1995 to develop, market, issue and administer annuities and life insurance. We are a full service underwriter of a broad array of annuity and insurance products. Our business consists primarily of the sale of fixed rate and index annuities and, accordingly, we have only one business segment. Our business strategy is to focus on our annuity business and earn predictable returns by managing investment spreads and investment risk.

On June 5, 2001, we formed a New York domiciled insurance company named American Equity Investment Life Insurance Company of New York. We are currently licensed to sell our products in 47 states and the District of Columbia.

On December 9, 2003, we completed an initial public offering of 18,700,000 shares of our common stock at a price of \$9.00 per share. Pursuant to the over-allotment option granted to the underwriters in the offering, the underwriters purchased an additional 2,000,000 shares on December 29, 2003 and an additional 805,000 shares on January 7, 2004, which fully exercised the over-allotment option. The proceeds from our initial public offering (including proceeds from shares issued pursuant to the over-allotment option), net of the underwriting discount and expenses, were approximately \$178.0 million, of which \$125.0 million was contributed to American Equity Life to fund the future growth of our business.

Investor related information, including periodic reports filed on Forms 10-K, 10-Q and 8-K and all amendments to such reports may be found on our internet website at [www.american-equity.com](http://www.american-equity.com) as soon as reasonably practicable after such reports are filed with the SEC. We are in the process of adopting the following documents and will make them available prior to our annual meeting of shareholders on our website and in print upon request: (i) code of business conduct and ethics; (ii) audit committee charter; (iii) compensation committee charter; (iv) nominating/corporate governance committee charter and (v) corporate governance guidelines.

### Annuity Market Overview

Our target market includes the group of individuals ages 45-75 who are seeking to accumulate tax-deferred savings. We believe that significant growth opportunities exist for annuity products because of favorable demographic and economic trends. According to the U.S. Census Bureau, there were 35 million Americans age 65 and older in 2000, representing 12% of the U.S. population. By 2030, this sector of the population is expected to increase to 22% of the total population. Our fixed rate and index annuity products are particularly attractive to this group as a result of the guarantee of principal with respect to those products, competitive rates of credited interest, tax-deferred growth and alternative payout options.

According to LIMRA International, sales of individual annuities were \$219.9 billion in 2002 and \$185.3 billion in 2001. In 2002 (last year in which actual data is available), fixed annuity sales, which include equity index and fixed rate annuities, increased 39% to \$103.3 billion from \$74.3 billion in 2001. Sales of equity index annuities grew to \$11.8 billion in 2002, an increase of 74% from \$6.8 billion in 2001. Further, from 1997 through 2002, index annuity sales have grown from \$3.0 billion in 1997 to \$11.8 billion. We believe index annuities, which have a crediting rate linked to the change in various indices, appeal to policyholders interested in participating in returns linked to equity and/or bond markets without the risk of loss of principal. Our wide range of fixed rate annuity products has enabled us to enjoy favorable growth during volatile equity and bond markets.

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### Strategy

Our business strategy is to focus on our annuity business and earn predictable returns by managing investment spreads and investment risk. Key elements of this strategy include the following:

**Expand our Current Independent Agency Network.** We believe that our successful relationships with approximately 60 national marketing organizations and, through them, 42,000 independent agents, represent a significant competitive advantage. We intend to grow and enhance our core distribution channel by expanding our relationships with national marketing organizations and independent agents, by addressing their product needs and by providing the highest quality service possible.

**Continue to Introduce Innovative and Competitive Products.** We intend to be at the forefront of the fixed and index annuity industry in developing and introducing innovative and new competitive products. We were the first company to introduce an index annuity which allowed policyholders to earn returns linked to the Dow Jones Index<sup>SM</sup>. We were also one of the first companies to offer an index product offering a choice among interest crediting strategies which includes both equity and bond indices as well as a traditional fixed rate strategy. We believe that our continued focus on anticipating and being responsive to the product needs of our independent agents and policyholders will lead to increased customer loyalty, revenues and profitability.

**Use our Expertise to Achieve Targeted Spreads on Annuity Products.** We have had a successful track record in achieving the targeted spreads on our annuity products. We intend to leverage our experience and expertise in managing the investment spread during a range of interest rate environments to achieve our targeted spreads.

**Maintain our Profitability Focus and Improve Operating Efficiency.** We are committed to improving our profitability by advancing the scope and sophistication of our investment management and spread capabilities and continuously seeking out operating efficiencies within our company. We have made substantial investments in technology improvements to our business, including the development of a password-secure website which allows our independent agents to receive proprietary sales, marketing and product materials and the implementation of software designed to enable us to operate in a completely paperless environment with respect to policy administration. Further, we have implemented competitive incentive programs for our national marketing organizations, agents and employees to stimulate performance.

**Take Advantage of the Growing Popularity of Some of Our Products.** We believe that the growing popularity of some of our products that allow equity and bond market participation without the risk of loss of the premium deposit presents an attractive opportunity to grow our business. We intend to capitalize on our reputation as a leading marketer of index annuities in this expanding segment of the annuity market.

### Products

Our products include fixed rate annuities, index annuities, a variable annuity and life insurance.

### *Fixed Rate Annuities*

These products, which accounted for approximately 36% and 39% of our total annuity deposits collected for the years ended December 31, 2003 and 2002, respectively, include single premium deferred annuities ("SPDAs"), flexible premium deferred annuities ("FPDAs") and single premium immediate annuities ("SPIAs"). An SPDA generally involves the tax-deferred accumulation of interest on a single premium paid by the policyholder. After a number of years, as specified in the annuity contract, the annuitant may elect to take the proceeds of the annuity either in a single payment or in a

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series of payments for life, for a fixed number of years, or for a combination of these payment options. We also sell SPDAs, under which the annual crediting rate is guaranteed for either a three-year or a five-year period. FPDAs are similar to SPDAs in many respects, except that the FPDA allows additional deposits in varying amounts by the policyholder without a new application.

Our SPDAs and FPDAs (excluding the multi-year rate guaranteed products) generally have an interest rate (the "crediting rate") that is guaranteed by us for the first policy year. After the first policy year, we have the discretionary ability to change the crediting rate once annually to any rate at or above a guaranteed minimum rate. The guaranteed rate on our non-multi-year rate guaranteed policies in force and new issues ranges from 3% to 4% (2.25% effective January 1, 2004 for certain products). The guaranteed rate on our multi-year rate guaranteed policies in force ranges from 3.05% to 6.5% for the three-year rate guaranteed product and from 3.25% to 7% for the five-year rate guaranteed product. The initial crediting rate is largely a function of the interest rate we can earn on invested assets acquired with new annuity deposits and the rates offered on similar products by our competitors. For subsequent adjustments to crediting rates, we take into account the yield on our investment portfolio, annuity surrender assumptions, competitive industry pricing and crediting rate history for particular groups of annuity policies with similar characteristics.

Approximately 92% and 70% of our fixed rate annuity sales during the years ended December 31, 2003 and 2002, respectively, were "bonus" products. The initial crediting rate on these products specifies a bonus crediting rate ranging from 1% to 7% of the annuity deposit. After the first year, the bonus interest portion of the initial crediting rate is automatically discontinued, and the renewal crediting rate is established. Generally, there is a compensating adjustment in the commission paid to the agent to offset the first year interest bonus. In all situations, we obtain an acknowledgment from the policyholder, upon policy issuance, that a specified portion of the first year interest will not be paid in renewal years. As of December 31, 2003, crediting rates on our outstanding SPDAs and FPDAs generally ranged from 3.05% to 7%, excluding interest bonuses guaranteed for the first year. The average crediting rate on FPDAs and SPDAs including interest bonuses at December 31, 2003 was 5.16%, and the average crediting rate on those products excluding bonuses was 4.73%.

Policyholders are typically permitted to withdraw all or a part of the premium paid, plus accrued interest credited to the account (the "accumulation value"), subject to the assessment of a surrender charge for withdrawals in excess of specified limits. Most of our SPDAs and FPDAs provide for penalty-free withdrawals of up to 10% of the accumulation value each year after the first year, subject to limitations. Withdrawals in excess of allowable penalty-free amounts are assessed a surrender charge during a penalty period which generally ranges from 3 to 16 years after the date the policy is issued. This surrender charge is initially 9% to 25% of the accumulation value and generally decreases by approximately one to two percentage points per year during the surrender charge period. Surrender charges are set at levels aimed at protecting us from loss on early terminations and reducing the likelihood of policyholders terminating their policies during periods of increasing interest rates. This practice lengthens the effective duration of the policy liabilities and enhances our ability to maintain profitability on such policies.

Our SPIAs are designed to provide a series of periodic payments for a fixed period of time or for life, according to the policyholder's choice at the time of issue. The amounts, frequency, and length of time of the payments are fixed at the outset of the annuity contract. SPIAs are often purchased by persons at or near retirement age who desire a steady stream of payments over a future period of years. The implicit interest rate on SPIAs is based on market conditions when the policy is issued. The implicit interest rate on our outstanding SPIAs averaged 4.25% and 4.93% at December 31, 2003 and 2002, respectively.

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### *Index Annuities*

Index annuities accounted for approximately 64% and 61% of the total annuity deposits collected for the years ended December 31, 2003 and 2002, respectively. These products allow policyholders to link returns to the performance of a particular index without the risk of loss of their principal. Several of these products allow policyholders to transfer funds once a year among several different crediting strategies, including one or more index based strategies, a traditional fixed rate strategy and/or a multi-year rate guaranteed strategy.

The annuity contract value is equal to the premiums paid as increased for returns which are based upon a percentage (the "participation rate") of the annual appreciation (based in certain situations on monthly averages) in a recognized index or benchmark. The participation rate, which we may reset annually, generally varies among the index products from 50% to 100%. Some of the products also have an "asset fee" ranging from 1% to 4%, which is deducted from the interest to be credited. The asset fees may be adjusted annually by us, subject to stated limits. In addition, some products apply an overall limit (or "cap"), ranging from 7% to 13%, on the amount of annual interest the policyholder may earn in any one contract year, and the applicable cap also may be adjusted annually subject to stated minimums. The minimum guaranteed contract values are equal to 80% to 100% of the premium collected plus interest credited at an annual rate of 3% (2.25% effective January 1, 2004 for certain products). We purchase options on the applicable indices as an investment to provide the income needed to fund the amount of the index credits on the index products. The setting of the participation rates, asset fees and caps is a function of the interest rate we can earn on the invested assets acquired with annuity fund deposits, cost of options and features offered on similar products by competitors. Approximately 39% and 31% of our index annuity sales for the years ended December 31, 2003 and 2002, respectively, were "premium bonus" products. The initial annuity deposit on these policies is increased at issuance by the specified premium bonus ranging from 3% to 6%. Generally, there is a compensating adjustment in the commission paid to the agent to offset the premium bonus.

The index annuities provide for penalty-free withdrawals of up to 10% of premium or accumulation value (depending on the product) in each year after the first year of the annuity's term. Other withdrawals are subject to a surrender charge ranging initially from 9% to 25% over a surrender period ranging from 5 to 16 years. During the applicable surrender charge period, the surrender charges on some index products remain level, while on other index products, the surrender

charges decline by one to two percentage points per year. After a number of years, as specified in the annuity contract, the annuitant may elect to take the proceeds of the annuity either in a single payment or in a series of payments for life, for a fixed number of years, a combination of these payment options, or re-enter into a new contract term.

### *Variable Annuities*

Variable annuities differ from fixed rate and index annuities in that the policyholder, rather than the insurance company, bears the investment risk and the policyholder's return of principal and rate of return are dependent upon the performance of the particular investment option selected by the policyholder. Profits on variable annuities are derived from the fees charged to contract owners rather than from the investment spread.

In December 1997, we entered into a strategic alliance with Farm Bureau Life Insurance Company ("Farm Bureau") for the development, marketing and administration of variable annuity products. This alliance, which consists of the reinsurance and related administrative agreements discussed hereafter, enabled us to introduce variable products into our product line. An affiliate of Farm Bureau provides the administrative support necessary to manage this business, and is paid an administrative fee for those services. We share in 30% of the risks, costs and operating results of these products through the

reinsurance arrangement. See "Reinsurance" for additional information regarding this arrangement as well as Farm Bureau's beneficial ownership of our common stock.

### *Life Insurance*

These products include traditional ordinary and term, universal life and other interest-sensitive life insurance products. We have approximately \$2.7 billion of life insurance in force as of December 31, 2003. We acquired this business in 1995. We intend to continue offering a complete line of life insurance products for individual and group markets. Premiums related to this business accounted for 3%, 5% and 10% of the revenues in the years ended December 31, 2003, 2002 and 2001, respectively.

### **Investments**

Investment activities are an integral part of our business, and net investment income is a significant component of our total revenues. Profitability of many of our products is significantly affected by spreads between interest yields on investments and rates credited on annuity liabilities. Although substantially all credited rates on non-multi-year rate guaranteed SPDAs and FPDAs may be changed annually, subject to minimum guarantees, changes in crediting rates may not be sufficient to maintain targeted investment spreads in all economic and market environments. In addition, competition and other factors, including the potential for increases in surrenders and withdrawals, may limit our ability to adjust or to maintain crediting rates at levels necessary to avoid narrowing of spreads under certain market conditions. For the year ended December 31, 2003, the weighted average yield, computed on the average amortized cost basis of our investment portfolio, was 6.43%; the weighted average cost of our liabilities at December 31, 2003, excluding interest bonuses guaranteed for the first year of the annuity contract, was 4.13%.

We manage the indexed-based risk component of our index annuities by purchasing call options on the applicable indices to fund the annual index credits on these annuities and by adjusting the participation rates, asset fee rates and other product features to reflect the change in the cost of such options (which varies based on market conditions). All of such options are purchased to fund the index credits on our index annuities at their respective anniversary dates, and new options are purchased at each of the anniversary dates to fund the next annual index credits.

For additional information regarding the composition of our investment portfolio and our interest rate risk management, see "Management's Discussion and Analysis of Financial Condition and Results of Operations—Quantitative and Qualitative Disclosures About Market Risk" and note 3 to our audited consolidated financial statements.

### **Marketing**

We market our products through a variable cost brokerage distribution network of approximately 60 national marketing organizations and 42,000 independent agents as of December 31, 2003. We emphasize high quality service to our agents and policyholders along with the prompt payment of commissions to our agents. We believe this has been significant in building excellent relationships with our existing agency force.

Our independent agents and agencies range in profile from national sales organizations to personal producing general agents. We aggressively recruit new agents and expect to continue to expand our independent agency force. In our recruitment efforts, we emphasize that agents have direct access to our executive officers, giving us an edge in recruiting over larger and foreign-owned competitors. We also have favorable relationships with our national marketing organizations, which have enabled us to efficiently sell through an expanded number of independent agents. We are currently licensed to sell our products in 47 states and the District of Columbia. We have applied or anticipate applying for licenses to sell our products in the remaining states.

The insurance distribution system is comprised of insurance brokers and marketing organizations. We are pursuing a strategy to increase the size of our distribution network by developing additional relationships with national and regional marketing organizations. These organizations typically recruit agents for us by advertising our products and our commission structure, through direct mail advertising, or through seminars for insurance agents and brokers. These organizations bear most of the cost incurred in marketing our products. We compensate marketing organizations by paying them a percentage of the commissions earned on new annuity policy sales generated by the agents recruited in such organizations. We also conduct incentive programs for marketing organizations and agents from time to time, including equity-based programs for our leading national marketers. For additional information regarding our equity-based programs for our leading national marketers see note 10 to our audited consolidated financial statements. We generally do not enter into exclusive arrangements with these marketing organizations.

Two of our national marketing organizations each accounted for more than 10% of the annuity deposits and insurance premiums collections during the year ended December 31, 2003. The states with the largest share of direct premiums collected during 2003 were: California (11.7%), Florida (10.8%), Texas (9.5%), Illinois (7.3%) and Michigan (6.4%).

## Competition and Ratings

We operate in a highly competitive industry. Many of our competitors are substantially larger and enjoy substantially greater financial resources, higher ratings by rating agencies, broader and more diversified product lines and more widespread agency relationships. Our annuity products compete with index, fixed rate and variable annuities sold by other insurance companies and also with mutual fund products, traditional bank investments and other investment and retirement funding alternatives offered by asset managers, banks, and broker-dealers. Our insurance products compete with other insurance companies, financial intermediaries and other institutions based on a number of features, including crediting rates, policy terms and conditions, service provided to distribution channels and policyholders, ratings, reputation and broker compensation.

The sales agents for our products use the ratings assigned to an insurer by independent rating agencies as one factor in determining which insurer's annuity to market. In recent years, the market for annuities has been dominated by those insurers with the highest ratings. American Equity Life has received a financial strength rating of "B++" (Very Good) with a negative outlook from A.M. Best Company and "BBB+" with a stable outlook from Standard & Poor's. In July, 2002, A.M. Best Company and Standard & Poor's adjusted our financial strength ratings from "A-" (Excellent) to "B++" (Very Good) and "A-" to "BBB+", respectively. The adjustments initially had no impact on sales of new annuity products or in lapses of existing balances. Beginning in November, 2002, our monthly sales volumes began to decline primarily as a result of certain actions by us, including reductions in crediting rates and suspension of new sales of some products. The degree to which ratings adjustments also contributed to this decline is unknown. Our ability to grow sales of new annuities and the level of surrenders of our existing annuity contracts in force during 2004 may be affected by the current ratings.

Financial strength ratings generally involve quantitative and qualitative evaluations by rating agencies of a company's financial condition and operating performance. Generally, rating agencies base their ratings upon information furnished to them by the insurer and upon their own investigations, studies and assumptions. Ratings are based upon factors of concern to policyholders, agents and intermediaries and are not directed toward the protection of investors and are not recommendations to buy, sell or hold securities.

A.M. Best Company ratings currently range from "A++" (Superior) to "F" (In Liquidation), and include 16 separate ratings categories. Within these categories, "A++" (Superior) and "A+" (Superior)

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are the highest, followed by "A" (Excellent) and "A-" (Excellent) then followed by "B++" (Very Good) and "B+" (Very Good). Publications of A.M. Best Company indicate that the "B++" rating is assigned to those companies that, in A.M. Best Company's opinion, have demonstrated a good ability to meet their ongoing obligations to policyholders.

Standard & Poor's insurer financial strength ratings currently range from "AAA" to "NR", and include 21 separate ratings categories. Within these categories, "AAA" and "AA" are the highest, followed by "A" and "BBB". Publications of Standard & Poor's indicate that an insurer rated "BBB" or higher is regarded as having strong financial security characteristics, but is somewhat more likely to be affected by adverse business that are higher rated insurers.

A.M. Best Company and Standard & Poor's review their ratings of insurance companies from time to time. There can be no assurance that any particular rating will continue for any given period of time or that it will not be changed or withdrawn entirely if, in their judgment, circumstances so warrant. If our ratings were to be adjusted again for any reason, we could experience a material decline in the sales of our products and the persistency of our existing business.

## Reinsurance

### Coinsurance

Effective August 1, 2001, American Equity Life entered into a coinsurance agreement with EquiTrust, an affiliate of Farm Bureau, covering 70% of certain of our non-multi-year rate guarantee fixed annuities and index annuities issued from August 1, 2001 through December 31, 2001, and 40% of those contracts for 2002 and 2003. EquiTrust has received a financial strength rating of "A" from A.M. Best Company. As of December 31, 2003, Farm Bureau beneficially owned 14.9% of our issued and outstanding common stock. Total annuity deposits ceded were approximately \$649.4 million, \$837.9 million and \$418.3 million for the years ended December 31, 2003, 2002 and 2001, respectively. We received expense allowances of approximately \$65.6 million, \$99.4 million and \$51.2 million under this agreement for the years ended December 31, 2003, 2002 and 2001, respectively. The balance due under this agreement to EquiTrust was \$22.6 million at December 31, 2003 and \$1.5 million at December 31, 2002, and represents the market value of the call options related to the ceded business held by us to fund the index credits and cash due to or from EquiTrust related to the transfer of ceded annuity deposits. At December 31, 2003 and 2002, the aggregate policy benefit reserves transferred to EquiTrust under this agreement were \$1.93 billion and \$1.29 billion, respectively. We remain liable with respect to the policy liabilities ceded to EquiTrust should it fail to meet the obligations assumed by it.

On December 29, 2003, American Equity Life entered into a coinsurance agreement with EquiTrust, effective January 1, 2004, covering 20% of certain of our non-multi-year rate guarantee fixed annuities and index annuities. However, for each calendar year, the quota share will reduce to 0% in any month where the year-to-date premium ceded exceeds \$500 million at the end of the prior month. This agreement may be terminated at any time by either party upon the giving of forty-five days prior notice.

During 1998, American Equity Life also entered into a modified coinsurance agreement to cede 70% of its variable annuity business to EquiTrust. Separate account deposits ceded under this agreement during the years ended December 31, 2003, 2002 and 2001 were immaterial. Under this agreement and related administrative services agreements, we paid EquiTrust \$0.2 million for the each of years ended December 31, 2003, 2002 and 2001. The modified coinsurance agreement has an initial term of four years and will continue thereafter until termination by written notice at the election of either party. Any such termination will apply to the submission or acceptance of new policies, and business reinsured under the agreement prior to any such termination is not eligible for recapture before the expiration of 10 years.

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## Financial Reinsurance

American Equity Life has entered into two reinsurance transactions with Hannover Life Reassurance Company of America, Hannover, which are treated as reinsurance under statutory accounting practices and as financial reinsurance under accounting principles generally accepted in the United States, ("GAAP"). Hannover has received a financial strength rating of "A+" from A.M. Best Company. The first transaction became effective November 1, 2002 (the "2002 Hannover Transaction") and the second transaction became effective September 30, 2003 (the "2003 Hannover Transaction"). The agreements for these transactions include a coinsurance segment and a yearly renewable term segment reinsuring a portion of death benefits payable on certain annuities issued from January 1, 2002 to December 31, 2002 (2002 Hannover Transaction) and issued from January 1, 2003 to September 30, 2003 (the 2003 Hannover Transaction). The coinsurance segments provide reinsurance to the extent of 6.88% (2002 Hannover Transaction) and 13.41% (2003 Hannover Transaction) of all risks associated with our annuity policies covered by these reinsurance agreements. The 2002 Hannover Transaction provided approximately \$29.8 million in statutory surplus benefit during 2002 and \$6.8 million in statutory surplus reduction during 2003. The 2003 Hannover Transaction provided approximately \$29.7 million in statutory surplus benefit during 2003. The remaining statutory surplus benefit under these agreements will be reduced in the following years as follows: 2004—\$10.9 million; 2005—\$11.6 million; 2006—\$12.4 million; 2007—\$13.2 million; 2008—\$6.2 million. Risk charges attributable to the 2003 and 2002 Hannover Transactions of \$1.6 million were incurred during 2003.

The statutory surplus benefit provided by the 2003 Hannover Transaction replaced the statutory surplus benefit previously provided by a financial reinsurance agreement with a subsidiary of Swiss Reinsurance Company. We have terminated this agreement and have recaptured all reserves subject to this agreement effective September 30, 2003. This agreement was effective January 1, 2001, and provided an initial statutory surplus benefit of \$35.0 million in 2001. The statutory surplus benefit remaining at January 1, 2003 was \$30.9 million, all of which was eliminated during 2003. Risk charges and interest expense incurred on the cash portion of the surplus benefit provided by the agreement were \$0.2 million, \$0.6 million and \$0.5 million for the years ended December 31, 2003, 2002 and 2001, respectively.

## Indemnity Reinsurance

Consistent with the general practice of the life insurance industry, American Equity Life enters into agreements of indemnity reinsurance with other insurance companies in order to reinsure portions of the coverage provided by its life and accident and health insurance products. Indemnity reinsurance agreements are intended to limit a life insurer's maximum loss on a large or unusually hazardous risk or to diversify its risks. The maximum loss retained by us on all life insurance policies we have issued was \$0.1 million or less as of December 31, 2003. Indemnity reinsurance does not discharge the original insurer's primary liability to the insured. American Equity Life's reinsured business related to these blocks of business is primarily ceded to two reinsurers. Reinsurance related to life and accident and health insurance that was ceded by us primarily to two reinsurers was immaterial. We believe the assuming companies will be able to honor all contractual commitments, based on our periodic review of their financial statements, insurance industry reports and reports filed with state insurance departments.

## Regulation

Life insurance companies are subject to regulation and supervision by the states in which they transact business. State insurance laws establish supervisory agencies with broad regulatory authority, including the power to:

- grant and revoke licenses to transact business;
- regulate and supervise trade practices and market conduct;

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- establish guaranty associations;
  - license agents;
  - approve policy forms;
  - approve premium rates for some lines of business;
  - establish reserve requirements;
  - prescribe the form and content of required financial statements and reports;
  - determine the reasonableness and adequacy of statutory capital and surplus;
  - perform financial, market conduct and other examinations;
  - define acceptable accounting principles;
  - regulate the type and amount of permitted investments;
  - limit the amount of dividends and surplus note payments that can be paid without obtaining regulatory approval.

State insurance regulators and the National Association of Insurance Commissioners, or NAIC, continually reexamine existing laws and regulations, and may impose changes in the future.

Our life subsidiaries are subject to periodic examinations by state regulatory authorities. In 2002, the Iowa Insurance Division completed an examination of American Equity Life, as of December 31, 2000. No adjustments to our financial statements were recommended or required as a result of this examination.

The payment of dividends or the distributions, including surplus note payments, by our life subsidiaries is subject to regulation by each subsidiary's state of domicile's insurance department. Currently, American Equity Life may pay dividends or make other distributions without the prior approval of its state of domicile's insurance department, unless such payments, together with all other such payments within the preceding twelve months, exceed the greater of (1) American Equity Life's statutory net gain from operations for the preceding calendar year, or (2) 10% of American Equity Life's statutory surplus at the preceding December 31. For 2004, up to approximately \$37.5 million can be distributed as dividends by American Equity Life without prior approval of its state of domicile's insurance department. In addition, dividends and surplus note payments may be made only out of earned surplus, and all surplus note payments are subject to prior approval by regulatory authorities. American Equity Life had approximately \$69.8 million of earned surplus at December 31, 2003.

Most states have also enacted regulations on the activities of insurance holding company systems, including acquisitions, extraordinary dividends, the terms of surplus notes, the terms of affiliate transactions and other related matters. We are registered pursuant to such legislation in Iowa. Recently, a number of state legislatures have considered or have enacted legislative proposals that alter and, in many cases, increase the authority of state agencies to regulate insurance companies and holding company systems.

Most states, including Iowa and New York where our life subsidiaries are domiciled, have enacted legislation or adopted administrative regulations affecting the acquisition of control of insurance companies as well as transactions between insurance companies and persons controlling them. The nature and extent of such legislation and regulations currently in effect vary from state to state. However, most states require administrative approval of the direct or indirect acquisition of 10% or more of the outstanding voting securities of an insurance company incorporated in the state. The acquisition of 10% of such securities is generally deemed to be the acquisition of "control" for the purpose of the holding company statutes and requires not only the filing of detailed information

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concerning the acquiring parties and the plan of acquisition, but also administrative approval prior to the acquisition. In many states, the insurance authority may find that "control" in fact does not exist in circumstances in which a person owns or controls more than 10% of the voting securities.

Although the federal government does not directly regulate the business of insurance, federal legislation and administrative policies in several areas, including pension regulation, age and sex discrimination, financial services regulation, securities regulation and federal taxation can significantly affect the insurance business. In addition, legislation has been passed which could result in the federal government assuming some role in regulating insurance companies and which allows combinations between insurance companies, banks and other entities.

In 1998, the Securities and Exchange Commission ("SEC") requested comments as to whether index annuities, such as those sold by us, should be treated as securities under the federal securities laws rather than as insurance products. Treatment of these products as securities would likely require additional registration and licensing of these products and the agents selling them, as well as cause us to seek additional marketing relationships for these products. No action has been taken by the SEC on this issue.

State insurance regulators and the NAIC are continually reexamining existing laws and regulations and developing new legislation for the passage by state legislatures and new regulations for adoption by insurance authorities. Proposed laws and regulations or those still under development pertain to insurer solvency and market conduct and in recent years have focused on:

- insurance company investments;
- risk-based capital ("RBC") guidelines, which consist of regulatory targeted surplus levels based on the relationship of statutory capital and surplus, with prescribed adjustments, to the sum of stated percentages of each element of a specified list of company risk exposures;
- the implementation of non-statutory guidelines and the circumstances under which dividends may be paid;
- product approvals;
- agent licensing;
- underwriting practices;
- insurance and annuity sales practices.

The NAIC's RBC requirements are intended to be used by insurance regulators as an early warning tool to identify deteriorating or weakly capitalized insurance companies for the purpose of initiating regulatory action. The RBC formula defines a new minimum capital standard which supplements low, fixed minimum capital and surplus requirements previously implemented on a state-by-state basis. Such requirements are not designed as a ranking mechanism for adequately capitalized companies.

The NAIC's RBC requirements provide for four levels of regulatory attention depending on the ratio of a company's total adjusted capital to its RBC. Adjusted capital is defined as the total of statutory capital, surplus, asset valuation reserve and certain other adjustments. Calculations using the NAIC formula at December 31, 2003, indicate that the ratio of total adjusted capital to RBC for us exceeded the highest level at which regulatory action might be triggered by approximately 2.8 times.

Our life subsidiaries also may be required, under the solvency or guaranty laws of most states in which they do business, to pay assessments up to certain prescribed limits to fund policyholder losses or liabilities of insolvent insurance companies. These assessments may be deferred or forgiven under most guaranty laws if they would threaten an insurer's financial strength and, in certain instances, may be

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offset against future premium taxes. Assessments related to business reinsured for periods prior to the effective date of the reinsurance are the responsibility of the ceding companies. Given the short period of time since the inception of our business, we believe that assessments, if any, will be minimal.

## **Federal Income Taxation**

The annuity and life insurance products that we market and issue generally provide the policyholder with a federal income tax advantage, as compared to other savings investments such as certificates of deposit and taxable bonds, in that federal income taxation on any increases in the contract values of these products is deferred until it is received by the policyholder. With other savings investments, the increase in value is taxed as earned (i.e., realized). Annuity benefits and life insurance benefits, which accrue prior to the death of the policyholder, are generally not taxable until paid. Life insurance death benefits are generally exempt from income tax. Also, benefits received on immediate annuities are recognized as taxable income ratably, as opposed to the methods used for some other investments which tend to accelerate taxable income into earlier years.

From time to time, various tax law changes have been proposed that could have an adverse effect on our business, including the elimination of all or a portion of the income tax advantage for annuities and life insurance. If legislation were enacted to eliminate the tax deferral for annuities, such a change would have an adverse effect on our ability to sell non-qualified annuities. Non-qualified annuities are annuities that are not sold to an individual retirement account or other qualified retirement plan.

In June 2001, the Economic Growth and Tax Relief Reconciliation Act of 2001 (the "2001 Act") was enacted. The 2001 Act contains provisions that will, over time, significantly lower individual income tax rates. The 2001 Act will have the effect of reducing the benefits of deferral on the build-up of value of annuities and life insurance products. Some of these changes might hinder sales of our annuities and result in the increased surrender of annuities.

In May 2003, the Jobs and Growth Tax Relief Reconciliation Act of 2003 (the "2003 Act") was enacted. The 2003 Act provisions accelerate the individual income tax rate reductions passed in the 2001 Act. In addition, the 2003 Act will have the effect of reducing the benefits of deferral on the build-up of value of annuities and life insurance products. Some of these changes might hinder our sales of annuities and result in the increased surrender of annuities.

Our life subsidiaries are taxed under the life insurance company provisions of the Internal Revenue Code of 1986, as amended (the "Code"). Provisions in the Code require a portion of the expenses incurred in selling insurance products to be capitalized and deducted over a period of years, as opposed to being immediately deducted in the year incurred. This provision increases the income tax for statutory accounting purposes which reduces statutory net income and surplus and, accordingly, may decrease the amount of cash dividends that may be paid by our life subsidiaries.

## **Employees**

As of December 31, 2003, we had approximately 210 full-time employees, of which approximately 200 are located in West Des Moines, Iowa, and 10 are located in the Pell City, Alabama office. We have experienced no work stoppages or strikes and consider our relations with our employees to be excellent. None of our employees are represented by a union.

## **ITEM 2. PROPERTIES**

We do not own any real estate. We lease space for our principal offices in West Des Moines, Iowa, pursuant to written leases for approximately 45,000 square feet. The leases expire on June 30, 2006 and have a renewal option for an additional five year term at a rental rate equal to the prevailing fair

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market rate. We also lease space for our office in Pell City, Alabama, pursuant to a written lease dated January 3, 2000, for approximately 3,380 square feet. This lease expires on December 31, 2004.

## **ITEM 3. LEGAL PROCEEDINGS**

We are occasionally involved in litigation, both as a defendant and as a plaintiff. In addition, state regulatory bodies, such as state insurance departments, the SEC, the National Association of Securities Dealers, Inc., the Department of Labor, and other regulatory bodies regularly make inquiries and conduct examinations or investigations concerning our compliance with, among other things, insurance laws, securities laws, the Employee Retirement Income Security Act of 1974, as amended and laws governing the activities of broker-dealers.

Companies in the life insurance and annuity business have faced litigation, including class action lawsuits, alleging improper product design, improper sales practices and similar claims. We are currently a defendant in two purported class action lawsuits filed in state courts alleging improper sales practices. In both lawsuits, the plaintiffs are seeking returns of premiums and other compensatory and punitive damages. In neither case has the class been certified at this time. Although we have denied all allegations in these lawsuits and intend to vigorously defend against them, the lawsuits are in the early stages of litigation and their outcomes cannot at this time be determined. However, we do not believe that these lawsuits will have a material adverse effect on our business, financial condition or results of operations.

In addition, we are from time to time, subject to other legal proceedings and claims in the ordinary course of business, none of which we believe are likely to have a material adverse effect on our financial position, results of operations or cash flows. There can be no assurance that such litigation, or any future litigation, will not have a material adverse effect on our business, financial condition or results of operations.

## **ITEM 4. SUBMISSION OF MATTERS TO A VOTE OF SECURITY HOLDERS**

None.

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## Part II

### ITEM 5. MARKET FOR REGISTRANT'S COMMON EQUITY, RELATED STOCKHOLDER MATTERS AND ISSUER PURCHASES OF EQUITY SECURITIES

Our common stock began trading on the New York Stock Exchange ("NYSE") under the symbol "AEL" following our initial public offering ("IPO"). The high and low closing prices for our common stock on the NYSE for the period from December 4, 2003 to December 31, 2003 were \$9.97 and \$9.01, respectively.

The proceeds from our IPO (including proceeds from shares issued pursuant to the over-allotment option), net of the underwriting discount and expenses, were approximately \$178.0 million, of which \$125.0 million was contributed to American Equity Life to fund the future growth of our business.

In 2003 and 2002, we paid a cash dividend of \$0.01 per share on our common stock and \$0.03 on our series preferred stock. We intend to continue to pay an annual cash dividend on such shares so long as we have sufficient capital and/or future earnings to do so. However, we anticipate retaining most of our future earnings, if any, for use in our operations and the expansion of our business. Any further determination as to dividend policy will be made by our board of directors and will depend on a number of factors, including our future earnings, capital requirements, financial condition and future prospects and such other factors as our board of directors may deem relevant.

Our credit agreement limits our ability to declare or pay dividends. In addition, since we are a holding company, our ability to pay cash dividends depends in large measure on our subsidiaries' ability to make distributions of cash or property to us. Iowa insurance laws restrict the amount of distributions American Equity Life can pay to us without the approval of the Iowa Insurance Division. See "Management's Discussion and Analysis of Financial Condition and Results of Operations" and notes 7 and 11 to our consolidated financial statements.

On December 9, 2003, we completed an initial public offering of 18,700,000 shares of our common stock at a price of \$9.00 per share. The managing underwriters for the offering were Merrill Lynch, Pierce, Fenner & Smith Incorporated, Advest, Inc., Raymond James & Associates, Inc. and Sanders Morris Harris Inc. The shares of common stock sold in the offering were registered under the Securities Act of 1933, as amended, on a Registration Statement on Form S-1 (Registration No. 333-108794) that was declared effective by the Securities and Exchange Commission on December 3, 2003. Pursuant to the over-allotment option granted to the underwriters in the offering, the underwriters purchased an additional 2,000,000 shares on December 29, 2003 and an additional 805,000 shares on January 7, 2004, which fully exercised the over-allotment option. The offering did not terminate until after the sale of all of the securities registered on the Registration Statement. The aggregate gross proceeds to us from our initial public offering were approximately \$186.3 million. The estimated aggregate net proceeds to us from the offering were approximately \$171.3 million, after deducting an aggregate of approximately \$13.0 million in underwriting discounts and commissions paid to the underwriters and an estimated \$2.0 million in other expenses incurred in connection with the offering. We contributed \$125.0 million of the net proceeds of the offering to American Equity Life to fund future growth of our business. In connection with the IPO, we did not make any payments, directly or indirectly, to any of our directors or officers, or, to our knowledge, any of their associates, or to any person owning ten percent or more of any class of our equity securities, or to any of our affiliates.

There were no sales of unregistered equity securities during 2003.

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### ITEM 6. SELECTED CONSOLIDATED FINANCIAL AND OTHER DATA

The summary consolidated financial and other data should be read in conjunction with "Management's Discussion and Analysis of Financial Condition and Results of Operations" and our consolidated financial statements and related notes appearing elsewhere in this report. The results for past periods are not necessarily indicative of results that may be expected for future periods.

|   | Year ended December 31, |                |                |                |               |
|---|-------------------------|----------------|----------------|----------------|---------------|
|   | 2003                    | 2002           | 2001           | 2000           | 1999          |
| (Dollars in thousands, except per share data)                         |                         |                |                |                |               |
| <b>Consolidated Statements of Income Data:</b>                        |                         |                |                |                |               |
| <b>Revenues</b>   |                         |                |                |                |               |
| Traditional life and accident and health insurance premiums           | \$ 13,686               | \$ 13,664      | \$ 13,141      | \$ 11,034      | \$ 10,294     |
| Annuity and single premium universal life product charges             | 20,452                  | 15,376         | 12,520         | 8,338          | 3,452         |
| Net investment income   | 358,529                 | 308,548        | 209,086        | 100,060        | 66,679        |
| Realized gains (losses) on investments                                | 6,946                   | (122)          | 787            | (1,411)        | (87)          |
| Change in fair value of derivatives(a)                                | 52,525                  | (57,753)       | (55,158)       | (3,406)        | (528)         |
| <b>Total revenues</b>   | <b>452,138</b>          | <b>279,713</b> | <b>180,376</b> | <b>114,615</b> | <b>79,810</b> |
| <b>Benefits and expenses</b>  |                         |                |                |                |               |
| Insurance policy benefits and change in future policy benefits        | 11,824                  | 9,317          | 9,762          | 8,728          | 7,232         |
| Interest credited to account balances                                 | 242,543                 | 177,633        | 97,923         | 56,529         | 41,727        |
| Change in fair value of embedded derivatives(a)                       | 66,801                  | (5,027)        | 12,921         | —              | —             |
| Interest expense on General Agency Commission and Servicing Agreement | 3,000                   | 3,596          | 5,716          | 5,958          | 3,861         |
| Interest expense on notes payable                                     | 1,486                   | 1,901          | 2,881          | 2,339          | 896           |
| Interest expense on subordinated debentures(b)                        | 7,661                   | —              | —              | —              | —             |

|  |                  |                  |                |                 |                 |
|--|------------------|------------------|----------------|-----------------|-----------------|
| Interest expense on amounts due under repurchase agreements  | 1,140            | 734              | 1,123          | 3,267           | 3,491           |
| Other interest expense   | 138              | 1,043            | 381            | —               | —               |
| Amortization of deferred policy acquisition costs  | 52,982           | 39,930           | 23,040         | 8,574           | 7,063           |
| Other operating costs and expenses   | 25,618           | 21,635           | 17,176         | 14,602          | 12,445          |
| <b>Total benefits and expenses</b>   | <b>413,193</b>   | <b>250,762</b>   | <b>170,923</b> | <b>99,997</b>   | <b>76,715</b>   |
| Income before income taxes, minority interests and cumulative effect of change in accounting principle         | 38,945           | 28,951           | 9,453          | 14,618          | 3,095           |
| Income tax expense (benefit)   | 13,505           | 7,299            | 333            | 2,385           | (1,370)         |
| Income before minority interests and cumulative effect of change in accounting principle                       | 25,440           | 21,652           | 9,120          | 12,233          | 4,465           |
| Minority interests in subsidiaries:  |                  |                  |                |                 |                 |
| Earnings attributable to company-obligated mandatorily redeemable preferred securities of subsidiary trusts(b) | —                | 7,445            | 7,449          | 7,449           | 2,022           |
| Income before cumulative effect of change in accounting Principle  | 25,440           | 14,207           | 1,671          | 4,784           | 2,443           |
| Cumulative effect of change in accounting for derivatives(a)   | —                | —                | (799)          | —               | —               |
| <b>Net income(c)</b>   | <b>\$ 25,440</b> | <b>\$ 14,207</b> | <b>\$ 872</b>  | <b>\$ 4,784</b> | <b>\$ 2,443</b> |

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#### Per Share Data:

##### Earnings per common share:

|   |         |         |         |         |         |
|---|---------|---------|---------|---------|---------|
| Income before cumulative effect of change in accounting principle | \$ 1.45 | \$ 0.87 | \$ 0.10 | \$ 0.29 | \$ 0.15 |
| Cumulative effect of change in accounting for derivatives(a)      | —       | —       | (0.05)  | —       | —       |

|                                  |                |                |                |                |                |
|----------------------------------|----------------|----------------|----------------|----------------|----------------|
| <b>Earnings per common share</b> | <b>\$ 1.45</b> | <b>\$ 0.87</b> | <b>\$ 0.05</b> | <b>\$ 0.29</b> | <b>\$ 0.15</b> |
|----------------------------------|----------------|----------------|----------------|----------------|----------------|

##### Earnings per common share—assuming dilution:

|   |         |         |         |         |         |
|---|---------|---------|---------|---------|---------|
| Income before cumulative effect of change in accounting principle | \$ 1.21 | \$ 0.76 | \$ 0.09 | \$ 0.26 | \$ 0.14 |
| Cumulative effect of change in accounting for derivatives(a)      | —       | —       | (0.04)  | —       | —       |

|  |                |                |                |                |                |
|--|----------------|----------------|----------------|----------------|----------------|
| <b>Earnings per common share—assuming dilution</b> | <b>\$ 1.21</b> | <b>\$ 0.76</b> | <b>\$ 0.05</b> | <b>\$ 0.26</b> | <b>\$ 0.14</b> |
|--|----------------|----------------|----------------|----------------|----------------|

|                                     |         |         |         |         |         |
|-------------------------------------|---------|---------|---------|---------|---------|
| Dividends declared per common share | \$ 0.01 | \$ 0.01 | \$ 0.01 | \$ 0.01 | \$ 0.01 |
|-------------------------------------|---------|---------|---------|---------|---------|

#### Consolidated Balance Sheet Data:

|  |              |              |              |              |              |
|--|--------------|--------------|--------------|--------------|--------------|
| Total assets(g)  | \$ 8,989,177 | \$ 7,327,789 | \$ 4,819,220 | \$ 2,528,126 | \$ 1,717,619 |
| Policy benefit reserves(g)   | 8,315,874    | 6,737,888    | 4,420,720    | 2,099,915    | 1,358,876    |
| Amounts due to related party under General Agency Commission and Servicing Agreement         | 40,601       | 40,345       | 46,607       | 76,028       | 62,119       |
| Notes Payable  | 31,833       | 43,333       | 46,667       | 44,000       | 20,600       |
| Subordinated debentures(b)   | 116,425      | —            | —            | —            | —            |
| Company-obligated mandatorily redeemable preferred securities issued by subsidiary trusts(b) | —            | 100,486      | 100,155      | 99,503       | 98,982       |
| Total stockholders' equity   | 263,716      | 77,478       | 42,567       | 58,652       | 34,324       |

Year ended December 31,

| 2003 | 2002 | 2001 | 2000 | 1999 |
|------|------|------|------|------|
|------|------|------|------|------|

(Dollars in thousands, except per share data)

#### Other Data:

|  |            |            |            |            |            |
|--|------------|------------|------------|------------|------------|
| Book value per share(d)                                      | \$ 7.19    | \$ 4.67    | \$ 2.24    | \$ 3.35    | \$ 1.72    |
| Return on equity(e)  | 28.3%      | 23.7%      | 1.7%       | 10.3%      | 4.9%       |
| Number of agents   | 42,239     | 41,396     | 33,894     | 21,908     | 17,855     |
| Life subsidiaries' statutory capital and surplus             | \$ 374,587 | \$ 227,199 | \$ 177,868 | \$ 145,048 | \$ 139,855 |
| Life subsidiaries' statutory net gain (loss) from operations | 45,822     | 53,535     | (5,675)    | 9,190      | 30,498     |

before income taxes and realized capital gains (losses)

|  |        |        |          |        |        |
|--|--------|--------|----------|--------|--------|
| Life subsidiaries' statutory net income (loss)(c)(f) | 25,404 | 26,010 | (17,187) | 10,420 | 17,837 |
|--|--------|--------|----------|--------|--------|

- (a) The accounting change resulted from the adoption of Statement of Financial Accounting Standards No. 133, *Accounting for Derivative Instruments and Hedging Activities*, which became effective on January 1, 2001.
- (b) Effective December 31, 2003, we adopted Financial Accounting Standards Board Interpretation No. 46, *Consolidation of Variable Interest Entities, an Interpretation of Accounting Research Bulletin No. 51*. See note 1 to our audited financial statements.
- (c) Our GAAP net income and statutory net loss in 2001, were affected by a decision to maintain a significant liquid investment position after the September 11, 2001 terrorist attacks. See "Management's Discussion and Analysis of Financial Condition and Results of Operations—Results of Operations."
- (d) Book value per share is calculated as total stockholders' equity less the liquidation preference of our series preferred stock dividend by the total number of shares of common stock outstanding.
- (e) We define return on equity as net income divided by average total stockholders' equity. Average total stockholders' equity is determined based upon the total stockholders' equity at the beginning and the end of the year. The computation of average stockholders' equity for 2003 has been modified to recognize the

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significant increase in stockholders' equity that resulted from the receipt of the net proceeds from our initial public offering in December 2003.

- (f) Our statutory net loss in 2001, was also affected by (i) an increase in reserves related to sales of certain multi-year rate guaranteed products, which have reserve requirements that are higher in earlier years and (ii) income tax expense of \$6.0 million caused by a difference between statutory and tax basis reserves and other timing differences.
- (g) See note 1 to our audited financial statements for a discussion of a change in balance sheet presentation in 2003.

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## ITEM 7. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS

Management's discussion and analysis reviews our consolidated financial position at December 31, 2003 and 2002, and our consolidated results of operations for the three years in the period ended December 31, 2003, and where appropriate, factors that may affect future financial performance. This discussion should be read in conjunction with our consolidated financial statements, notes thereto and selected consolidated financial data appearing elsewhere in this report.

### Cautionary Statement Regarding Forward-Looking Information

All statements, trend analyses and other information contained in this report and elsewhere (such as in filings by us with the Securities and Exchange Commission, press releases, presentations by us or our management or oral statements) relative to markets for our products and trends in our operations or financial results, as well as other statements including words such as "anticipate", "believe", "plan", "estimate", "expect", "intend", and other similar expressions, constitute forward-looking statements. We caution that these statements may and often do vary from actual results and the differences between these statements and actual results can be material. Accordingly, we cannot assure you that actual results will not differ materially from those expressed or implied by the forward-looking statements. Factors that could contribute to these differences include, among other things:

- general economic conditions and other factors, including prevailing interest rate levels and stock and credit market performance which may affect (among other things) our ability to sell our products, our ability to access capital resources and the costs associated therewith, the market value of our investments and the lapse rate and profitability of our policies;
- customer response to new products and marketing initiatives;
- changes in the Federal income tax laws and regulations which may affect the relative income tax advantages of our products;
- increasing competition in the sale of annuities;
- regulatory changes or actions, including those relating to regulation of financial services affecting (among other things) bank sales and underwriting of insurance products and regulation of the sale, underwriting and pricing of products;
- the risk factors or uncertainties listed from time to time in our private placement memorandums or filings with the Securities and Exchange Commission.

### Overview

We specialize in the sale of individual annuities (primarily deferred annuities) and, to a lesser extent, we also sell life insurance policies. Under accounting principles generally accepted in the United States, or GAAP, premium collections for deferred annuities are reported as deposit liabilities instead of as revenues. Sources of revenues for products accounted for as deposit liabilities are net investment income, surrender charges deducted from the account balances of policyholders in connection with withdrawals, realized gains and losses on investments and changes in fair value of derivatives. Components of expenses for products accounted for as deposit liabilities are interest credited to account balances, changes in fair value of embedded derivatives, amortization of deferred policy acquisition costs, other operating costs and expenses and income taxes.

excess of the cost of the options purchased to fund the index-based component of the policyholder's return and amounts credited as a result of minimum guarantees.

Our investment spread is summarized as follows:

|   | December 31, |       |       |
|---|--------------|-------|-------|
|   | 2003         | 2002  | 2001  |
| Weighted average yield on invested assets                 | 6.43%        | 6.91% | 7.08% |
| Weighted average crediting rate for fixed rate annuities: |              |       |       |
| Annually adjustable                                       | 3.69%        | 4.69% | 5.17% |
| Multi-year rate guaranteed                                | 5.70%        | 5.82% | 6.24% |
| Weighted average net index costs for index annuities      | 3.46%        | 4.19% | 4.54% |
| Investment spread:  |              |       |       |
| Index annuities   | 2.97%        | 2.72% | 2.54% |
| Fixed rate annuities:                                     |              |       |       |
| Annually adjustable                                       | 2.74%        | 2.22% | 1.91% |
| Multi-year rate guaranteed                                | 0.73%        | 1.09% | 0.84% |

The weighted average crediting rate and investment spread are computed without the impact of first year bonuses paid to policyholders which are deferred as policy acquisition costs and amortized in future periods. See "Critical Accounting Policies—Deferred Policy Acquisition Costs". The weighted average crediting rate and investment spread for multi-year rate guaranteed fixed rate annuities reflect the higher crediting rates on these policies for which the targeted investment spread is lower than the targeted investment spread for annually adjustable fixed rate annuities. With respect to our index annuities, index costs represent the expenses we incur to fund the annual income credits through the purchase of options and minimum guaranteed interest credited on the index business. Gains realized on such options are recorded as part of the change in fair value of derivatives, and are largely offset by an expense for interest credited to annuity policyholder account balances.

Our profitability depends in large part upon the amount of assets under our management, investment spreads we earn on our policyholders' account balances, our ability to manage our investment portfolio to maximize returns and minimize risks such as interest rate changes, defaults or impairment of assets, our ability to manage costs of the options purchased to fund the interest credits on our index annuities, our ability to manage the costs of acquiring new business (principally commissions to agents and first year bonuses credited to policyholders) and our ability to manage our operating expenses.

### Critical Accounting Policies

The increasing complexity of the business environment and applicable authoritative accounting guidance require us to closely monitor our accounting policies. We have identified four critical accounting policies that are complex and require significant judgment. The following summary of our critical accounting policies is intended to enhance your ability to assess our financial condition and results of operations and the potential volatility due to changes in estimates.

#### Valuation of Investments

Our fixed maturity securities (bonds and redeemable preferred stocks maturing more than one year after issuance) and equity securities (common and non-redeemable preferred stocks) classified as available for sale are reported at estimated fair value. Unrealized gains and losses, if any, on these securities are included directly in a separate component of stockholders' equity, net of income taxes and certain adjustments for assumed changes in amortization of deferred policy acquisition costs. Fair values for securities that are actively traded are determined using quoted market prices. For fixed

maturity securities that are not actively traded, fair values are estimated using price matrices developed using yield data and other factors relating to instruments or securities with similar characteristics. The carrying amounts of all our investments are reviewed on an ongoing basis for credit deterioration. If this review indicates a decline in market value that is other than temporary, our carrying amount in the investment is reduced to its fair value and a specific writedown is taken. Such reductions in carrying amount are recognized as realized losses and charged to income.

Our periodic assessment of our ability to recover the amortized cost basis of investments that have materially lower quoted market prices requires a high degree of management judgment and involves uncertainty. Factors considered in evaluating whether a decline in value is other than temporary include:

- the length of time and the extent to which the fair value has been less than cost;
- the financial condition and near-term prospects of the issuer;
- whether the investment is rated investment grade;
- whether the issuer is current on all payments and all contractual payments have been made as agreed;

- our intent and ability to retain the investment for a period of time sufficient to allow for any anticipated recovery;
- consideration of rating agency actions;
- changes in cash flows of asset-backed and mortgage-backed securities.

In addition, for securities expected to be sold, an other than temporary impairment charge is recognized if we do not expect the fair value of a security to recover to cost or amortized cost prior to the expected date of sale. Once an impairment charge has been recorded, we then continue to review the other than temporarily impaired securities for appropriate valuation on an ongoing basis. Realized losses through a charge to earnings may be recognized in future periods should we later conclude that the decline in market value below amortized cost is other than temporary pursuant to our accounting policy described above.

At December 31, 2003 and 2002, the amortized cost and estimated fair value of fixed maturity securities and equity securities that were in an unrealized loss position were as follows:

|   | December 31, 2003      |                |                   |                      | December 31, 2002      |                |                   |                      |
|---|------------------------|----------------|-------------------|----------------------|------------------------|----------------|-------------------|----------------------|
|   | Number of Positions    | Amortized Cost | Unrealized Losses | Estimated Fair Value | Number of Positions    | Amortized Cost | Unrealized Losses | Estimated Fair Value |
|   | (Dollars in thousands) |                |                   |                      | (Dollars in thousands) |                |                   |                      |
| <b>Fixed maturity securities:</b>             |                        |                |                   |                      |                        |                |                   |                      |
| Available for sale:                           |                        |                |                   |                      |                        |                |                   |                      |
| United States Government and agencies         | 42                     | \$ 2,274,503   | \$ (57,686)       | \$ 2,216,817         | 5                      | \$ 179,828     | \$ (1,907)        | \$ 177,921           |
| Public utilities                              | 4                      | 27,057         | (189)             | 26,868               | 3                      | 10,008         | (2,907)           | 7,101                |
| Corporate securities                          | 14                     | 101,027        | (10,753)          | 90,274               | 34                     | 210,826        | (19,408)          | 191,418              |
| Redeemable preferred stocks                   | —                      | —              | —                 | —                    | 1                      | 1,000          | (240)             | 760                  |
| Mortgage and asset-backed securities:         |                        |                |                   |                      |                        |                |                   |                      |
| United States Government and agencies         | 4                      | 111,257        | (1,258)           | 109,999              | 2                      | 50,250         | (3,752)           | 46,498               |
| Non-government                                | 22                     | 421,583        | (37,725)          | 383,858              | 14                     | 153,616        | (43,008)          | 110,608              |
|   | 86                     | \$ 2,935,427   | \$ (107,611)      | \$ 2,827,816         | 59                     | \$ 605,528     | \$ (71,222)       | \$ 534,306           |
| Held for investment:                          |                        |                |                   |                      |                        |                |                   |                      |
| United States Government and agencies         | 33                     | \$ 1,751,532   | \$ (110,065)      | \$ 1,641,467         | 2                      | \$ 230,231     | \$ (579)          | \$ 229,652           |
|   | 33                     | \$ 1,751,532   | \$ (110,065)      | \$ 1,641,467         | 2                      | \$ 230,231     | \$ (579)          | \$ 229,652           |
| <b>Equity securities, available for sale:</b> |                        |                |                   |                      |                        |                |                   |                      |
| Non-redeemable preferred stocks               | 2                      | \$ 13,683      | \$ (132)          | \$ 13,551            | 1                      | \$ 2,650       | \$ (110)          | \$ 2,540             |
| Common stocks                                 | 2                      | 1,995          | (294)             | 1,701                | 6                      | 5,874          | (1,223)           | 4,651                |
|   | 4                      | \$ 15,678      | \$ (426)          | \$ 15,252            | 7                      | \$ 8,524       | \$ (1,333)        | \$ 7,191             |

The amortized cost and estimated fair value of fixed maturity securities at December 31, 2003 and 2002, by contractual maturity, that were in an unrealized loss position are shown below. Actual maturities will differ from contractual maturities because borrowers may have the right to call or prepay obligations with or without call or prepayment penalties. All of our mortgage-backed and asset-backed securities provide for periodic payments throughout their lives, and are shown below as a separate line.

|   | December 31, 2003      |                      |                     |                      | December 31, 2002      |                      |                     |                      |
|---|------------------------|----------------------|---------------------|----------------------|------------------------|----------------------|---------------------|----------------------|
|   | Available-for-sale     |                      | Held for investment |                      | Available-for-sale     |                      | Held for investment |                      |
|   | Amortized Cost         | Estimated Fair Value | Amortized Cost      | Estimated Fair Value | Amortized Cost         | Estimated Fair Value | Amortized Cost      | Estimated Fair Value |
|   | (Dollars in thousands) |                      |                     |                      | (Dollars in thousands) |                      |                     |                      |
| Due after one year through five years       | \$ 5                   | \$ 4                 | \$ —                | \$ —                 | \$ 5                   | \$ 4                 | \$ —                | \$ —                 |
| Due after five years through ten years      | 200,268                | 188,072              | —                   | —                    | 48,785                 | 45,522               | —                   | —                    |
| Due after ten years through twenty years    | 838,834                | 816,539              | 35,000              | 34,324               | 65,430                 | 56,339               | —                   | —                    |
| Due after twenty years                      | 1,363,480              | 1,329,344            | 1,716,532           | 1,607,143            | 287,442                | 275,335              | 230,231             | 229,652              |
|   | 2,402,587              | 2,333,959            | 1,751,532           | 1,641,467            | 401,662                | 377,200              | 230,231             | 229,652              |
| Mortgage-backed and asset-backed securities | 532,840                | 493,857              | —                   | —                    | 203,866                | 157,106              | —                   | —                    |
|   | \$ 2,935,427           | \$ 2,827,816         | \$ 1,751,532        | \$ 1,641,467         | \$ 605,528             | \$ 534,306           | \$ 230,231          | \$ 229,652           |

Approximately 69% and 79% of our total invested assets at December 31, 2003 and 2002, respectively, were in United States Government and agency fixed maturity securities. Mortgage and asset-backed securities including government and non-government issues represented approximately 11% and 4% of our total

invested assets at December 31, 2003 and 2002, respectively. Corporate securities represented approximately 7% and 8% of our total invested assets at December 31, 2003 and 2002, respectively. Mortgage loans on real estate represented 10% and 6% of our total invested assets

at December 31, 2003 and 2002, respectively. There are no other significant concentrations in the portfolio by type of security or by industry.

At December 31, 2003 and 2002, the fair value of investments we owned that were non-investment grade or not rated was \$91.5 million and \$51.9 million, respectively. Non-investment grade or not rated securities represented 1.7% and 1.1% at December 31, 2003 and 2002, respectively, of the fair value of our fixed maturity securities. The unrealized losses on investments we owned that were non-investment grade or not rated at December 31, 2003 and 2002, were \$10.8 million and \$19.8 million, respectively. The unrealized losses on such securities at December 31, 2003 and 2002 represented 4.9% and 27.6%, respectively, of gross unrealized losses on fixed maturity securities

At December 31, 2003 and 2002, we identified certain invested assets which have characteristics (i.e. significant unrealized losses compared to book value and industry trends) creating uncertainty as to our future assessment of other than temporary impairments which are listed below by length of time these invested assets have been in an unrealized loss position. This list is referred to as our watch list. We have excluded from this list securities with unrealized losses which are related to market movements in interest rates and which have no factors indicating that such unrealized losses may be other than temporary.

|                                    | December 31, 2003      |                    |                      | December 31, 2002      |                    |                      |
|------------------------------------|------------------------|--------------------|----------------------|------------------------|--------------------|----------------------|
|                                    | Amortized Cost         | Unrealized Losses  | Estimated Fair Value | Amortized Cost         | Unrealized Losses  | Estimated Fair Value |
|                                    | (Dollars in thousands) |                    |                      | (Dollars in thousands) |                    |                      |
| 3 months or less                   | \$ —                   | \$ —               | \$ —                 | \$ 39,853              | \$ (14,815)        | \$ 25,038            |
| Greater than 3 months to 6 months  | —                      | —                  | —                    | 15,628                 | (4,050)            | 11,578               |
| Greater than 6 months to 9 months  | —                      | —                  | —                    | —                      | —                  | —                    |
| Greater than 9 months to 12 months | —                      | —                  | —                    | 6,185                  | (3,185)            | 3,000                |
| Greater than 12 months             | 52,378                 | (20,406)           | 31,972               | 40,067                 | (13,956)           | 26,111               |
|                                    | <u>\$ 52,378</u>       | <u>\$ (20,406)</u> | <u>\$ 31,972</u>     | <u>\$ 101,733</u>      | <u>\$ (36,006)</u> | <u>\$ 65,727</u>     |

We have reviewed these investments and concluded that there were no other than temporary impairments on these investments at December 31, 2003 and 2002.

At December 31, 2003, the amortized cost and estimated fair value of each fixed maturity security on the watch list are as follows:

| Issuer   | Amortized Cost         | Unrealized Losses  | Estimated Fair Value | Maturity Date | Months Below Amortized Cost |
|--|------------------------|--------------------|----------------------|---------------|-----------------------------|
|  | (Dollars in thousands) |                    |                      |               |                             |
| Continental Airlines Pass Thru Certificates 2001-001 Class B | \$ 9,498               | \$ (1,468)         | \$ 8,030             | 6/15/2017     | 16                          |
| Diversified Asset Securities II Class B-1                    | 3,000                  | (1,204)            | 1,796                | 9/15/2005     | 14                          |
| Land O' Lakes Capital Securities                             | 8,075                  | (3,435)            | 4,640                | 3/15/2028     | 36                          |
| Northwest Airlines Pass Thru Certificates 1999-1 Class C     | 8,867                  | (2,791)            | 6,076                | 8/1/2015      | 33                          |
| Oakwood Mortgage 2000-C M1                                   | 16,934                 | (8,604)            | 8,330                | 10/15/2030    | 14                          |
| Pegasus Aviation 1999-1A C1                                  | 6,004                  | (2,904)            | 3,100                | 3/25/2029     | 28                          |
|  | <u>\$ 52,378</u>       | <u>\$ (20,406)</u> | <u>\$ 31,972</u>     |               |                             |

Our analysis of these securities and their credit performance at December 31, 2003 is as follows:

Continental Airlines Pass Thru Certificates 2001-001 Class B are backed by the general credit of Continental Airlines as well as the collateral from a pool of airplanes. We determined that an

other than temporary impairment charge was not necessary for the following reasons: (i) we believed that Continental Airlines' improving liquidity reduced the likelihood of bankruptcy and (ii) even if Continental Airlines were to declare bankruptcy, the chance of full recovery on this security was high due to the excess collateral coverage supplied by the aircraft collateral.

Diversified Asset Securities II Class B-1 is a pool of asset-backed securities that entitle the holders thereof to receive payments that depend primarily on the cash flow from a specified pool of financial assets. We determined that an other than temporary impairment charge was not necessary for the following reasons: (i) as of December 31, 2003 the securities still had an investment grade rating by Moody's (Baa3); (ii) the securities were current on all scheduled interest payments and (iii) the securities were also passing applicable asset coverage covenants, which we believed should allow Diversified Asset Securities to continue to make interest payments.

Land O' Lakes is a national, farmer-owned food and agricultural cooperative. We determined that an other than temporary impairment charge was not necessary for the following reasons: (i) Land O' Lakes operates in a cyclical industry and had successfully managed through previous cyclical lows; (ii) we calculated that Land O' Lakes had an EBITDA to interest coverage of 4.49 times for bank debt and 4.42 times for bond debt and determined that Land O' Lakes had adequate liquidity; (iii) Land O' Lakes was in the process of improving its balance sheet and had decreased long-term debt to capital from 53.9% to 50.8% and (iv) further improvements were expected in the future.

Northwest Airlines Pass Thru Certificates 1999-1 Class C are backed by the general credit of Northwest Airlines as well as the collateral from a pool of airplanes. We determined that an other than temporary impairment charge was not necessary for the following reasons: (i) we believed that a bankruptcy was unlikely since Northwest had begun to see benefits from its attempts to return to profitability; (ii) we believed Northwest had adequate liquidity; (iii) we calculated Northwest to have unrestricted cash at the end of the third quarter of 2003 of approximately \$2.8 billion; (iv) even if Northwest declared bankruptcy, these bonds would have remained current for at least 18 months due to a liquidity coverage feature and the bonds could remain current after 18 months if Northwest affirmed the leases on the planes in the collateral pool in the unlikely event of a bankruptcy and (v) based upon the liquidity of Northwest (\$2.8 billion at September 30, 2003) and the improving conditions in the airline industry we believe the event of a default is remote.

Oakwood Mortgage 2000-C Class M1 is backed by installment sales contracts secured by manufactured homes and liens on real estate. We determined that an other than temporary impairment charge was not necessary for the following reasons: (i) the security still had investment grade ratings from both Moody's and S&P (A3/BBB+) and (ii) the security was current on all scheduled interest payments. We performed stress tests with above average default rates and above average loss severity per default and the M1 Tranche still received all of its scheduled principal and interest payments.

Pegasus Aviation 1999-1A C1 is backed by leases on airplanes and is structured as a pass-through security. We took an impairment charge of \$1.9 million on this security in the fourth quarter of 2001 because we did not expect to receive further principal payments. However, due to the continued problems in the leased airplane industry, the market value of this security had declined further. We determined that no additional other than temporary impairment change was necessary for the following reasons: (i) although we did not expect to receive principal payments on this security, we expected that interest payments would continue to be made until 2019 and (ii) the value of the expected future interest payments supported the current book value.

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Each of the six securities on the watch list is current in respect to payments of principal and interest. We have concluded for each of the six securities on the watch list that we have the intent and the ability to hold these securities for a period of time sufficient to allow for a recovery in fair value.

We took writedowns on certain other investments that we concluded did have an other than temporary impairments during 2003, 2002 and 2001 of \$9.8 million, \$13.0 million and \$7.8 million, respectively. Following is a discussion of each security for which we have taken write downs on during the years ended December 31, 2003, 2002 and 2001.

AIG Global Investment is a trust that consists of the equity tranche of a collateralized bond obligation wrapped by a U.S. Treasury strip. The security is rated AAA due to the principal being backed by U.S. Treasury strip. We took an impairment charge of \$2.8 million on this security in the fourth quarter of 2001. This adjustment reflected our belief that the only future cash flow likely to be received on this security was upon the maturity of the U.S. Treasury Strip.

South Street is a trust that consists of the equity tranche of a collateralized bond obligation wrapped by a U.S. Treasury Strip. The security is rated AAA due to the principal being backed by U.S. Treasury Strip. We took an impairment charge of \$1.4 million on this security in the fourth quarter of 2001. This adjustment reflected our belief that the only future cash likely to be received on this security was upon the maturity of the U.S. Treasury strip.

Knight Funding is a trust that consists of the equity tranche of a collateralized bond obligation wrapped by a U.S. Treasury strip. The security is rated AAA due to the principal being backed by U.S. Treasury strip. We took an impairment charge of \$1.7 million on this security in the fourth quarter of 2001. We determined that while payments on the equity tranche would continue to be paid, it was likely that these payments would be less than previously estimated.

Pegasus Aviation 1999-1A Class C bonds are backed by leases on airplanes. We wrote down this security by \$1.9 million to its fair value in the fourth quarter 2001. We determined that while a near term default was unlikely, it was probable that we would not receive a return of the entire principal on this security because of the downturn in the airline industry and significantly lower lease rates on renewing leases.

We owned the Class A3-A Tranche of the Juniper collateralized bond obligation. We wrote down this security by \$2.0 million to its fair value in the first quarter of 2002. Due to the structure of payments from the collateralized bond obligation, it was likely that we would continue receiving interest payments for the foreseeable future, but it was unlikely that we would receive our entire principal at maturity. The fair value of this security continued to decline in subsequent months and we sold the bond at an additional loss of \$0.5 million in the second quarter of 2003.

Pegasus 2001-1A C2 is an asset-backed security backed by leases on 41 specific aircraft. We wrote down this security by \$3.0 million in the third quarter of 2002. The downturn in the airline industry had caused lease rates on renewing leases to be significantly below expectations and this was exacerbated by the terrorist attacks on September 11, 2001. Due to the continuing problems in the airline industry and continued lower lease rates on renewing leases, we took an additional write down of \$2.9 million on this security in the first quarter of 2003.

Jet Equipment Trust is an asset-backed security backed by collateral from a pool of planes and the general credit of United Airlines. We wrote down this security by \$6.4 million in the third quarter of 2002. The downturn in the airline industry and the possibility of United Airlines declaring bankruptcy had caused this security to trade significantly below cost at the time of the original write down. United Airlines declared bankruptcy in the fourth quarter of 2002 and discontinued making lease payments on the planes that support this trust. Due to the fact that any further payments on this security were unlikely, we took an additional write down of \$1.6 million in the fourth quarter of 2002 to reduce the book value to zero.

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Oakwood Mortgage 1999-E Class M2 is an asset-backed security backed by installment sales contracts secured by manufactured homes and liens on real estate. We wrote down this security by \$4.2 million in the third quarter of 2003 due to continuing high default rates for the manufactured housing industry causing doubt about the return of the entire principal balance. We wrote this security down by an additional \$2.7 million during the fourth quarter of 2003 due to further deterioration in default rates.

In making the decisions to write down the securities described above, we considered whether the factors leading to those write downs impacted any other securities held in our portfolio. In cases where we determined that a decline in value was related to an industry-wide concern, we considered the impact of such concern on all securities we held within that industry classification.

Following is a list of securities which we have sold at a loss excluding losses arising from interest rate changes and losses deemed immaterial:

| Issuer                              | Amortized<br>Cost | Fair<br>Value    | Realized<br>Losses | Months Below<br>Amortized Cost |
|-------------------------------------|-------------------|------------------|--------------------|--------------------------------|
| (Dollars in thousands)              |                   |                  |                    |                                |
| <b>Year Ended December 31, 2003</b> |                   |                  |                    |                                |
| Transamerica Capital                | \$ 6,765          | \$ 6,437         | \$ 328             | 9                              |
| Calpine Canada                      | 5,023             | 3,613            | 1,410              | 20                             |
| American Airlines                   | 1,750             | 902              | 848                | 10                             |
| Ford Motor Co.                      | 5,003             | 4,567            | 436                | 24                             |
| Juniper                             | 2,594             | 2,075            | 519                | 12                             |
|                                     | <u>\$ 21,135</u>  | <u>\$ 17,594</u> | <u>\$ 3,541</u>    |                                |
| <b>Year Ended December 31, 2002</b> |                   |                  |                    |                                |
| Qwest                               | \$ 9,851          | \$ 6,113         | \$ 3,738           | 5                              |
|                                     | <u>\$ 9,851</u>   | <u>\$ 6,113</u>  | <u>\$ 3,738</u>    |                                |
| <b>Year Ended December 31, 2001</b> |                   |                  |                    |                                |
| Florida Gas Transmission            | \$ 5,122          | \$ 4,779         | \$ 343             | 1                              |
| Enron                               | 4,893             | 1,206            | 3,687              | 1                              |
|                                     | <u>\$ 10,015</u>  | <u>\$ 5,985</u>  | <u>\$ 4,030</u>    |                                |

Generally, for each of these sales there was an unexpected event resulting in a decline in credit quality which occurred shortly before the sale. This led to the decision to sell a security at a loss concurrent with the decision that an initial or additional impairment charge was required. Accordingly, in all cases, this did not contradict our previous assertion that we had the ability and intent to hold the security until recovery in value. Each of these securities and the factors resulting in the sales of such securities are discussed individually below.

Transamerica Capital was sold to reduce our exposure to European insurance companies and not as a result of deteriorating credit quality.

Calpine Canada was sold because it engaged in re-financing activities that threatened its long term profitability and exacerbated its reliance on leverage. The wholesale power market in which it was engaged was expected to be weak.

American Airlines pass thru certificates, which were collateralized by a pool of airplanes, were sold as a result of inadequate collateral coverage in a potential bankruptcy situation and recent changes regarding the airline's bank covenants regarding required minimum unrestricted cash balances.

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Ford Motor Co. was determined to be an improving credit, however we decided to reduce our position in this security to \$10 million by selling a portion of these securities with a par value of \$5 million at a loss of \$0.4 million.

Juniper was a collateralized debt obligation backed by corporate debt obligations rated primarily below investment grade. In the first quarter of 2002, we wrote this security down as a result of downgrades and significant deterioration in the value of the underlying corporate debt. Continued deterioration led us to sell the security in 2003.

Qwest was sold as the result of several factors, including its rapidly deteriorating operating environment, the sale of one of its business units for a value well below expectations and continuing government investigations.

Florida Gas Transmission (indirectly related to Enron) had a small unrealized gain at September 30, 2001. It was sold within a month after the security began trading below cost.

Enron was sold within two months after the security was acquired and within one month after the security began trading significantly below cost as a result of publicity regarding accounting abnormalities.

#### Derivative Instruments—Index Products

We offer a variety of index annuities with crediting strategies linked to several equity market indices, including the S&P 500, the Dow Jones Industrial Average and the NASDAQ 100. Several of these products also offer a bond strategy linked to the Lehman Aggregate Bond Index or the Lehman U.S. Treasury

Bond Index. These products allow policyholders to earn returns linked to equity or bond index appreciation without the risk of loss of their principal. Most of these products allow policyholders to transfer funds once a year among several different crediting strategies, including one or more of the index based strategies and a traditional fixed rate strategy. Substantially all of our index products require annual crediting of interest and an annual reset of the applicable index on the contract anniversary date. The computation of the annual index credit is based upon either a one year point-to-point calculation (i.e., the gain in the applicable index from one anniversary date to the next anniversary date) or a monthly averaging of the index during the contract year.

The annuity contract value is equal to the premiums paid plus annual index credits based upon a percentage, known as the "participation rate", of the annual appreciation (based in some instances on monthly averages) in a recognized index or benchmark. The participation rate, which we may reset annually, generally varies among the index products from 50% to 100%. Some of the products have an "asset fee" ranging from 1% to 4%, which is deducted from the interest to be credited. The asset fees may be adjusted annually by us, subject to stated limits. In addition, some products apply an overall limit, or "cap", ranging from 7% to 13%, on the amount of annual interest the policyholder may earn in any one contract year, and the applicable cap also may be adjusted annually subject to stated minimums. The minimum guaranteed contract values range from 80% to 100% of the premium collected plus interest credited on the minimum guaranteed contract value at an annual rate of 3%.

We purchase one-year call options on the applicable indices as an investment to provide the income needed to fund the amount of the annual index credits on the index products. New one-year options are purchased at the outset of each contract year. We budget a specific amount to the purchase price of the specific options needed to fund the annual credits, and the cost of the options represents our cost of providing the credits. The amount we budget to the purchase of index call options is based on our interest spread targets and is comparable to the credited rates of interest we offer on fixed rate annuities. For example, if the yield on our invested assets is 6.50% and our targeted spread is 2.50%, we allocate up to 4.00% of the premium in the first year or account balance after the first year to the purchase of one-year call options on the index products. Participation rates, which define the

policyholder's level of participation in index gains each year, are determined by option costs. For example, if, based on current market conditions, the amount allocated to the purchase of options is sufficient to purchase an option that will provide a return equal to 70% of the annual gain in the applicable index, we will set the policyholder's participation rate at 70%. We have the ability to modify participation rates each year when a new option is purchased. In general, if option costs increase, participation rates may be decreased, and if option costs decrease, participation rates may be increased. We purchase call options weekly based upon new and renewing index account values during the applicable week, and the purchases are made by category according to the particular products and indices applicable to the new or renewing account values. Any gains on the options at the expiration of the one-year term fund the related index credits to the policyholders. If there is no gain in an index, the policyholder receives a zero index credit on the policy, and we incur no costs beyond the option cost, except in cases where the minimum guaranteed value of a contract exceeds its index value.

Market value changes associated with those investments are reported as an increase or decrease in revenues in our consolidated statements of income in accordance with Statement of Financial Accounting Standards ("SFAS") No. 133, "*Accounting for Derivative Instruments and Hedging Activities*". The risk associated with prospective purchases of future one-year options is the uncertainty of the cost, which will determine whether we are able to earn our spread on our index business. All our index products permit us to modify participation rates, asset fees or annual income caps at least once a year. This feature is comparable to our fixed rate annuities, which allow us to adjust crediting rates annually. By modifying our participation rates or other features, we can limit our costs of purchasing the related one-year call options, except in cases where contractual features would prevent further modifications. Based upon actuarial testing which we conduct as a part of the design of our index products and on an ongoing basis, we believe the risk that contractual features would prevent us from controlling option costs is not material.

After the purchase of the one-year call options and payment of acquisition costs, we invest the balance of index premiums as a part of our general account invested assets. With respect to the index products, our investment spread is measured as the difference between the aggregate yield on the relevant portion of our invested assets, less the aggregate option costs and the costs associated with minimum guarantees. If the minimum guaranteed value of an index product exceeds the index value (computed on a cumulative basis over the life of the contract) then the general account earnings are available to satisfy the minimum guarantees. If there were little or no gains in the entire series of one-year options purchased over the expected life of an index annuity (typically 10 to 15 years), then we would incur expenses for credited interest over and above our option costs, causing our spread to tighten and reducing our profits or potentially resulting in losses on these products.

Under SFAS No. 133, which became effective for us on January 1, 2001, all derivative instruments (including certain derivative instruments embedded in other contracts) are recognized in the balance sheet at their fair values and changes in fair value are recognized immediately in earnings. This impacts the items of revenue and expense we report on our index business in three ways.

- We must mark to market the purchased call options we use to fund the annual index credits on our index annuities based upon quoted market prices from related counterparties. We record the change in fair value of these options as a component of our revenues. Included within the change in fair value of the options is an element reflecting the time value of the options, which initially is their purchase cost declining to zero at the end of their one-year lives. In addition, change in fair value of derivatives also includes gains received at the expiration of the one year option terms and gains or losses upon early termination.
- Under SFAS No. 133, the future annual index credits on our index annuities are treated as a "series of embedded derivatives" over the expected life of the applicable contracts. We are required to estimate the fair value of these embedded derivatives. Our estimates of the fair

value of these embedded derivatives are based on assumptions related to underlying policy terms (including annual participation rates, asset fees, cap rates and minimum guarantees), index values, notional amounts, strike prices and expected lives of the policies. The change in fair value of embedded derivatives increases with increases in volatility in the indices and interest rates. The change in fair value of the embedded derivatives will not correspond to the change in fair value of the purchased options because the purchased options are one-year options while the options valued in the fair value of embedded derivatives cover the expected life of the contract which typically exceeds 10 years.

- We adjust the amortization of deferred policy acquisition costs to reflect the impact of the items discussed above.

The amounts reported with respect to our index business for SFAS No. 133 are summarized as follows:

|  | Year Ended December 31, |             |             |
|--|-------------------------|-------------|-------------|
|  | 2003                    | 2002        | 2001        |
|  | (Dollars in thousands)  |             |             |
| <b>Change in fair value of derivatives:</b>  |                         |             |             |
| Gains received at expiration or recognized upon early termination                                | \$ 45,827               | \$ 9,735    | \$ 3,085    |
| Cost of money for index annuities  | (55,889)                | (68,861)    | (71,797)    |
| Change in difference between fair value and remaining option cost at beginning and end of period | 62,587                  | 1,373       | 13,554      |
|  | \$ 52,525               | \$ (57,753) | \$ (55,158) |
| <b>Change in fair value of embedded derivatives</b>  |                         |             |             |
| Related increase (decrease) in amortization of deferred policy acquisition costs                 | \$ (1,692)              | \$ 1,447    | \$ 846      |

#### Deferred Policy Acquisition Costs

Commissions and certain other costs relating to the production of new business are not expensed when incurred but instead are capitalized as deferred policy acquisition costs. These costs for annuities are amortized into expense with the emergence of gross profits. Only costs which are expected to be recovered from future policy revenues and gross profits may be deferred. These costs consist principally of commissions, first-year premium and interest bonuses and certain costs of policy issuance. Deferred policy acquisition costs totaled \$703.7 million and \$595.5 million at December 31, 2003 and 2002, respectively. For annuity and single premium universal life products, these costs are being amortized generally in proportion to expected gross profits from investments and, to a lesser extent, from surrender charges and mortality and expense margins. Current period amortization must be adjusted retrospectively if changes occur in estimates of future gross profits/margins (including the impact of realized investment gains and losses). Our estimates of future gross profits/margins are based on actuarial assumptions related to the underlying policies terms, lives of the policies, yield on investments supporting the liabilities and level of expenses necessary to maintain the policies over their entire lives.

#### Deferred Income Tax Assets

As of December 31, 2003 and 2002, we had \$58.8 million and \$50.7 million, respectively, of net deferred income tax assets related principally to book-to-tax temporary differences in the recording of policy benefit reserves and deferred policy acquisition costs. The realization of these assets is based upon estimates of future taxable income, which requires management judgement. Based upon future

projections of sufficient taxable income of our life subsidiaries, and the adoption of plans and policies related to our net (non-life) operating loss carryforwards, we have not recorded a valuation allowance against these assets.

#### Results of Operations for the Three Years Ended December 31, 2003

Annuity deposits by product type collected in 2003, 2002 and 2001, were as follows:

| Product Type                 | Before coinsurance     |              |              | Net of coinsurance     |              |              |
|------------------------------|------------------------|--------------|--------------|------------------------|--------------|--------------|
|                              | 2003                   | 2002         | 2001         | 2003                   | 2002         | 2001         |
|                              | (Dollars in thousands) |              |              | (Dollars in thousands) |              |              |
| <b>Index Annuities:</b>      |                        |              |              |                        |              |              |
| Index Strategies             | \$ 768,105             | \$ 867,880   | \$ 656,731   | \$ 468,716             | \$ 523,224   | \$ 431,571   |
| Fixed Strategy               | 330,539                | 614,549      | 237,824      | 201,702                | 370,496      | 156,553      |
|                              | 1,098,644              | 1,482,429    | 894,555      | 670,418                | 893,720      | 588,124      |
| <b>Fixed Rate Annuities:</b> |                        |              |              |                        |              |              |
| Single-Year Rate Guaranteed  | 564,256                | 629,945      | 391,470      | 343,048                | 380,772      | 279,598      |
| Multi-Year Rate Guaranteed   | 64,108                 | 322,856      | 1,139,160    | 64,108                 | 322,856      | 1,139,160    |
|                              | 628,364                | 952,801      | 1,530,630    | 407,156                | 703,628      | 1,418,758    |
|                              | \$ 1,727,008           | \$ 2,435,230 | \$ 2,425,185 | \$ 1,077,574           | \$ 1,597,348 | \$ 2,006,882 |

For information related to our coinsurance agreement, see note 5 to our audited consolidated financial statements.

The reduction in annuity deposits during the year ended December 31, 2003 resulted from actions taken by us during 2003 and the fourth quarter of 2002 to manage our capital position, including reductions in our interest crediting rates on both new and existing annuities, reductions in sales commissions and

suspension of sales of one of our higher commission annuity products and our most popular multi-year rate guaranteed annuity product.

**Net income** was \$25.4 million in 2003, \$14.2 million in 2002 and \$0.9 million in 2001. The growth in net income was directly tied to: (i) an increase in our invested assets (on an amortized cost basis) of 18% from December 31, 2002 to December 31, 2003 and 42% from December 31, 2001 to December 31, 2002; (ii) decreases in weighted average interest crediting rates of 67 basis points and 28 basis points during 2003 and during 2002, respectively; and (iii) realized gains on sales of investments of \$6.9 million for the year ended December 31, 2003. In addition, net income in 2001 was lower than expected due to our decision after September 11<sup>th</sup> to maintain approximately 25% of our assets in cash equivalents. We estimate that the decline in net income for 2001 attributable to our high level of liquidity was approximately \$5.7 million, net of income taxes.

**Annuity and single premium universal life product charges** (surrender charges assessed against policy withdrawals and mortality and expense charges assessed against single premium universal life policyholder account balances) increased 33% to \$20.5 million in 2003, and 23% to \$15.4 million in 2002, from \$12.5 million in 2001. These increases are principally attributable to the growth and aging of our annuity business and correspondingly, increases in annuity policy withdrawals subject to surrender charges. Withdrawals from annuity and single premium universal life policies were \$472.2 million, \$332.0 million and \$223.2 million for 2003, 2002 and 2001, respectively.

**Net investment income** increased 16% to \$358.5 million in 2003 and 48% to \$308.5 million in 2002 from \$209.1 million in 2001. These increases are principally attributable to the growth in our annuity business and corresponding increases in our invested assets. Invested assets (on an amortized cost basis) increased 18% to \$6,161.5 million at December 31, 2003 and 42% to \$5,229.1 million at

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December 31, 2002 compared to \$3,682.7 million at December 31, 2001, while the weighted average yield earned on average invested assets was 6.43%, 6.91% and 7.08% for 2003, 2002 and 2001, respectively.

**Realized gains on investments** were \$6.9 million in 2003 compared to realized losses of \$0.1 million in 2002 and realized gains of \$0.8 million in 2001. Realized gains and losses on investments fluctuate from year to year due to changes in the interest rate and economic environment and the timing of the sale of investments. Realized gains and losses on investments include gains and losses on the sale of securities as well as losses recognized when the fair value of a security is written down in recognition of an "other than temporary" impairment. The components of realized gains and losses on investments are set forth in note 3 to our audited consolidated financial statements. See "Critical Accounting Policies—Valuation of Investments" for additional discussion of losses recognized on the sale of securities and write downs of the fair value of securities for "other than temporary" impairments.

**Change in fair value of derivatives** was an increase of \$52.5 million in 2003, a decrease of \$57.8 million in 2002 and a decrease of \$55.2 million in 2001. These fluctuations were primarily related to the performance of the underlying market indices on which our options are based. A substantial portion of our options are based upon equity market indices which had significant appreciation in 2003 and significant depreciation in 2002 and 2001. Accordingly, our options had much higher gains at expiration in 2003 compared to 2002 and 2001 and the unrealized gains in these options at December 31, 2003 were significantly greater than at December 31, 2002 and 2001. See "Critical Accounting Policies—Derivative Instruments—Index Products" for the components of the change in fair value of derivatives.

**Insurance policy benefits and change in future policy benefits** increased 27% to \$11.8 million in 2003 compared to \$9.3 million in 2002 and \$9.8 million in 2001. The increase during 2003 was primarily due to an increase in interest credited and payments on supplemental contracts involving life contingencies of \$1.5 million compared to 2002.

**Interest credited to account balances** increased 37% to \$242.5 million in 2003 and 81% to \$177.6 million in 2002 from \$97.9 million in 2001. These increases were principally attributable to an increase in the average amount of annuity liabilities outstanding (net of annuity liabilities ceded under coinsurance agreements) during 2003 of 25% to \$5,882.0 million from \$4,693.9 million during 2002 and an increase of 55% from \$3,024.0 million during 2001. In addition credits to index policies increased as a result of increases in underlying indices. For the year ended December 31, 2003, the S&P 500 Index (upon which the majority of our options are based) increased by 26.4% compared to a decrease of 23.4% during 2002 and a decrease of 13.0% during 2001. These increases were offset in part by the decrease in weighted average crediting rates, which we implemented in connection with our spread management process, of 67 basis points from December 31, 2002 to December 31, 2003, and 28 basis points from December 31, 2001 to December 31, 2002.

**Change in fair value of embedded derivatives** was an increase of \$66.8 million during the year ended December 31, 2003 compared to a decrease of \$5.0 million in 2002 and an increase of \$12.9 million in 2001. Under SFAS No. 133, the liabilities on our index annuities are treated as a "series of embedded derivatives" over the life of the applicable contracts. We are required to estimate the fair value of the future index reserve liabilities by valuing the "host" (or guaranteed) component of the liabilities and projecting (i) the expected index credits on the next policy anniversary dates and (ii) the net cost of annual options we will purchase in the future to fund index credits. The change in the amount of expense recognized during 2003, 2002 and 2001 primarily resulted from the increase or decrease in expected index credits on the next policy anniversary dates, which are related to the change in the fair value of the options acquired to fund these index credits discussed above in the "Change in fair value of derivatives". In addition, the host value of the index reserve liabilities increased primarily as a result of increases in index annuity premium deposits. See "Critical Accounting Policies—Derivative Instruments—Index Products" and note 1 to our audited consolidated financial statements.

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**Interest expense on subordinated debentures** for 2003 was \$7.7 million. The comparable amounts for 2002 and 2001 were \$7.4 million and are reported as minority interests in subsidiaries.

**Amortization of deferred policy acquisition costs** increased 33% to \$53.0 million in 2003 and 73% to \$39.9 million in 2002 from \$23.0 million in 2001. These increases are primarily due to: (i) additional annuity deposits as discussed above; and (ii) the introduction of multi-year rate guaranteed products with shorter expected lives. Additional amortization associated with net realized gains on investments for the year ended December 31, 2003 was \$3.1 million. The application of SFAS No. 133 resulted in a \$1.7 million reduction in amortization in 2003 and increased amortization by \$1.4 million and \$0.8 million in 2002 and 2001, respectively. See notes 1 and 4 to our audited consolidated financial statements.

**Other operating costs and expenses** increased 18% to \$25.6 million in 2003 and 26% to \$21.6 million in 2002 from \$17.2 million in 2001. The increase during 2003 compared to 2002 was principally attributable to an increase of \$0.8 million in professional fees related to litigation, \$1.5 million in salaries and related costs of employment due to growth in our annuity business and \$1.7 million in risk charges related to the reinsurance agreement entered into with Hannover Life Reassurance Company of America on November 1, 2002. This agreement is more fully described in note 5 to our audited consolidated financial statements. The increase during 2002 compared to 2001 was principally attributable to an increase of \$1.0 million in professional fees, \$1.6 million in marketing expenses and \$0.8 million in salaries and related cost of employment due to growth in our annuity business.

**Income tax expense** increased 85% to \$13.5 million in 2003 from \$7.3 million in 2002. Income tax expense increased \$7.0 million in 2002 from \$0.3 million in 2001. These increases were principally due to an increase in pre-tax income. Our effective tax rates for 2003, 2002 and 2001 were 35%, 34% and 17%, respectively, after taking into consideration the impact of earnings attributable to company-obligated mandatorily redeemable preferred securities of subsidiary trusts. The effective income tax rates for 2002 and 2001 varied from the applicable statutory federal income tax rates of 35% principally due to (i) the impact of state taxes on the federal income tax expense and (ii) the dividends received deduction. See note 6 to our audited consolidated financial statements.

## Financial Condition

### Investments

Our investment strategy is to maintain a predominantly investment grade fixed income portfolio, provide adequate liquidity to meet our cash obligations to policyholders and others and maximize current income and total investment return through active investment management. Consistent with this strategy, our investments principally consist of fixed maturity securities and short-term investments. We also had approximately 1.9% and 0.9% of our invested assets at December 31, 2003 and 2002 in derivative instruments (primarily equity market index call options) purchased in connection with the issuance of index annuities.

Insurance statutes regulate the type of investments that our life subsidiaries are permitted to make and limit the amount of funds that may be used for any one type of investment. In light of these statutes and regulations and our business and investment strategy, we generally seek to invest in United States government and government-agency securities and corporate securities rated investment grade by established nationally recognized rating organizations or in securities of comparable investment quality, if not rated.

We have classified a substantial portion of our fixed maturity investments as available for sale. Available for sale securities are reported at market value and unrealized gains and losses, if any, on these securities (net of income taxes and certain adjustments for changes in amortization of deferred

policy acquisition costs) are included directly in a separate component of stockholders' equity, thereby exposing stockholders' equity to volatility due to changes in market interest rates and the accompanying changes in the reported value of securities classified as available-for-sale, with stockholders' equity increasing as interest rates decline and, conversely, decreasing as interest rates rise.

Cash and investments increased to \$6.23 billion at December 31, 2003 compared to \$5.33 billion at December 31, 2002 as a result of the growth in our annuity business discussed above. At December 31, 2003, the fair value of our available for sale fixed maturity and equity securities was \$86.1 million less than the amortized cost of those investments, compared to \$44.8 million at December 31, 2002. At December 31, 2003, the amortized cost of our fixed maturity securities held for investment exceeded the market value by \$110.1 million, compared to \$1.8 million at December 31, 2002. The increase in net unrealized investment losses at December 31, 2003 compared to December 31, 2002 was related to an increase in market interest rates.

The composition of our investment portfolio is summarized in the table below:

|  | December 31,           |         |                    |         |
|--|------------------------|---------|--------------------|---------|
|  | 2003                   |         | 2002               |         |
|  | Carrying<br>Amount     | Percent | Carrying<br>Amount | Percent |
|  | (Dollars in thousands) |         |                    |         |
| <b>Fixed maturity securities:</b>            |                        |         |                    |         |
| United States Government and agencies        | \$ 4,289,857           | 68.9%   | \$ 4,207,840       | 79.0%   |
| State, municipal, and other governments      | —                      | —       | 5,631              | 0.1%    |
| Public utilities                             | 51,835                 | 0.8%    | 51,023             | 1.0%    |
| Corporate securities                         | 409,482                | 6.6%    | 413,743            | 7.8%    |
| Redeemable preferred stocks                  | 10,079                 | 0.2%    | 12,822             | 0.2%    |
| <b>Mortgage and asset-backed securities:</b> |                        |         |                    |         |
| Government                                   | 264,102                | 4.2%    | 70,047             | 1.3%    |
| Non-Government                               | 419,959                | 6.7%    | 141,548            | 2.7%    |
| Total fixed maturity securities              | 5,445,314              | 87.4%   | 4,902,654          | 92.1%   |
| Equity securities                            | 21,409                 | 0.4%    | 17,006             | 0.3%    |
| Mortgage loans on real estate                | 608,715                | 9.8%    | 334,339            | 6.3%    |
| Derivative instruments                       | 119,833                | 1.9%    | 52,313             | 1.0%    |
| Policy loans                                 | 324                    | 0.0%    | 295                | 0.0%    |
| Cash and cash equivalents                    | 32,598                 | 0.5%    | 21,163             | 0.3%    |
| Total cash and investments                   | \$ 6,228,193           | 100.0%  | \$ 5,327,770       | 100.0%  |

The table below presents our total fixed maturity securities by NAIC designation and the equivalent ratings of a nationally recognized securities rating organization.

| NAIC Designation                | Rating Agency Equivalent | December 31,    |         |                 |         |
|---------------------------------|--------------------------|-----------------|---------|-----------------|---------|
|                                 |                          | 2003            |         | 2002            |         |
|                                 |                          | Carrying Amount | Percent | Carrying Amount | Percent |
| (Dollars in thousands)          |                          |                 |         |                 |         |
| 1                               | Aaa/Aa/A                 | \$ 5,191,006    | 95.3%   | \$ 4,624,824    | 94.3%   |
| 2                               | Baa                      | 174,519         | 3.2%    | 230,847         | 4.7%    |
| 3                               | Ba                       | 47,904          | 0.9%    | 37,478          | 0.8%    |
| 4                               | B                        | 21,109          | 0.4%    | 7,505           | 0.2%    |
| 5                               | Caa and lower            | 10,773          | 0.2%    | 2,000           | —       |
| 6                               | In or near default       | 3               | —       | —               | —       |
| Total fixed maturity securities |                          | \$ 5,445,314    | 100.0%  | \$ 4,902,654    | 100.0%  |

During 2001, we began a commercial mortgage loan program. At December 31, 2003 and 2002, we held \$608.7 million and \$334.3 million, respectively, of mortgage loans with commitments outstanding of \$48.3 million at December 31, 2003. These mortgage loans are diversified as to property type, location, and loan size, and are collateralized by the related properties. Our mortgage lending policies establish limits on the amount that can be loaned to one borrower and require diversification by geographic location and collateral type. As of December 31, 2003, there were no delinquencies in our mortgage portfolio. The commercial mortgage loan portfolio is diversified by geographic region and specific collateral property type as follows:

|                                   | December 31,    |         |                 |         |
|-----------------------------------|-----------------|---------|-----------------|---------|
|                                   | 2003            |         | 2002            |         |
|                                   | Carrying Amount | Percent | Carrying Amount | Percent |
| (Dollars in thousands)            |                 |         |                 |         |
| <b>Geographic distribution</b>    |                 |         |                 |         |
| East                              | \$ 115,817      | 19.0%   | \$ 51,785       | 15.5%   |
| Middle Atlantic                   | 56,563          | 9.3%    | 40,879          | 12.2%   |
| Mountain                          | 79,777          | 13.1%   | 26,478          | 7.9%    |
| New England                       | 38,539          | 6.3%    | 13,242          | 4.0%    |
| Pacific                           | 42,327          | 7.0%    | 20,499          | 6.1%    |
| South Atlantic                    | 105,635         | 17.4%   | 96,401          | 28.8%   |
| West North Central                | 125,163         | 20.5%   | 65,178          | 19.5%   |
| West South Central                | 44,894          | 7.4%    | 19,877          | 6.0%    |
| Total mortgage loans              | \$ 608,715      | 100.0%  | \$ 334,339      | 100.0%  |
| <b>Property type distribution</b> |                 |         |                 |         |
| Office                            | \$ 145,490      | 23.9%   | \$ 81,133       | 24.3%   |
| Medical Office                    | 55,314          | 9.1%    | 17,138          | 5.1%    |
| Retail                            | 163,434         | 26.8%   | 102,362         | 30.6%   |
| Industrial/Warehouse              | 162,943         | 26.8%   | 97,811          | 29.3%   |
| Hotel                             | 20,819          | 3.4%    | 21,218          | 6.3%    |
| Apartments                        | 29,565          | 4.9%    | 4,176           | 1.3%    |
| Mixed use/other                   | 31,150          | 5.1%    | 10,501          | 3.1%    |
| Total mortgage loans              | \$ 608,715      | 100.0%  | \$ 334,339      | 100.0%  |

### Liabilities

Our liability for policy benefit reserves increased to \$8.32 billion at December 31, 2003 compared to \$6.74 billion at December 31, 2002, primarily due to additional annuity sales as discussed above. Substantially all of our annuity products have a surrender charge feature designed to reduce the risk of early withdrawal or surrender of the policies and to compensate us for our costs if policies are withdrawn early. Notwithstanding these policy features, the withdrawal rates of policyholder funds may be affected by changes in interest rates and other factors.

We have a credit agreement with Fleet National Bank, U.S. Bank National Association and West Des Moines State Bank. The amount outstanding under this agreement was \$31.8 million at December 31, 2003 and \$43.3 million at December 31, 2002. Principal and interest under this agreement are paid quarterly. The

notes bear interest (3.57% at December 31, 2003) at prime or LIBOR plus a specified margin of up to 2.25%. Under this agreement, we are required to maintain minimum capital and surplus levels at American Equity Life and meet certain other financial and operating ratio requirements. We are also prohibited from incurring other indebtedness for borrowed money without obtaining a waiver from the lenders and from paying dividends on our capital stock in excess of 25% of our consolidated net income for the prior fiscal year. On August 14, 2003, we amended our credit agreement to provide that the financial strength ratings for American Equity Life issued by A.M. Best and Standard & Poor's may not be less than the current financial strength ratings of B++ and BBB+, respectively. On October 24, 2003, we amended our credit agreement to provide that we (and not our subsidiaries) must own cash equivalents (as defined in the credit agreement) having a market value of at least \$30 million from the time of the consummation of our initial public offering (IPO) through and including the time of payment in full of the installments of the loans under the credit agreement due on June 30, 2004. The amendment also provides that subsequent to the IPO, quarterly principal payments for the quarters ending December 31, 2003 and March 31, 2004 will be deferred until June 30, 2004. On December 31, 2003, we amended our credit agreement to eliminate the requirement to hold cash equivalents of at least \$30 million after the consummation of our IPO. See note 7 to our audited consolidated financial statements.

#### *Stockholders' Equity*

We were initially capitalized in December, 1995 and January, 1996 through the issuance of shares of common stock for cash. Subsequent to our initial capitalization, we issued additional shares of common stock, warrants to purchase shares of common stock and shares of preferred stock convertible into shares of common stock in several private placement offerings.

In 1997, in connection with a rights offering of shares of our common stock, we issued subscription rights to purchase an aggregate of 2,157,375 shares of our common stock to certain officers and directors. The subscription rights have an exercise price of \$5.33 per share. During 2002, the board of directors extended the expiration date of the subscription rights from December 1, 2002 to December 1, 2005 and in conjunction therewith, we recognized compensation expense of \$0.3 million.

During 1998, we issued 625,000 shares of 1998 Series A Participating Preferred Stock. These shares have participating dividend rights with the shares of common stock, when and as such dividends are declared, are convertible into 1,875,000 shares of common stock, are non-voting and have an aggregate liquidation preference of \$10.0 million.

During 1999, two subsidiary trusts issued preferred securities in private placement offerings. The trusts used the proceeds from these offerings to purchase subordinated debentures from us. We also issued subordinated debentures to the trusts in exchange for all of the common securities of each trust. The sole assets of the trusts are the subordinated debentures and any interest accrued thereon. The net proceeds to the parent company from the issuance of its subordinated debentures to the subsidiary trusts were used to fund capital contributions to American Equity Life.

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American Equity Capital Trust I ("Trust I") issued \$26.0 million of 8% trust preferred securities and we issued \$26.8 million principal amount of our 8% subordinated debentures due September 30, 2029 to Trust I. The preferred securities issued by Trust I are convertible into 3,198,717 shares of common stock. There are 865,671 shares of the 8% trust preferred securities issued, of which 2,000 shares are held by one of our subsidiaries.

American Equity Capital Trust II ("Trust II") issued \$97.0 million (97,000 shares) of 5% trust preferred securities and we issued \$100.0 million principal amount of our 5% subordinated debentures due June 1, 2047 to Trust II. The consideration received by Trust II in connection with the issuance of its preferred securities consisted of fixed income trust preferred securities of equal value issued by the parent company of Farm Bureau.

During December 2003, American Equity Capital Trust IV ("Trust IV"), a subsidiary trust, issued \$12.0 million of floating rate trust preferred securities and we issued \$12.4 million principal amount of floating rate subordinated debentures due January 8, 2034 to Trust IV. The floating rate for the trust preferred securities and the subordinated debentures is based on the three month London Interbank Offered Rate plus 4.00%.

The terms of the preferred securities issued by Trust I, Trust II and Trust IV parallel the terms of the subordinated debentures. Our obligations under the subordinated debentures and related agreements provide a full and unconditional guarantee of payments due under the trust preferred securities. See note 9 to our audited consolidated financial statements for additional information concerning our subordinated debentures payable to and the preferred securities issued by the subsidiary trusts.

Prior to the adoption of Financial Accounting Standards Board Interpretation No. 46, "*Consolidation of Variable Interest Entities, an Interpretation of Accounting Research Bulletin No. 51*" in December 2003, the subsidiary trusts were included in our consolidated financial statements. The subsidiary trusts are no longer consolidated upon adoption of the Interpretation and the effect of such deconsolidation is that the obligations of the trusts to the preferred security holders have been replaced with our subordinated debt obligations to the trusts and our equity investments in the trusts. See notes 1 and 9 to our audited consolidated financial statements.

During 2003, we purchased 1,435,500 shares of our common stock at a total cost of \$9.3 million (\$6.49 per share). We issued these shares and 155,583 shares held as treasury stock to a rabbi trust established for the benefit of agents who have earned shares of our common stock under the American Equity Investment NMO Deferred Compensation Plan. See note 10 to our audited consolidated financial statements.

On December 9, 2003, we completed an initial public offering of 18,700,000 shares of our common stock at a price of \$9.00 per share. Pursuant to the over-allotment option granted to the underwriters in this offering, the underwriters purchased an additional 2,000,000 shares on December 29, 2003 and an additional 805,000 shares on January 7, 2004, which fully exercised the over-allotment option. The proceeds from our initial public offering (including proceeds from shares issued pursuant to the over-allotment option), net of the underwriting discount and expenses, were approximately \$178.0 million, of which \$125.0 million was contributed to American Equity Life to fund the future growth of our business.

#### *Liquidity for Insurance Operations*

Our life subsidiaries generally receive adequate cash flow from premium collections and investment income to meet their obligations. Annuity and life insurance liabilities are generally long-term in nature. Policyholders may, however, withdraw funds or surrender their policies, subject to surrender and withdrawal penalty provisions. At December 31, 2003 and 2002, approximately 99% of our annuity

liabilities were subject to penalty upon surrender, with a weighted average remaining surrender charge period of 8.4 years and 8.7 years, respectively, and a weighted average surrender charge rate of 12%.

We believe that the diversity of our investment portfolio and the concentration of investments in high-quality securities provides sufficient liquidity to meet foreseeable cash requirements. The investment portfolio at December 31, 2003 and 2002 included \$3,401.1 million and \$3,503.7 million (amortized cost basis), respectively, of publicly traded available for sale investment grade bonds. Although there is no present need or intent to dispose of such investments, our life subsidiaries could readily liquidate portions of their investments, if such a need arose. See "Management's Discussion and Analysis of Financial Condition and Results of Operations—Quantitative and Qualitative Disclosures about Market Risk" for further discussion of the related interest rate risk exposure. In addition, investments could be used to facilitate borrowings under reverse-repurchase agreements or dollar-roll transactions. Such borrowings have been used by American Equity Life from time to time to increase our return on investments.

#### *Liquidity of Parent Company*

We, as the parent company, are a legal entity separate and distinct from our subsidiaries, and have no business operations. We need liquidity primarily to service our debt, including the subordinated debentures issued to subsidiary trusts, pay operating expenses and pay dividends to stockholders. The primary sources of funds for these payments are: (i) principal and interest payments received on our note receivable from American Equity Investment Service Company (see discussion that follows); (ii) dividends on capital stock and surplus note interest payments from American Equity Life; and (iii) investment advisory fees from our life subsidiaries. These sources provide adequate cash flow to us to meet our current and reasonably foreseeable future obligations. We may also obtain cash by issuing debt or equity securities.

The payment of dividends or the distributions, including surplus note payments, by our life subsidiaries is subject to regulation by each subsidiary's state of domicile's insurance department. Currently, American Equity Life may pay dividends or make other distributions without the prior approval of its state of domicile's insurance department, unless such payments, together with all other such payments within the preceding twelve months, exceed the greater of (1) American Equity Life's net gain from operations for the preceding calendar year, or (2) 10% of American Equity Life's statutory surplus at the preceding December 31. For 2004, up to approximately \$37.5 million can be distributed as dividends by American Equity Life without prior approval of the Iowa Insurance Division. In addition, dividends and surplus note payments may be made only out of earned surplus, and all surplus note payments are subject to prior approval by regulatory authorities in the life subsidiary's state of domicile. American Equity Life had approximately \$69.8 million of earned surplus at December 31, 2003.

The maximum distribution permitted by law or contract is not necessarily indicative of an insurer's actual ability to pay such distributions, which may be constrained by business and regulatory considerations, such as the impact of such distributions on surplus, which could affect the insurer's ratings or competitive position, the amount of premiums that can be written and the ability to pay future dividends or make other distributions. Further, state insurance laws and regulations require that the statutory surplus of our life subsidiaries following any dividend or distribution must be reasonable in relation to their outstanding liabilities and adequate for their financial needs.

The transfer of funds by American Equity Life is also restricted by certain covenants in our loan agreement which, among other things, requires American Equity Life to maintain statutory capital and surplus (including the asset valuation and interest maintenance reserves) of \$140 million plus 25% of statutory net income and 75% of the capital contributions to American Equity Life for periods subsequent to December 31, 1999. Under the most restrictive of these limitations, \$37.5 million of our

earned surplus at December 31, 2003 would be available for distribution by American Equity Life to the parent company in the form of dividends or other distributions. As disclosed in our audited consolidated financial statements, our loan agreement has been amended from time to time to maintain our continuing compliance with these and other restrictive covenants.

Statutory accounting practices prescribed or permitted for our life subsidiaries differ in many respects from those governing the preparation of financial statements under GAAP. Accordingly, statutory operating results and statutory capital and surplus may differ substantially from amounts reported in the GAAP basis financial statements for comparable items. Information as to statutory capital and surplus and statutory net income for our life subsidiaries as of December 31, 2003 and 2002 and for the years ended December 31, 2003, 2002 and 2001 is included in note 11 to our audited consolidated financial statements.

American Equity Life has entered into a general agency commission and servicing agreement with American Equity Investment Service Company, or the Service Company, an affiliated company wholly-owned by our chairman, chief executive officer, president and treasurer, whereby the affiliate acts as a national supervisory agent with responsibility for paying commissions to our agents. This agreement initially benefits American Equity Life's statutory surplus by extending the payment of a portion of the first year commissions on new annuity business written by American Equity Life over a longer period of time, and thereby enabling American Equity Life to conduct a comparatively greater volume of business. In subsequent periods, American Equity Life's statutory surplus is reduced through the payment of renewal commissions to the affiliate on this business based upon the account balances of the annuities remaining in force for a period of five years (see note 8 to our audited consolidated financial statements). During the years ended December 31, 2003 and 2002, the Service Company paid \$14.4 million and \$11.8 million, respectively, to agents of American Equity Life. The Service Company made no payments to the agents of American Equity Life during the year ended December 31, 2001. American Equity Life paid renewal commissions to the Service Company of \$22.1 million, \$21.7 million and \$23.2 million, respectively, during the years ended December 31, 2003, 2002 and 2001.

From time to time the Service Company has borrowed money from us as a source of funds for the commissions it paid to American Equity Life's agents. During 2003, the Service Company borrowed \$14.5 million from us. At December 31, 2003 and 2002, the amount receivable from the Service Company was \$27.9 million and \$20.5 million, respectively. Principal and interest are payable quarterly over five years from the date of the advance.

Future payments by American Equity Life on business in force at December 31, 2003 are dependent upon the account balances of the annuities remaining in force on each remaining quarterly renewal commission payment date.

In the normal course of business, we enter into financing transactions, lease agreements, or other commitments. These commitments may obligate us to certain cash flows during future periods. The following table summarizes such obligations as of December 31, 2003.

|  | Payments Due by Period |                     |                  |                 |                   |
|--|------------------------|---------------------|------------------|-----------------|-------------------|
|  | Total                  | Less Than<br>1 year | 1 - 3<br>Years   | 4 - 5<br>Years  | After 5<br>Years  |
| (Dollars in thousands)   |                        |                     |                  |                 |                   |
| Amounts due to related party under General Agency Commission and Servicing Agreement | \$ 40,601              | \$ 26,925           | \$ 12,398        | \$ 1,278        | \$ —              |
| Notes payable  | 31,833                 | 19,165              | 10,668           | 2,000           | —                 |
| Subordinated debentures  | 116,425                | —                   | —                | —               | 116,425           |
| Operating leases   | 2,684                  | 1,050               | 1,494            | 140             | —                 |
| Mortgage loan funding  | 48,290                 | 48,290              | —                | —               | —                 |
| <b>Total</b>   | <b>\$ 239,833</b>      | <b>\$ 95,430</b>    | <b>\$ 24,560</b> | <b>\$ 3,418</b> | <b>\$ 116,425</b> |

### Pending Accounting Change

In June 2003, the Accounting Standards Executive Committee of the American Institute of Certified Public Accountants issued Statement of Position (SOP) 03-1, "Accounting and Reporting by Insurance Enterprises for Certain Nontraditional Long-Duration Contracts and for the Separate Accounts". The SOP provides guidance on the presentation of sales inducements ("premium bonus and bonus interest"). We expect to adopt this SOP when it becomes effective in the first quarter of 2004 and will change our presentation of deferred expenses relating to sales inducements at that time. The SOP requires that sales inducements be recognized as an asset and amortized with the amortization being included as a component of interest credited to account balances. We currently include sales inducements as a component of deferred policy acquisition costs and the related amortization expense. The amount of sales inducements included as a component of deferred policy acquisition costs at December 31, 2003 and December 31, 2002 was \$88.4 million and \$62.9 million, respectively. The adoption of this SOP will have no impact on net income or earnings per common share.

### Inflation

Inflation does not have a significant effect on our balance sheet. We have minimal investments in property, equipment or inventories. To the extent that interest rates may change to reflect inflation or inflation expectations, there would be an effect on our balance sheet and operations. Higher interest rates experienced in recent periods have decreased the value of our fixed maturity investments. It is likely that declining interest rates would have the opposite effect. It is not possible to calculate the effect such changes in interest rates, if any, have had on our operating results.

## ITEM 7A. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK

We seek to invest our available funds in a manner that will maximize shareholder value and fund future obligations to policyholders and debtors, subject to appropriate risk considerations. We seek to meet this objective through investments that: (i) consist predominately of investment grade fixed maturity securities; (ii) have projected returns which satisfy our spread targets; and (iii) have characteristics which support the underlying liabilities. Many of our products incorporate surrender charges, market interest rate adjustments or other features to encourage persistency.

We seek to maximize the total return on our available-for-sale investments through active investment management. Accordingly, we have determined that our available-for-sale portfolio of fixed maturity securities is available to be sold in response to: (i) changes in market interest rates; (ii) changes in relative values of individual securities and asset sectors; (iii) changes in prepayment

risks; (iv) changes in credit quality outlook for certain securities; (v) liquidity needs; and (vi) other factors. We have a portfolio of held for investment securities which consists principally of long duration bonds issued by U.S. government agencies. These securities are purchased to secure long-term yields which meet our spread targets and support the underlying liabilities.

Interest rate risk is our primary market risk exposure. Substantial and sustained increases and decreases in market interest rates can affect the profitability of our products, the amount of interest we pay on our notes payable, and the market value of our investments. Our notes payable bear interest at prime or LIBOR plus a specified margin of up to 2.25%. Our floating rate trust preferred securities issued by Trust IV bear interest at the three month LIBOR plus 4.00%. Our outstanding balance of notes payable and floating rate trust preferred securities at December 31, 2003 and 2002, was \$44.2 million and \$43.3 million, respectively. The profitability of most of our products depends on the spreads between interest yield on investments and rates credited on insurance liabilities. We have the ability to adjust crediting rates (participation or asset fee rates for index annuities) on substantially all of our annuity liabilities at least annually (subject to minimum guaranteed values). In addition, substantially all of our annuity products have surrender and withdrawal penalty provisions designed to encourage persistency and to help ensure targeted spreads are earned. However, competitive factors, including the impact of the level of surrenders and withdrawals, may limit our ability to adjust or maintain crediting rates at levels necessary to avoid narrowing of spreads under certain market conditions.

A major component of our interest rate risk management program is structuring the investment portfolio with cash flow characteristics consistent with the cash flow characteristics of our insurance liabilities. We use computer models to simulate cash flows expected from our existing business under various interest rate scenarios. These simulations enable us to measure the potential gain or loss in fair value of our interest rate-sensitive financial instruments, to evaluate the adequacy of expected cash flows from our assets to meet the expected cash requirements of our liabilities and to determine if it is necessary to lengthen or shorten the average life and duration of our investment portfolio. The "duration" of a security is the time weighted present value of the security's expected cash flows and

is used to measure a security's sensitivity to changes in interest rates. When the durations of assets and liabilities are similar, exposure to interest rate risk is minimized because a change in value of assets should be largely offset by a change in the value of liabilities.

If interest rates were to increase 10% (42 basis points) from levels at December 31, 2003, we estimate that the fair value of our fixed maturity securities would decrease by approximately \$262.6 million. The computer models used to estimate the impact of a 10% change in market interest rates incorporate numerous assumptions, require significant estimates and assume an immediate and parallel change in interest rates without any management of the investment portfolio in reaction to such change. Consequently, potential changes in value of our financial instruments indicated by the simulations will likely be different from the actual changes experienced under given interest rate scenarios, and the differences may be material. Because we actively manage our investments and liabilities, our net exposure to interest rates can vary over time. However, any such decreases in the fair value of our fixed maturity securities (unless related to credit concerns of the issuer requiring recognition of an other than temporary impairment) would generally be realized only if we were required to sell such securities at losses prior to their maturity to meet our liquidity needs, which we manage using the surrender and withdrawal provisions of our annuity contracts and through other means as discussed earlier. Please read "Financial Condition—Liquidity for Insurance Operations" for a further discussion of the liquidity risk.

At December 31, 2003 and 2002, 74% and 87%, respectively, of our fixed income securities had call features and 19% and 2%, respectively, were subject to call redemption. Another 51% will become subject to call redemption through December 31, 2004. During the years ended December 31, 2003 and 2002, we received \$2.52 billion and \$1.54 billion, respectively in net redemption proceeds related to the

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exercise of such call options. We have reinvestment risk related to these redemptions to the extent we cannot reinvest the net proceeds in assets with credit quality and yield characteristics similar to or better than those of the redeemed bonds. Such reinvestment risk typically occurs in a declining rate environment. Should rates decline to levels which tighten the spread between our average portfolio yield and average cost of interest credited on our annuity liabilities, we have the ability to reduce crediting rates on most of our annuity liabilities to maintain the spread at our targeted level. At December 31, 2003 and 2002, approximately 74% and 71%, respectively, of our annuity liabilities are subject to annual adjustment of the applicable crediting rates at our discretion, limited by minimum guaranteed crediting rates of 3 to 4%.

With respect to our index annuities, we purchase call options on the applicable indices to fund the annual index credits on such annuities. These options are primarily one-year instruments purchased to match the funding requirements of the underlying policies. Market value changes associated with those investments are substantially offset by an increase or decrease in the amounts added to policyholder account balances for index products. For the years ended December 31, 2003 and 2002, the cost of index credits to policyholders on their anniversaries was \$44.2 million and \$10.6 million, respectively. Gains on options related to such credits were \$41.1 million and \$9.7 million, respectively. The difference between gains on options and index credits for 2003 is primarily due to credits attributable to minimum guaranteed interest self funded by us. During 2003, we refined our hedging process to purchase options out of the money to the extent of anticipated minimum guaranteed interest on index policies. On the anniversary dates of the index policies, we purchase new one-year call options to fund the next annual index credits. The risk associated with these prospective purchases is the uncertainty of the cost, which will determine whether we are able to earn our spread on our equity index business. This is a risk we attempt to manage through the terms of our index annuities, which permit us to change annual participation rates, asset fees, and caps, subject to contractual features. By modifying participation rates, asset fees or caps, we can limit option costs to budgeted amounts, except in cases where the contractual features would prevent further modifications. Based upon actuarial testing which we conduct as a part of the design of our index products and on an ongoing basis, we believe the risk that contractual features would prevent us from controlling option costs is not material.

#### **ITEM 8. CONSOLIDATED FINANCIAL STATEMENTS AND SUPPLEMENTARY DATA.**

The consolidated financial statements are included as a part of this report on Form 10-K on pages F-1 through F-37.

#### **ITEM 9. CHANGES IN AND DISAGREEMENTS WITH ACCOUNTANTS ON ACCOUNTING AND FINANCIAL DISCLOSURE**

None.

#### **ITEM 9A. CONTROLS AND PROCEDURES**

Our management, with the participation of our Chief Executive Officer and Chief Financial Officer, has evaluated the effectiveness of our disclosure controls and procedures (as such term is defined in Rules 13a-15(e) under the Securities Exchange Act of 1934 (the "Exchange Act")) as of the end of the period covered by this report. Based on such evaluation, our Chief Executive Officer and Chief Financial Officer have concluded that, as of the end of such period, our disclosure controls and procedures are effective in recording, processing, summarizing and reporting, on a timely basis, information required to be disclosed by us in the reports that we file or submit under the Exchange Act.

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### **PART III**

The information required by Part III is incorporated by reference from our definitive proxy statement for our annual meeting of shareholders to be held June 10, 2004 to be filed with the Commission pursuant to Regulation 14A within 120 days after December 31, 2003.

### **PART IV**

#### **ITEM 15. EXHIBITS, FINANCIAL STATEMENT SCHEDULES, AND REPORTS ON FORM 8-K**



Harley A. Whitfield

/s/ KEVIN R. WINGERT

Kevin R. Wingert

Director

March 1, 2004

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**AMERICAN EQUITY INVESTMENT LIFE HOLDING COMPANY**  
**INDEX TO CONSOLIDATED FINANCIAL STATEMENTS**  
**YEARS ENDED DECEMBER 31, 2003, 2002, AND 2001**

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**REPORT OF INDEPENDENT AUDITORS**

The Board of Directors and Stockholders  
American Equity Investment Life Holding Company

We have audited the accompanying consolidated balance sheets of American Equity Investment Life Holding Company as of December 31, 2003 and 2002, and the related consolidated statements of income, changes in stockholders' equity, and cash flows for each of the three years in the period ended December 31, 2003. Our audits also included the financial statement schedules listed in the Index on page F-1. These financial statements and schedules are the responsibility of the Company's management. Our responsibility is to express an opinion on these financial statements and schedules based on our audits.

We conducted our audits in accordance with auditing standards generally accepted in the United States. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.

In our opinion, the financial statements referred to above present fairly, in all material respects, the consolidated financial position of American Equity Investment Life Holding Company at December 31, 2003 and 2002, and the consolidated results of its operations and its cash flows for each of the three years in the period ended December 31, 2003, in conformity with accounting principles generally accepted in the United States. Also, in our opinion, the related financial statement schedules, when considered in relation to the financial statements taken as a whole, present fairly in all material respects the information set forth therein.

As discussed in Note 1 to the consolidated financial statements, the Company changed its method of accounting for derivative instruments and hedging activities and its method of reporting certain variable interest entities, in response to new accounting standards that became effective January 1, 2001 and December 31, 2003, respectively.

/s/ ERNST & YOUNG LLP

Des Moines, Iowa  
February 27, 2004

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**AMERICAN EQUITY INVESTMENT LIFE HOLDING COMPANY**

**CONSOLIDATED BALANCE SHEETS**

**(Dollars in thousands, except per share data)**

|  | 2003                | 2002                |
|--|---------------------|---------------------|
|  |                     | (Note 1)            |
| <b>Assets</b>  |                     |                     |
| Cash and investments:  |                     |                     |
| Fixed maturity securities:   |                     |                     |
| Available for sale, at market (amortized cost: 2003—\$3,703,756; 2002—\$3,796,914)                         | \$ 3,618,025        | \$ 3,753,144        |
| Held for investment, at amortized cost (market: 2003—\$1,717,224; 2002—\$1,151,337)                        | 1,827,289           | 1,149,510           |
| Equity securities, available for sale, at market (cost: 2003—\$21,794; 2002—\$18,051)                      | 21,409              | 17,006              |
| Mortgage loans on real estate  | 608,715             | 334,339             |
| Derivative instruments   | 119,833             | 52,313              |
| Policy loans   | 324                 | 295                 |
| Cash and cash equivalents  | 32,598              | 21,163              |
| <b>Total cash and investments</b>  | <b>6,228,193</b>    | <b>5,327,770</b>    |
| Coinsurance deposits—related party   | 1,926,603           | 1,285,523           |
| Premiums due and uncollected   | 1,213               | 1,371               |
| Accrued investment income  | 29,386              | 36,716              |
| Receivables from related parties   | 28,015              | 20,949              |
| Property, furniture and equipment, less allowances for depreciation of \$4,458 in 2003 and \$4,011 in 2002 | 1,574               | 1,675               |
| Deferred policy acquisition costs  | 703,664             | 595,450             |
| Deferred income tax asset  | 58,833              | 50,711              |
| Federal income taxes recoverable   | 1,737               | —                   |
| Other assets   | 6,333               | 4,814               |
| Assets held in separate account  | 3,626               | 2,810               |
| <b>Total assets</b>  | <b>\$ 8,989,177</b> | <b>\$ 7,327,789</b> |

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**Liabilities and Stockholders' Equity**

|  |                     |                     |
|--|---------------------|---------------------|
| Liabilities:   |                     |                     |
| Policy benefit reserves:   |                     |                     |
| Traditional life and accident and health insurance products  | \$ 44,497           | \$ 33,089           |
| Annuity and single premium universal life products   | 8,271,377           | 6,704,799           |
| Other policy funds and contract claims   | 60,995              | 35,644              |
| Amounts due to related party under General Agency Commission and Servicing Agreement   | 40,601              | 40,345              |
| Other amounts due to related parties   | 22,551              | 4,363               |
| Notes payable  | 31,833              | 43,333              |
| Subordinated debentures  | 116,425             | —                   |
| Amount due to reinsurer  | —                   | 10,908              |
| Amounts due under repurchase agreements  | 108,790             | 241,731             |
| Federal income taxes payable   | —                   | 8,187               |
| Other liabilities  | 24,766              | 24,616              |
| Liabilities related to separate account  | 3,626               | 2,810               |
| <b>Total liabilities</b>   | <b>8,725,461</b>    | <b>7,149,825</b>    |
| Minority interests in subsidiaries:  |                     |                     |
| Company-obligated mandatorily redeemable preferred securities of subsidiary trusts   | —                   | 100,486             |
| Stockholders' equity:  |                     |                     |
| Series Preferred Stock, par value \$1 per share, 2,000,000 shares authorized; 625,000 shares of 1998 Series A Participating Preferred Stock issued and outstanding | 625                 | 625                 |
| Common Stock, par value \$1 per share, 75,000,000 shares authorized; issued and outstanding 2003—35,294,035 shares; 2002—14,438,452 shares                         | 35,294              | 14,438              |
| Additional paid-in capital   | 208,436             | 56,811              |
| Accumulated other comprehensive loss   | (22,742)            | (11,944)            |
| Retained earnings  | 42,103              | 17,548              |
| <b>Total stockholders' equity</b>  | <b>263,716</b>      | <b>77,478</b>       |
| <b>Total liabilities and stockholders' equity</b>  | <b>\$ 8,989,177</b> | <b>\$ 7,327,789</b> |

See accompanying notes.

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AMERICAN EQUITY INVESTMENT LIFE HOLDING COMPANY

CONSOLIDATED STATEMENTS OF INCOME

(Dollars in thousands, except per share data)

|   | Year ended December 31, |                  |                |
|---|-------------------------|------------------|----------------|
|   | 2003                    | 2002             | 2001           |
| <b>Revenues:</b>  |                         |                  |                |
| Traditional life and accident and health insurance premiums   | \$ 13,686               | \$ 13,664        | \$ 13,141      |
| Annuity and single premium universal life product charges   | 20,452                  | 15,376           | 12,520         |
| Net investment income   | 358,529                 | 308,548          | 209,086        |
| Realized gains (losses) on investments  | 6,946                   | (122)            | 787            |
| Change in fair value of derivatives   | 52,525                  | (57,753)         | (55,158)       |
| <b>Total revenues</b>   | <b>452,138</b>          | <b>279,713</b>   | <b>180,376</b> |
| <b>Benefits and expenses:</b>   |                         |                  |                |
| Insurance policy benefits and change in future policy benefits  | 11,824                  | 9,317            | 9,762          |
| Interest credited to account balances   | 242,543                 | 177,633          | 97,923         |
| Change in fair value of embedded derivatives  | 66,801                  | (5,027)          | 12,921         |
| Interest expense on General Agency Commission and Servicing Agreement                                       | 3,000                   | 3,596            | 5,716          |
| Interest expense on notes payable   | 1,486                   | 1,901            | 2,881          |
| Interest expense on subordinated debentures   | 7,661                   | —                | —              |
| Interest expense on amounts due under repurchase agreements   | 1,140                   | 734              | 1,123          |
| Other interest expense  | 138                     | 1,043            | 381            |
| Amortization of deferred policy acquisition costs   | 52,982                  | 39,930           | 23,040         |
| Other operating costs and expenses  | 25,618                  | 21,635           | 17,176         |
| <b>Total benefits and expenses</b>  | <b>413,193</b>          | <b>250,762</b>   | <b>170,923</b> |
| Income before income taxes, minority interests and cumulative effect of change in accounting principle      | 38,945                  | 28,951           | 9,453          |
| Income tax expense  | 13,505                  | 7,299            | 333            |
| Income before minority interests and cumulative effect of change in accounting principle                    | 25,440                  | 21,652           | 9,120          |
| <b>Minority interests in subsidiaries:</b>  |                         |                  |                |
| Earnings attributable to company-obligated mandatorily redeemable preferred securities of subsidiary trusts | —                       | 7,445            | 7,449          |
| Income before cumulative effect of change in accounting principle   | 25,440                  | 14,207           | 1,671          |
| Cumulative effect of change in accounting for derivatives   | —                       | —                | (799)          |
| <b>Net income</b>   | <b>\$ 25,440</b>        | <b>\$ 14,207</b> | <b>\$ 872</b>  |
| <b>Earnings per common share:</b>   |                         |                  |                |
| Income before cumulative effect of change in accounting principle   | \$ 1.45                 | \$ 0.87          | \$ 0.10        |
| Cumulative effect of change in accounting for derivatives   | —                       | —                | (0.05)         |
| <b>Earnings per common share</b>  | <b>\$ 1.45</b>          | <b>\$ 0.87</b>   | <b>\$ 0.05</b> |
| <b>Earnings per common share—assuming dilution:</b>   |                         |                  |                |
| Income before cumulative effect of change in accounting principle   | \$ 1.21                 | \$ 0.76          | \$ 0.09        |
| Cumulative effect of change in accounting for derivatives   | —                       | —                | (0.04)         |
| <b>Earnings per common share—assuming dilution</b>  | <b>\$ 1.21</b>          | <b>\$ 0.76</b>   | <b>\$ 0.05</b> |

See accompanying notes.

AMERICAN EQUITY INVESTMENT LIFE HOLDING COMPANY

CONSOLIDATED STATEMENTS OF CHANGES IN STOCKHOLDERS' EQUITY

(Dollars in thousands, except per share data)

|  | Preferred Stock | Common Stock | Additional Paid-in Capital | Accumulated Other Comprehensive Loss | Retained Earnings | Total Stockholders' Equity |
|--|-----------------|--------------|----------------------------|--------------------------------------|-------------------|----------------------------|
| Balance at January 1, 2001   | \$ 625          | \$ 14,530    | \$ 57,577                  | \$ (16,876)                          | \$ 2,796          | \$ 58,652                  |
| Comprehensive loss:  |                 |              |                            |                                      |                   |                            |
| Net income for year  | —               | —            | —                          | —                                    | 872               | 872                        |
| Change in net unrealized investment gains/losses                                 | —               | —            | —                          | (16,655)                             | —                 | (16,655)                   |
| Total comprehensive loss   |                 |              |                            |                                      |                   | (15,783)                   |
| Issuance of 5,052 shares of common stock   | —               | 5            | 34                         | —                                    | —                 | 39                         |
| Acquisition of 18,320 shares of common stock                                     | —               | (18)         | (159)                      | —                                    | —                 | (177)                      |
| Dividends on preferred stock (\$.03 per share)                                   | —               | —            | —                          | —                                    | (19)              | (19)                       |
| Dividends on common stock (\$.01 per share)                                      | —               | —            | —                          | —                                    | (145)             | (145)                      |
| Balance at December 31, 2001   | 625             | 14,517       | 57,452                     | (33,531)                             | 3,504             | 42,567                     |
| Comprehensive income:  |                 |              |                            |                                      |                   |                            |
| Net income for year  | —               | —            | —                          | —                                    | 14,207            | 14,207                     |
| Change in net unrealized investment gains/losses                                 | —               | —            | —                          | 21,587                               | —                 | 21,587                     |
| Total comprehensive income:  |                 |              |                            |                                      |                   | 35,794                     |
| Issuance of 34,228 shares of common stock  | —               | 34           | 103                        | —                                    | —                 | 137                        |
| Acquisition of 112,750 shares of common stock                                    | —               | (113)        | (744)                      | —                                    | —                 | (857)                      |
| Dividends on preferred stock (\$0.03 per share)                                  | —               | —            | —                          | —                                    | (19)              | (19)                       |
| Dividends on common stock (\$0.01 per share)                                     | —               | —            | —                          | —                                    | (144)             | (144)                      |
| Balance at December 31, 2002   | 625             | 14,438       | 56,811                     | (11,944)                             | 17,548            | 77,478                     |
| Comprehensive income:  |                 |              |                            |                                      |                   |                            |
| Net income for year  | —               | —            | —                          | —                                    | 25,440            | 25,440                     |
| Change in net unrealized investment gains/losses                                 | —               | —            | —                          | (10,798)                             | —                 | (10,798)                   |
| Total comprehensive income   |                 |              |                            |                                      |                   | 14,642                     |
| Issuance of 20,700,000 shares of common stock less issuance expenses of \$15,035 | —               | 20,700       | 150,565                    | —                                    | —                 | 171,265                    |
| Issuance of 1,591,083 shares of common stock to the NMO                          | —               | —            | —                          | —                                    | —                 | —                          |
| Deferred Compensation Trust  | —               | 1,591        | 8,939                      | —                                    | (533)             | 9,997                      |
| Acquisition of 1,435,500 shares of common stock                                  | —               | (1,435)      | (7,879)                    | —                                    | —                 | (9,314)                    |
| Dividends on preferred stock (\$0.03 per share)                                  | —               | —            | —                          | —                                    | (19)              | (19)                       |
| Dividends on common stock (\$0.01 per share)                                     | —               | —            | —                          | —                                    | (333)             | (333)                      |
| Balance at December 31, 2003   | \$ 625          | \$ 35,294    | \$ 208,436                 | \$ (22,742)                          | \$ 42,103         | \$ 263,716                 |

See accompanying notes.

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AMERICAN EQUITY INVESTMENT LIFE HOLDING COMPANY

CONSOLIDATED STATEMENTS OF CASH FLOWS

(Dollars in thousands)

|   | Year ended December 31, |           |           |
|---|-------------------------|-----------|-----------|
|   | 2003                    | 2002      | 2001      |
| <b>Operating activities</b>   |                         |           |           |
| Net income  | \$ 25,440               | \$ 14,207 | \$ 872    |
| Cumulative effect of change in accounting for derivatives                                   | —                       | —         | 799       |
| Adjustments to reconcile net income to net cash provided by (used in) operating activities: |                         |           |           |
| Adjustments related to interest sensitive products:   |                         |           |           |
| Interest credited to account balances   | 242,543                 | 177,633   | 97,923    |
| Annuity and single premium universal life product charges                                   | (20,452)                | (15,376)  | (12,520)  |
| Change in fair value of embedded derivatives  | 66,801                  | (5,027)   | 12,921    |
| Increase in traditional life and accident and health insurance reserves                     | 11,408                  | 7,599     | 5,136     |
| Policy acquisition costs deferred   | (89,979)                | (152,144) | (154,451) |
| Amortization of deferred policy acquisition costs   | 52,982                  | 39,930    | 23,040    |
| Provision for depreciation and other amortization   | 1,277                   | 981       | 970       |
| Amortization of discounts and premiums on fixed maturity securities                         | (153,226)               | (134,590) | (50,462)  |
| Realized losses (gains) on investments  | (6,946)                 | 122       | (787)     |

|   |             |             |             |
|---|-------------|-------------|-------------|
| Change in fair value of derivatives   | (52,525)    | 57,753      | 55,158      |
| Deferred income taxes   | (2,307)     | (11,091)    | (5,794)     |
| Reduction of amounts due to related party under General Agency Commission and Servicing Agreement | (14,173)    | (18,058)    | (29,422)    |
| Changes in other operating assets and liabilities:  |             |             |             |
| Accrued investment income   | 7,330       | (14,616)    | (702)       |
| Receivables from related parties  | (7,066)     | 9,029       | 17,265      |
| Federal income taxes recoverable/payable  | (9,924)     | 12,411      | (4,274)     |
| Other policy funds and contract claims  | 25,351      | 13,598      | 5,376       |
| Other amounts due to related parties  | 23,241      | (4,412)     | 15,927      |
| Other liabilities   | 8,243       | (8,275)     | 4,861       |
| Other   | (126)       | 1,544       | 414         |
| Net cash provided by (used in) operating activities   | 107,892     | (28,782)    | (17,750)    |
| <b>Investing activities</b>   |             |             |             |
| Sales, maturities, or repayments of investments:  |             |             |             |
| Fixed maturity securities—available for sale  | 2,209,090   | 3,527,658   | 1,734,890   |
| Fixed maturity securities—held for investment   | 869,205     | —           | —           |
| Equity securities, available for sale   | 49,904      | 10,352      | 7,820       |
| Mortgage loans on real estate   | 12,768      | 3,160       | —           |
| Derivative instruments  | 47,993      | 9,735       | —           |
|   | 3,188,960   | 3,550,905   | 1,742,710   |
| Acquisitions of investments:  |             |             |             |
| Fixed maturity securities—available for sale  | (2,035,255) | (4,634,925) | (3,214,768) |
| Fixed maturity securities—held for investment   | (1,469,922) | (215,161)   | —           |
| Equity securities, available for sale   | (49,170)    | (10,055)    | (18,844)    |

See accompanying notes.

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|  | Year ended December 31, |             |             |
|--|-------------------------|-------------|-------------|
|  | 2003                    | 2002        | 2001        |
| <b>Investing activities (continued)</b>  |                         |             |             |
| Mortgage loans on real estate  | (287,144)               | (229,318)   | (108,181)   |
| Derivative instruments   | (66,062)                | (93,963)    | (76,569)    |
| Policy loans   | (29)                    | (4)         | (27)        |
|  | (3,907,582)             | (5,183,426) | (3,418,389) |
| Purchases of property, furniture and equipment   | (829)                   | (914)       | (1,370)     |
| Net cash used in investing activities  | (719,451)               | (1,633,435) | (1,677,049) |
| <b>Financing activities</b>  |                         |             |             |
| Receipts credited to annuity and single premium universal life policyholder account balances | 1,718,654               | 2,456,096   | 2,433,657   |
| Coinsurance deposits—related parties   | (641,080)               | (858,748)   | (426,775)   |
| Unapplied policyholder receipts  | —                       | —           | 12,803      |
| Return of annuity and single premium universal life policyholder account balances            | (472,220)               | (332,042)   | (223,163)   |
| Financing fees incurred and deferred   | (610)                   | (100)       | —           |
| Proceeds from notes payable  | —                       | 10,000      | 6,000       |
| Repayments of notes payable  | (11,500)                | (13,334)    | (3,333)     |
| Increase (decrease) in amounts due under repurchase agreements                               | (132,941)               | 241,731     | (110,000)   |
| Amounts due to reinsurer   | (10,908)                | (3,410)     | 14,318      |
| Proceeds from issuance of subordinated debentures  | 12,000                  | —           | —           |
| Net proceeds from issuance of common stock   | 171,265                 | 137         | 39          |
| Acquisitions of common stock   | (9,314)                 | (857)       | (177)       |
| Acquisition of 8% Trust Preferred Securities   | —                       | (60)        | —           |
| Dividends paid   | (352)                   | (163)       | (164)       |
| Net cash provided by financing activities  | 622,994                 | 1,499,250   | 1,703,205   |
| Increase (decrease) in cash and cash equivalents   | 11,435                  | (162,967)   | 8,406       |
| Cash and cash equivalents at beginning of year   | 21,163                  | 184,130     | 175,724     |

|  |    |        |    |        |    |         |
|--|----|--------|----|--------|----|---------|
| Cash and cash equivalents at end of year | \$ | 32,598 | \$ | 21,163 | \$ | 184,130 |
|--|----|--------|----|--------|----|---------|

**Supplemental disclosures of cash flow information:**

Cash paid during the year for:

|   |    |        |    |       |    |        |
|---|----|--------|----|-------|----|--------|
| Interest on notes payable and repurchase agreements | \$ | 2,629  | \$ | 3,897 | \$ | 4,199  |
| Interest on subordinated debentures                 |    | 7,139  |    | —     |    | —      |
| Income taxes—life subsidiaries                      |    | 25,735 |    | 5,979 |    | 10,401 |

Non-cash financing and investing activities:

|  |  |        |  |        |  |        |
|--|--|--------|--|--------|--|--------|
| Premium and interest bonuses deferred as policy acquisition costs  |  | 31,249 |  | 28,153 |  | 17,399 |
| Advances by related party under General Agency Commission and Servicing Agreement deferred as policy acquisition costs |  | 14,429 |  | 11,796 |  | —      |
| Issuance of 1,591,083 shares of common stock to NMO Deferred Compensation Trust  |  | 9,997  |  | —      |  | —      |
| Subordinated debentures issued to subsidiary trust for common equity securities of the subsidiary trust                |  | 372    |  | —      |  | —      |

See accompanying notes.

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**AMERICAN EQUITY INVESTMENT LIFE HOLDING COMPANY**

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS**

**DECEMBER 31, 2003**

**1. Organization and Significant Accounting Policies**

**Organization**

American Equity Investment Life Holding Company (the Company), through its wholly-owned subsidiaries, American Equity Investment Life Insurance Company and American Equity Investment Life Insurance Company of New York, is licensed to sell insurance products in 47 states and the District of Columbia at December 31, 2003. The Company offers a broad array of annuity and insurance products. The Company's business consists primarily of the sale of index and fixed rate annuities. The Company operates solely in the life insurance business.

**Consolidation and Basis of Presentation**

The consolidated financial statements include the accounts of the Company and its wholly-owned subsidiaries: American Equity Investment Life Insurance Company ("American Equity Life"), American Equity Investment Life Insurance Company of New York, American Equity Investment Capital, Inc., and American Equity Investment Properties, L.C. All significant intercompany accounts and transactions have been eliminated.

The Company adopted Financial Accounting Standards Board ("FASB") Interpretation No. 46 ("FIN 46"), "Consolidation of Variable Interest Entities, an Interpretation of Accounting Research Bulletin No. 51" on December 31, 2003, retroactive to January 1, 2003. Prior to the adoption of FIN 46, the Company's subsidiary trusts, American Equity Capital Trust I and American Equity Capital Trust II were included in the Company's consolidated financial statements. The subsidiary trusts are no longer consolidated upon adoption of FIN 46, and the effect of such deconsolidation is that the obligations of the trusts to the preferred security holders, previously reported as minority interests, have been replaced with the Company's subordinated debt obligations to the trusts and the Company's equity investments in the trusts. Payments on the subordinated debentures are no longer included as minority interests but rather as interest expense totaling \$7.7 million for 2003. The adoption of FIN 46 had no impact on net income, stockholders' equity or previously reported quarterly net income for 2003.

The preparation of consolidated financial statements in conformity with accounting principles generally accepted in the United States requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the consolidated financial statements and the reported amounts of revenues and expenses during the reporting period. Significant estimates and assumptions are utilized in the calculation of value of insurance in force acquired, deferred policy acquisition costs, policyholder liabilities and accruals, valuation of embedded derivatives on index reserves and valuation allowances on deferred tax assets and investments. It is reasonably possible that actual experience could differ from the estimates and assumptions utilized.

**Reclassifications**

Certain items appearing in the 2002 consolidated financial statements have been reclassified to conform with the current year presentation.

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**Change in Balance Sheet Presentation**

At December 31, 2003, the Company revised its balance sheet presentation for 2003 and 2002 to more appropriately reflect the nature of the coinsurance arrangement described in note 5 on a gross rather than a net basis. This change increased both assets—coinsurance deposits—related party and liabilities—policy benefit reserves by \$1.3 billion from amounts previously reported at December 31, 2002. This change did not affect net income, stockholders' equity or net cash flows as previously reported.

## Investments

Fixed maturity securities (bonds and redeemable preferred stocks maturing more than one year after issuance) that may be sold prior to maturity are classified as available for sale. Available for sale securities are reported at estimated fair value and unrealized gains and losses, if any, on these securities are included directly in a separate component of stockholders' equity, net of income taxes and certain adjustments, for assumed changes in amortization of deferred policy acquisition costs. Premiums and discounts are amortized/accrued using methods which result in a constant yield over the securities' expected lives. Amortization/accrual of premiums and discounts on mortgage and asset-backed securities incorporate prepayment assumptions to estimate the securities' expected lives.

Fixed maturity securities that the Company has the positive intent and ability to hold to maturity are classified as held for investment. Held for investment securities are reported at cost adjusted for amortization of premiums and discounts. Changes in the market value of these securities, except for declines that are other than temporary, are not reflected in the Company's financial statements. Premiums and discounts are amortized/accrued using methods which result in a constant yield over the securities' expected lives.

Equity securities, comprised of common and non-redeemable preferred stocks, are classified as available for sale and are reported at market value. Unrealized gains and losses are included directly in a separate component of stockholders' equity, net of income taxes.

Mortgage loans on real estate are reported at cost, adjusted for amortization of premiums and accrual of discounts. If the Company determines that the value of any mortgage loan is impaired, the carrying amount of the mortgage loan will be reduced to its fair value, based upon the present value of expected future cash flows from the loan discounted at the loan's effective interest rate, or the fair value of the underlying collateral.

Policy loans are reported at unpaid principal.

The carrying amounts of all the Company's investments are reviewed on an ongoing basis for credit deterioration. If this review indicates a decline in market value that is other than temporary, the Company's carrying amount in the investment is reduced to its estimated fair value and a specific writedown is taken. Such reductions in carrying amount are recognized as realized losses and charged to income. Realized gains and losses on sales are determined on the basis of specific identification of investments.

Market values, as reported herein, of fixed maturity and equity securities are based on the latest quoted market prices, or for those fixed maturity securities not readily marketable, at values which are representative of the market values of issues of comparable yield and quality.

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## Derivative Instruments

Under Statement of Financial Accounting Standards ("SFAS") No. 133, *Accounting for Derivative Instruments and Hedging Activities*, which became effective for the Company on January 1, 2001 all derivative instruments (including certain derivative instruments embedded in other contracts) are recognized in the balance sheet at their fair values and changes in fair value are recognized immediately in earnings, unless the derivatives qualify as hedges of future cash flows. For derivatives qualifying as hedges of future cash flows, the effective portion of the changes in fair value is recorded temporarily in equity, then recognized in earnings along with the related effects of the hedged items. Any "ineffective" portion of a hedge is reported in earnings as it occurs.

The Company has index annuity products that guarantee the return of principal to the policyholder and credit interest based on a percentage of the gain in a specified market index. A portion of the premium from each policyholder is invested in investment grade fixed income securities to cover the minimum guaranteed value due the policyholder at the end of the contract term. A portion of the premium is used to purchase derivatives consisting of call options on the applicable market indices to fund the index credits due to index annuity policyholders. Substantially all such call options are one year options purchased to match the funding requirements of the underlying policies. The call options are marked to market with the change in fair value included as a component of our revenues. On the respective anniversary dates of the index policies, the index used to compute the annual index credit is reset and the Company purchases new one-year call options to fund the next annual index credit. The Company manages the cost of these purchases through the terms of its index annuities, which permits the Company to change annual participation rates, asset fees, and/or caps, subject to guaranteed minimums. By reducing participation rates, asset fees or caps, the Company can limit option costs to budgeted amounts except in cases where the contractual features would prevent further modifications.

The Company's strategy attempts to mitigate any potential risk of loss under these agreements through a regular monitoring process which evaluates the program's effectiveness. The Company is exposed to risk of loss in the event of nonperformance by the counterparties and, accordingly, the Company purchases its option contracts from multiple counterparties and evaluates the creditworthiness of all counterparties prior to purchase of the contracts. At December 31, 2003, all of these options had been purchased from nationally recognized investment banking institutions with a Standard and Poor's credit rating of BBB+ or higher.

Under SFAS No. 133, the future annual index credits on the Company's index annuities are treated as a "series of embedded derivatives" over the expected life of the applicable contract. The Company does not purchase call options to fund the index liabilities which may arise after the next policy anniversary date. The Company must value both the call options and the related forward embedded options in the policies at fair value. The change in fair value for the call options is included in change in fair value of derivatives and the change in fair value adjustment of the embedded options is included in change in fair value of embedded derivatives in the Consolidated Statements of Income.

Amortization of deferred policy acquisition costs decreased by \$1.7 million for the year ended December 31, 2003 and increased by \$1.4 million and \$0.8 million for the years ended December 31, 2002 and 2001, respectively, as a result of the impact of SFAS No. 133.

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At January 1, 2001, the Company's financial statements were adjusted to record a cumulative effect of adopting this accounting change, as follows (in thousands):

Fair value adjustment related to:

|  |             |
|--|-------------|
| Call options   | \$ (14,537) |
| Index annuity liabilities  | 11,736      |
| Adjustments for assumed changes in amortization of deferred policy acquisition costs | 1,571       |
| Deferred income tax benefit  | 431         |
|  | <hr/>       |
|  | \$ (799)    |
|  | <hr/>       |

### Cash and Cash Equivalents

For purposes of the consolidated statements of cash flows, the Company considers all highly liquid debt instruments purchased with a maturity of three months or less to be cash equivalents.

### Deferred Policy Acquisition Costs

To the extent recoverable from future policy revenues and gross profits, certain costs of producing new business, principally commissions, first-year premium bonuses and bonus interest and certain costs of policy issuance (including policy issue costs of \$3.8 million, \$4.1 million and \$4.9 million in 2003, 2002 and 2001, respectively) have been deferred. For annuity and single premium universal life products, these costs are being amortized generally in proportion to expected gross profits from surrender charges and investment, mortality, and expense margins. That amortization is adjusted retrospectively when estimates of future gross profits/margins (including the impact of realized investment gains and losses) to be realized from a group of products are revised. Deferred policy acquisition costs are also adjusted for the change in amortization that would have occurred if available-for-sale fixed maturity securities had been sold at their aggregate market value and the proceeds reinvested at current yields. The impact of this adjustment is included in accumulated other comprehensive income (loss) within stockholders' equity.

For traditional life and accident and health insurance, deferred policy acquisition costs are being amortized over the premium-paying period of the related policies in proportion to premium revenues recognized, principally using the same assumptions for interest, mortality and withdrawals that are used for computing liabilities for future policy benefits subject to traditional "lock-in" concepts.

### Property, Furniture and Equipment

Property, furniture and equipment, comprised primarily of office furniture and equipment, data processing equipment and capitalized software costs, are reported at cost less allowances for depreciation. Depreciation expense is determined primarily using the straight-line method over the estimated useful lives of the assets.

### Separate Accounts

The separate account assets and liabilities represent funds that are separately administered for the benefit of variable annuity policyholders who bear the underlying investment risk. The separate account assets and liabilities are carried at fair value. Revenues and expenses related to the separate account

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assets and liabilities, to the extent of premiums received from and benefits paid or provided to the separate account policyholders, are excluded from the amounts reported in the consolidated statements of income. The Company receives various fees (mortality, expense and surrender charges assessed against policyholder account balances) that are included as revenues in the consolidated statements of income.

### Future Policy Benefits

Future policy benefit reserves for annuity and single premium universal life products are computed under a retrospective deposit method and represent policy account balances before applicable surrender charges. Policy benefits and claims that are charged to expense include benefit claims incurred in the period in excess of related policy account balances. Interest crediting rates for these products ranged from 3.0% to 11.5% in 2003 and from 3.0% to 12.0% in 2002 and 2001. A portion of this amount (\$31.2 million, \$28.2 million and \$17.4 million during the years ended December 31, 2003, 2002 and 2001, respectively) represents an additional interest credit on first-year premiums payable until the first contract anniversary date (first-year bonus interest). Such amounts have been offset against interest credited to account balances and deferred as policy acquisitions costs.

The liability for future policy benefits for traditional life insurance is based on net level premium reserves, including assumptions as to interest, mortality, and other assumptions underlying the guaranteed policy cash values. Reserve interest assumptions are level and range from 3.0% to 6.0%. The liabilities for future policy benefits for accident and health insurance are computed using a net level premium method, including assumptions as to morbidity and other assumptions based on the Company's experience, modified as necessary to give effect to anticipated trends and to include provisions for possible unfavorable deviations. Policy benefit claims are charged to expense in the period that the claims are incurred.

Unpaid claims include amounts for losses and related adjustment expenses and are determined using individual claim evaluations and statistical analysis. Unpaid claims represent estimates of the ultimate net costs of all losses, reported and unreported, which remain unpaid at December 31 of each year. These estimates are necessarily subject to the impact of future changes in claim severity, frequency and other factors. In spite of the variability inherent in such situations, management believes that the unpaid claim amounts are adequate. The estimates are continuously reviewed and as adjustments to these amounts become necessary, such adjustments are reflected in current operations.

Certain group policies include provisions for annual experience refunds of premiums equal to net premiums received less a 16% administrative fee and less claims incurred. Such amounts (2003—\$0.1 million; 2002—\$0.3 million; and 2001—\$0.6 million) are reported as a reduction of traditional life and accident and health insurance premiums in the consolidated statements of income.

### Deferred Income Taxes

Deferred income tax assets or liabilities are computed based on the temporary differences between the financial statement and income tax bases of assets and liabilities using the enacted marginal tax rate. Deferred income tax expenses or credits are based on the changes in the asset or liability from period to period. Deferred income tax assets are subject to ongoing evaluation of whether such assets will be realized. The ultimate realization of deferred income tax assets depends on generating future taxable income during the periods in which temporary differences become deductible. If future income is not generated as expected, deferred income tax assets may need to be written off.

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### Stockholders' Equity

On December 9, 2003, the Company completed an initial public offering of 18,700,000 shares of its common stock at a price of \$9.00 per share. Pursuant to the over-allotment option granted to the underwriters in the offering, the underwriters purchased an additional 2,000,000 shares on December 29, 2003 and an additional 805,000 shares on January 7, 2004, which fully exercised the over-allotment option. The proceeds from the initial public offering (including proceeds from shares issued pursuant to the over-allotment option), net of the underwriting discount and expenses, were approximately \$178.0 million, of which \$125.0 million was contributed to American Equity Life to fund the future growth of its business.

The Company issued 625,000 shares of 1998 Series A Participating Preferred Stock, at par, under a private placement offering in 1998 in exchange for cash of \$10 million. These shares have participating dividend rights with shares of the Company's common stock, when and as such dividends are declared. These shares are convertible into 1,875,000 shares of the Company's common stock, have no voting rights and have an aggregate liquidation preference of \$10 million.

### Recognition of Premium Revenues and Costs

Revenues for annuity and single premium universal life products include surrender charges assessed against policyholder account balances and mortality and expense charges (single premium universal life products only) during the period. Expenses related to these products include interest credited to policyholder account balances and benefit claims incurred in excess of policyholder account balances (single premium universal life products only).

Traditional life and accident and health insurance premiums are recognized as revenues over the premium-paying period. Future policy benefits are recognized as expenses over the life of the policy by means of the provision for future policy benefits.

All insurance-related revenues, benefits, losses and expenses are reported net of reinsurance ceded.

### Premiums and Deposits by Product Type

The Company markets index annuities, fixed rate annuities, a variable annuity and life insurance. In connection with its reinsured group life business, the Company also collects renewal premiums on

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certain accident and health insurance policies. Premiums and deposits (net of reinsurance) collected in 2003, 2002 and 2001, by product category were as follows:

| Product Type                | Year ended December 31, |              |              |
|-----------------------------|-------------------------|--------------|--------------|
|                             | 2003                    | 2002         | 2001         |
|                             | (Dollars in thousands)  |              |              |
| <b>Index Annuities:</b>     |                         |              |              |
| Index Strategies            | \$ 468,716              | \$ 523,224   | \$ 431,571   |
| Fixed Strategy              | 201,702                 | 370,496      | 156,553      |
|                             | 670,418                 | 893,720      | 588,124      |
| <b>Fixed Rate Annuities</b> | 407,156                 | 703,628      | 1,418,758    |
| Life Insurance              | 13,001                  | 12,958       | 12,349       |
| Accident and Health         | 685                     | 706          | 792          |
| Variable Annuities          | 26                      | 83           | 15           |
|                             | \$ 1,091,286            | \$ 1,611,095 | \$ 2,020,038 |

### Stock-Based Compensation

The Company has elected to follow Accounting Principles Board Opinion No. 25, *Accounting for Stock Issued to Employees* (APB 25) and related Interpretations in accounting for its employee stock options. Under APB 25, because the exercise price of the company's employee stock options equals the fair value of the underlying stock on the date of grant, no compensation expense is recognized.

Pro forma information regarding net income is required by SFAS No. 123, *Accounting for Stock-Based Compensation*, as amended by SFAS No. 148, *Accounting for Stock-Based Compensation—Transition and Disclosure*, and has been determined as if the Company had accounted for its employee stock options and subscription rights under the fair value method of these statements. The fair value for these options was estimated at the date of grant using a Black-Scholes

option valuation model (which is primarily used for public companies) for 2003 and a minimum value option pricing model (which is used for non-public companies) for 2002 and 2001 with the following weighted-average assumptions:

|                                | 2003     | 2002    | 2001    |
|--------------------------------|----------|---------|---------|
| Risk-free interest rate        | 1.46%    | 1.45%   | 2.44%   |
| Dividend yield                 | 0%       | 0%      | 0%      |
| Weighted-average expected life | 10 years | 3 years | 3 years |

The minimum value option pricing model is similar to the Black-Scholes option valuation model (which is primarily used for public companies) except that it excludes an assumption for the expected volatility of market price. The Black-Scholes option valuation model was developed for use in estimating the fair value of traded options which have no vesting restrictions and are fully transferable. Because the Company's employee stock options have characteristics significantly different from those of traded options, and because changes in the subjective input assumptions can materially affect the fair value estimate, in management's opinion, the existing models do not necessarily provide a reliable single measure of the fair value of its employee stock options.

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For purposes of pro forma disclosures, the estimated fair value of the options is amortized to expense over the options' vesting period. The Company's pro forma net earnings and earnings per common share were as follows:

|  | Year ended December 31,                       |           |         |
|--|---|-----------|---------|
|  | 2003  | 2002      | 2001    |
|  | (Dollars in thousands, except per share data) |           |         |
| Net income, as reported—numerator for earnings per common share  | \$ 25,440                                     | \$ 14,207 | \$ 872  |
| Deduct: Total stock-based employee compensation expense determined under fair value based method for all awards, net of related tax effect                         | (242)   | (491)     | (38)    |
| Net income, pro forma—numerator for earnings per common share, pro forma   | 25,198  | 13,716    | 834     |
| Interest (dividends in 2002 and 2001 related to convertible trust preferred securities) related to convertible subordinated debentures (net of income tax benefit) | 1,347   | 1,348     | —       |
| Numerator for earnings per common share—assuming dilution, pro forma   | \$ 26,545                                     | \$ 15,064 | \$ 834  |
| Earnings per common share, as reported   | \$ 1.45                                       | \$ 0.87   | \$ 0.05 |
| Earnings per common share, pro forma   | \$ 1.43                                       | \$ 0.84   | \$ 0.05 |
| Earnings per common share—assuming dilution, as reported   | \$ 1.21                                       | \$ 0.76   | \$ 0.05 |
| Earnings per common share—assuming dilution, pro forma   | \$ 1.20                                       | \$ 0.74   | \$ 0.05 |

The effect of the convertible trust preferred securities has not been included in the computations of earnings per common share—assuming dilution and earnings per common share—assuming dilution, proforma for 2001 as the effect is antidilutive.

### Comprehensive Income (Loss)

Comprehensive income (loss) includes all changes in stockholders' equity during a period except those resulting from investments by and distributions to stockholders. Other comprehensive income (loss) excludes net realized investment gains included in net income which merely represent transfers from unrealized to realized gains and losses. These amounts totaled \$(0.1) million, \$(0.1) million and \$0.4 million in 2003, 2002 and 2001, respectively. Such amounts, which have been measured through the date of sale, are net of adjustments to deferred policy acquisition costs and income taxes totaling \$(0.1) million in 2003, \$(0.1) million in 2002 and \$0.4 million in 2001.

### Pending Accounting Change

In June 2003, the Accounting Standards Executive Committee of the American Institute of Certified Public Accountants issued Statement of Position (SOP) 03-1, "Accounting and Reporting by Insurance Enterprises for Certain Nontraditional Long-Duration Contracts and for the Separate Accounts". The SOP provides guidance on the presentation of sales inducements ("premium bonuses and bonus interest"). The Company expects to adopt this SOP when it becomes effective in the first quarter of 2004 and will change its presentation of deferred expenses relating to sales inducements at that time. The SOP requires that sales inducements be recognized as an asset and amortized with the amortization being included as a component of interest credited to account balances. The Company

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currently includes sales inducements as a component of deferred policy acquisition costs and the related amortization expense. The amount of sales inducements included as a component of deferred policy acquisition costs at December 31, 2003 and December 31, 2002 was \$88.4 million and \$62.9 million, respectively. The adoption of this SOP will have no impact on net income or earnings per common share.

## 2. Fair Values of Financial Instruments

The following methods and assumptions were used by the Company in estimating the fair values of financial instruments:

*Fixed maturity securities:* Quoted market prices, when available, or price matrices for securities which are not actively traded, developed using yield data and other factors relating to instruments or securities with similar characteristics.

*Equity securities:* Quoted market prices.

*Mortgage loans on real estate:* Discounted expected cash flows using interest rates currently being offered for similar loans.

*Derivative instruments:* Quoted market prices from related counterparties.

*Policy loans:* The Company has not attempted to determine the fair values associated with its policy loans, as management believes any differences between the Company's carrying value and the fair values afforded these instruments are immaterial to the Company's financial position and, accordingly, the cost to provide such disclosure is not worth the benefit to be derived.

*Cash and cash equivalents:* Amounts reported in the consolidated balance sheets for these instruments approximate their fair values.

*Separate account assets and liabilities:* Reported at estimated fair value in the consolidated balance sheets.

*Annuity and single premium universal life policy benefit reserves and coinsurance deposits—related party:* Fair values of the Company's liabilities under contracts not involving significant mortality or morbidity risks (principally deferred annuities), are stated at the cost the Company would incur to extinguish the liability (i.e., the cash surrender value) adjusted as required under SFAS No. 133. The coinsurance deposits related to the annuity benefit reserves have fair values determined in a similar fashion. The Company is not required to and has not estimated the fair value of its liabilities under other contracts.

*Notes payable and amounts due under repurchase agreements:* As all notes and short-term indebtedness under repurchase agreements have variable interest rates, the amounts reported in the consolidated balance sheets for these instruments approximate their fair values.

*Subordinated debentures:* The carrying amount of subordinated debentures with variable interest rates reported in the consolidated balance sheets approximates fair value. Fair values for subordinated debentures with fixed interest rates are estimated by discounting expected cash flows using interest rates currently being offered for similar securities.

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*Amounts due to related party under General Agency Commission and Servicing Agreement and Company-obligated mandatorily redeemable preferred securities of subsidiary trusts:* Fair values are estimated by discounting expected cash flows using interest rates currently being offered for similar securities.

The following sets forth a comparison of the fair values and carrying amounts of the Company's financial instruments:

|  | December 31,           |                         |                    |                         |
|--|------------------------|-------------------------|--------------------|-------------------------|
|  | 2003                   |                         | 2002               |                         |
|  | Carrying<br>Amount     | Estimated<br>Fair Value | Carrying<br>Amount | Estimated<br>Fair Value |
|  | (Dollars in thousands) |                         |                    |                         |
| <b>Assets</b>  |                        |                         |                    |                         |
| Fixed maturity securities:   |                        |                         |                    |                         |
| Available for sale   | \$ 3,618,025           | \$ 3,618,025            | \$ 3,753,144       | \$ 3,753,144            |
| Held for investment  | 1,827,289              | 1,717,224               | 1,149,510          | 1,151,337               |
| Equity securities, available for sale  | 21,409                 | 21,409                  | 17,006             | 17,006                  |
| Mortgage loans on real estate  | 608,715                | 667,341                 | 334,339            | 359,447                 |
| Derivative instruments   | 119,833                | 119,833                 | 52,313             | 52,313                  |
| Policy loans   | 324                    | 324                     | 295                | 295                     |
| Cash and cash equivalents  | 32,598                 | 32,598                  | 21,163             | 21,163                  |
| Coinsurance deposits—related party   | 1,926,603              | 1,640,639               | 1,285,523          | 1,114,316               |
| Separate account assets  | 3,626                  | 3,626                   | 2,810              | 2,810                   |
| <b>Liabilities</b>   |                        |                         |                    |                         |
| Annuity and single premium universal life policy benefit reserves                    | 8,271,377              | 7,278,813               | 6,704,799          | 5,817,904               |
| Amounts due to related party under General Agency Commission and Servicing Agreement | 40,601                 | 40,601                  | 40,345             | 40,345                  |
| Notes payable  | 31,833                 | 31,833                  | 43,333             | 43,333                  |
| Subordinated debentures  | 116,425                | 87,761                  | —                  | —                       |
| Amounts due under repurchase agreements  | 108,790                | 108,790                 | 241,731            | 241,731                 |
| Liabilities related to separate account  | 3,626                  | 3,626                   | 2,810              | 2,810                   |
| Company-obligated mandatorily redeemable preferred securities of subsidiary trusts   | —                      | —                       | 100,486            | 97,243                  |

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### 3. Investments

At December 31, 2003 and 2002, the amortized cost and estimated fair value of fixed maturity securities and equity securities were as follows:

| December 31, 2003                             | Amortized<br>Cost   | Gross<br>Unrealized<br>Gains | Gross<br>Unrealized<br>Losses | Estimated<br>Fair Value |
|---|---------------------|------------------------------|-------------------------------|-------------------------|
| (Dollars in thousands)                        |                     |                              |                               |                         |
| <b>Fixed maturity securities:</b>             |                     |                              |                               |                         |
| Available for sale:                           |                     |                              |                               |                         |
| United States Government and agencies         | \$ 2,594,861        | \$ 1,150                     | \$ (57,686)                   | \$ 2,538,325            |
| Public utilities                              | 51,300              | 724                          | (189)                         | 51,835                  |
| Corporate securities                          | 330,993             | 13,485                       | (10,753)                      | 333,725                 |
| Redeemable preferred stocks                   | 8,923               | 1,156                        | —                             | 10,079                  |
| Mortgage and asset-backed securities:         |                     |                              |                               |                         |
| United States Government and agencies         | 263,040             | 2,320                        | (1,258)                       | 264,102                 |
| Non-government                                | 454,639             | 3,045                        | (37,725)                      | 419,959                 |
|   | <u>\$ 3,703,756</u> | <u>\$ 21,880</u>             | <u>\$ (107,611)</u>           | <u>\$ 3,618,025</u>     |
| Held for investment:                          |                     |                              |                               |                         |
| United States Government and agencies         | \$ 1,751,532        | \$ —                         | \$ (110,065)                  | \$ 1,641,467            |
| Corporate securities                          | 75,757              | —                            | —                             | 75,757                  |
|   | <u>\$ 1,827,289</u> | <u>\$ —</u>                  | <u>\$ (110,065)</u>           | <u>\$ 1,717,224</u>     |
| <b>Equity securities, available for sale:</b> |                     |                              |                               |                         |
| Non-redeemable preferred stocks               | \$ 16,182           | \$ 41                        | \$ (132)                      | \$ 16,091               |
| Common stocks                                 | 5,612               | —                            | (294)                         | 5,318                   |
|   | <u>\$ 21,794</u>    | <u>\$ 41</u>                 | <u>\$ (426)</u>               | <u>\$ 21,409</u>        |
| <b>December 31, 2002</b>                      |                     |                              |                               |                         |
| <b>Fixed maturity securities:</b>             |                     |                              |                               |                         |
| Available for sale:                           |                     |                              |                               |                         |
| United States Government and agencies         | \$ 3,116,562        | \$ 19,348                    | \$ (1,907)                    | \$ 3,134,003            |
| State, municipal and other governments        | 5,621               | 10                           | —                             | 5,631                   |
| Public utilities                              | 52,308              | 1,622                        | (2,907)                       | 51,023                  |
| Corporate securities                          | 354,071             | 3,407                        | (19,408)                      | 338,070                 |
| Redeemable preferred stocks                   | 11,882              | 1,180                        | (240)                         | 12,822                  |
| Mortgage and asset-backed securities:         |                     |                              |                               |                         |
| United State Government and agencies          | 182,981             | 1,575                        | (43,008)                      | 141,548                 |
| Non-government                                | 73,489              | 310                          | (3,752)                       | 70,047                  |
|   | <u>\$ 3,796,914</u> | <u>\$ 27,452</u>             | <u>\$ (71,222)</u>            | <u>\$ 3,753,144</u>     |
| Held for investment:                          |                     |                              |                               |                         |
| United States Government and agencies         | \$ 1,073,837        | \$ 2,406                     | \$ (579)                      | \$ 1,075,664            |
| Corporate securities                          | 75,673              | —                            | —                             | 75,673                  |
|   | <u>\$ 1,149,510</u> | <u>\$ 2,406</u>              | <u>\$ (579)</u>               | <u>\$ 1,151,337</u>     |
| <b>Equity securities, available for sale:</b> |                     |                              |                               |                         |
| Non-redeemable preferred stocks               | \$ 11,218           | \$ 271                       | \$ (110)                      | \$ 11,379               |
| Common stocks                                 | 6,833               | 17                           | (1,223)                       | 5,627                   |
|   | <u>\$ 18,051</u>    | <u>\$ 288</u>                | <u>\$ (1,333)</u>             | <u>\$ 17,006</u>        |

The amortized cost and estimated fair value of fixed maturity securities at December 31, 2003, by contractual maturity, are shown below. Actual maturities will differ from contractual maturities because borrowers may have the right to call or prepay obligations with or without call or prepayment penalties. All of the Company's mortgage-backed and asset-backed securities provide for periodic payments throughout their lives, and are shown below as a separate line.

|   | Amortized<br>Cost   | Estimated<br>Fair Value | Amortized Cost      | Estimated<br>Fair Value |
|---|---------------------|-------------------------|---------------------|-------------------------|
| (Dollars in thousands)                      |                     |                         |                     |                         |
| Due after one year through five years       | \$ 20,181           | \$ 21,385               | \$ —                | \$ —                    |
| Due after five years through ten years      | 291,258             | 284,823                 | —                   | —                       |
| Due after ten years through twenty years    | 1,181,682           | 1,163,603               | 35,000              | 34,324                  |
| Due after twenty years                      | 1,492,956           | 1,464,153               | 1,792,289           | 1,682,900               |
|   | <u>2,986,077</u>    | <u>2,933,964</u>        | <u>1,827,289</u>    | <u>1,717,224</u>        |
| Mortgage-backed and asset-backed securities | 717,679             | 684,061                 | —                   | —                       |
|   | <u>\$ 3,703,756</u> | <u>\$ 3,618,025</u>     | <u>\$ 1,827,289</u> | <u>\$ 1,717,224</u>     |

Net unrealized losses on available for sale fixed maturity securities and equity securities reported as a separate component of stockholders' equity were comprised of the following at December 31, 2003 and 2002:

|  | December 31,       |                    |
|--|--------------------|--------------------|
|  | 2003               | 2002               |
| (Dollars in thousands)   |                    |                    |
| Net unrealized losses on available for sale fixed maturity securities and equity securities                                  | \$ (86,116)        | \$ (44,815)        |
| Adjustments for assumed changes in amortization of deferred policy acquisition costs   | 51,128             | 25,587             |
| Net unrealized gain and amortization on fixed maturity securities transferred from available for sale to held for investment | —                  | 853                |
| Deferred income tax benefit  | 12,246             | 6,431              |
| Net unrealized losses reported as accumulated other comprehensive loss   | <u>\$ (22,742)</u> | <u>\$ (11,944)</u> |

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The following table shows our investments' gross unrealized losses and fair value, aggregated by investment category and length of time that individual securities have been in a continuous unrealized loss position, at December 31, 2003:

|  | Less than 12 months     |                      | 12 months or more       |                      | Total                   |                      |
|--|-------------------------|----------------------|-------------------------|----------------------|-------------------------|----------------------|
|  | Estimated<br>Fair Value | Unrealized<br>Losses | Estimated<br>Fair Value | Unrealized<br>Losses | Estimated<br>Fair Value | Unrealized<br>Losses |
| <b>Fixed maturity securities:</b>      |                         |                      |                         |                      |                         |                      |
| Available for sale:                    |                         |                      |                         |                      |                         |                      |
| United States Government and agencies  | \$ 2,216,817            | \$ (57,686)          | \$ —                    | \$ —                 | \$ 2,216,817            | \$ (57,686)          |
| Corporate securities                   | 61,330                  | (966)                | 55,812                  | (9,976)              | 117,142                 | (10,942)             |
| Mortgage and asset-backed securities   | 425,352                 | (15,656)             | 68,505                  | (23,327)             | 493,857                 | (38,983)             |
|  | <u>\$ 2,703,499</u>     | <u>\$ (74,308)</u>   | <u>\$ 124,317</u>       | <u>\$ (33,303)</u>   | <u>\$ 2,827,816</u>     | <u>\$ (107,611)</u>  |
| Held for investment:                   |                         |                      |                         |                      |                         |                      |
| United States Government and agencies  | \$ 1,641,467            | \$ (110,065)         | \$ —                    | \$ —                 | \$ 1,641,467            | \$ (110,065)         |
|  | <u>\$ 1,641,467</u>     | <u>\$ (110,065)</u>  | <u>\$ —</u>             | <u>\$ —</u>          | <u>\$ 1,641,467</u>     | <u>\$ (110,065)</u>  |
| Equity securities, available for sale: |                         |                      |                         |                      |                         |                      |
| Non-redeemable preferred stocks        | \$ 13,551               | \$ (132)             | \$ —                    | \$ —                 | \$ 13,551               | \$ (132)             |
| Common stocks                          | —                       | —                    | 1,701                   | (294)                | 1,701                   | (294)                |
|  | <u>\$ 13,551</u>        | <u>\$ (132)</u>      | <u>\$ 1,701</u>         | <u>\$ (294)</u>      | <u>\$ 15,252</u>        | <u>\$ (426)</u>      |

Approximately 94% of the unrealized losses on fixed maturity securities shown in the above table are on securities that are rated investment grade. These unrealized losses are primarily from the Company's investments in United States Government agencies and United States Government agency mortgage-backed securities. These securities are relatively long in duration and are callable, making the value of such securities very sensitive to changes in market interest rates. Approximately 6% of the unrealized losses on fixed maturity securities shown in the above table are on securities rated below investment grade. The Company reviews all investments on an ongoing basis for credit deterioration. Factors considered in evaluating whether a decline in value is other than temporary include:

the length of time and the extent to which the fair value has been less than cost;

- the financial condition and near-term prospects of the issuer;
- whether the investment is rated investment grade;
- whether the issuer is current on all payments and all contractual payments have been made as agreed;
- the Company's intent and ability to retain the investment for a period of time sufficient to allow for any anticipated recovery;
- consideration of rating agency actions;
- changes in cash flows of asset-backed and mortgage-backed securities.

The securities in an unrealized loss position are current in respect to payments of interest and principal and the Company has the ability to hold these securities until they recover in fair value.

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Components of net investment income are as follows:

|                               | Year ended December 31, |            |            |
|-------------------------------|-------------------------|------------|------------|
|                               | 2003                    | 2002       | 2001       |
|                               | (Dollars in thousands)  |            |            |
| Fixed maturity securities     | \$ 322,247              | \$ 288,087 | \$ 196,933 |
| Equity securities             | 1,951                   | 1,194      | 786        |
| Mortgage loans on real estate | 33,241                  | 15,025     | 2,347      |
| Policy loans                  | 25                      | 19         | 20         |
| Cash and cash equivalents     | 1,327                   | 3,500      | 12,281     |
| Other                         | 2,429                   | 2,892      | (1,137)    |
|                               | 361,220                 | 310,717    | 211,230    |
| Less investment expenses      | (2,691)                 | (2,169)    | (2,144)    |
| Net investment income         | \$ 358,529              | \$ 308,548 | \$ 209,086 |

Proceeds from sales of available for sale fixed maturity securities for the years ended December 31, 2003, 2002 and 2001 were \$507.3 million, \$1,821.1 million and \$603.9 million, respectively. Scheduled principal repayments, calls and tenders for available for sale fixed maturity securities for the years ended December 31, 2003, 2002 and 2001 were \$1,701.6 million, \$1,706.6 million and \$1,131.0 million, respectively. Calls of held for investment fixed maturity securities for the year ended December 31, 2003 was \$869.2 million. There were no calls of held for investment fixed maturity securities for the years ended December 31, 2002 and 2001.

Net realized gains (losses) included in revenues for the years ended December 31, 2003, 2002 and 2001 are as follows:

|   | Year ended December 31, |           |           |
|---|-------------------------|-----------|-----------|
|   | 2003                    | 2002      | 2001      |
|   | (Dollars in thousands)  |           |           |
| Available for sale fixed maturity securities: |                         |           |           |
| Gross realized gains                          | \$ 19,922               | \$ 19,943 | \$ 12,820 |
| Gross realized losses                         | (4,216)                 | (6,773)   | (4,439)   |
| Writedowns (other than temporary impairments) | (9,821)                 | (13,030)  | (7,773)   |
|   | 5,885                   | 140       | 608       |
| Equity securities                             | 1,061                   | (262)     | 179       |
|   | \$ 6,946                | \$ (122)  | \$ 787    |

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Changes in unrealized appreciation (depreciation) on investments for the years ended December 31, 2003, 2002 and 2001 are as follows:

|  | Year ended December 31, |      |      |
|--|-------------------------|------|------|
|  | 2003                    | 2002 | 2001 |

|   | (Dollars in thousands) |           |             |
|---|------------------------|-----------|-------------|
| Fixed maturity securities held for investment carried at amortized cost   | \$ (111,892)           | \$ 44,054 | \$ 22,030   |
| Investments carried at estimated fair value:  |                        |           |             |
| Fixed maturity securities, available for sale   | \$ (41,961)            | \$ 82,509 | \$ (77,463) |
| Equity securities, available for sale   | 660                    | (681)     | 400         |
|   | (41,301)               | 81,828    | (77,063)    |
| Adjustment for effect on other balance sheet accounts:  |                        |           |             |
| Deferred policy acquisition costs   | 25,541                 | (49,470)  | 51,441      |
| Deferred income tax asset   | 5,815                  | (11,624)  | 8,967       |
| Net unrealized gain and amortization on fixed maturity securities transferred from available to sale to held for investment | (853)                  | 853       | —           |
|   | 30,503                 | (60,241)  | 60,408      |
| Change is unrealized appreciation (depreciation) on investments carried at estimated fair value                             | \$ (10,798)            | \$ 21,587 | \$ (16,655) |

During 2002, we transferred fixed maturity securities at fair value of \$436.7 million (amortized cost of \$435.7 million) from available for sale to held for investment to match our investment objectives, which are to hold these investments to maturity. The unrealized gain on these securities on the date of transfer (\$1.0 million) is included as a separate component of accumulated other comprehensive loss, and was amortized over the lives of the securities.

The Company's mortgage loan portfolio totaled \$608.7 million and \$334.3 million at December 31, 2003 and 2002, respectively, with commitments outstanding of \$48.3 million at December 31, 2003. The portfolio consists of commercial mortgage loans diversified as to property type, location and loan size. The loans are collateralized by the related properties.

The Company's mortgage lending policies establish limits on the amount that can be loaned to one borrower and require diversification by geographic location and collateral type. The commercial

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mortgage loan portfolio is diversified by geographic region and specific collateral property type as follows:

|                                   | December 31,           |         |                 |         |
|-----------------------------------|------------------------|---------|-----------------|---------|
|                                   | 2003                   |         | 2002            |         |
|                                   | Carrying Amount        | Percent | Carrying Amount | Percent |
|                                   | (Dollars in thousands) |         |                 |         |
| <b>Geographic distribution</b>    |                        |         |                 |         |
| East                              | \$ 115,817             | 19.0%   | \$ 51,785       | 15.5%   |
| Middle Atlantic                   | 56,563                 | 9.3%    | 40,879          | 12.2%   |
| Mountain                          | 79,777                 | 13.1%   | 26,478          | 7.9%    |
| New England                       | 38,539                 | 6.3%    | 13,242          | 4.0%    |
| Pacific                           | 42,327                 | 7.0%    | 20,499          | 6.1%    |
| South Atlantic                    | 105,635                | 17.4%   | 96,401          | 28.8%   |
| West North Central                | 125,163                | 20.5%   | 65,178          | 19.5%   |
| West South Central                | 44,894                 | 7.4%    | 19,877          | 6.0%    |
| Total                             | \$ 608,715             | 100.0%  | \$ 334,339      | 100.0%  |
| <b>Property type distribution</b> |                        |         |                 |         |
| Office                            | \$ 145,490             | 23.9%   | \$ 81,133       | 24.3%   |
| Medical Office                    | 55,314                 | 9.1%    | 17,138          | 5.1%    |
| Retail                            | 163,434                | 26.8%   | 102,362         | 30.6%   |
| Industrial/Warehouse              | 162,943                | 26.8%   | 97,811          | 29.3%   |
| Hotel                             | 20,819                 | 3.4%    | 21,218          | 6.3%    |
| Apartment                         | 29,565                 | 4.9%    | 4,176           | 1.3%    |
| Mixed use/other                   | 31,150                 | 5.1%    | 10,501          | 3.1%    |
| Total                             | \$ 608,715             | 100.0%  | \$ 334,339      | 100.0%  |

At December 31, 2003, fixed maturity securities and short-term investments with an amortized cost of \$1.9 million were on deposit with state agencies to meet regulatory requirements. There are no restrictions on these assets.

At December 31, 2003, the only investment in any person or its affiliates (other than bonds issued by agencies of the United States Government) that exceeded 10% of stockholders' equity was FBL Capital Trust I with an estimated fair value and amortized cost of \$75.8 million.

#### 4. Deferred Policy Acquisition Costs

An analysis of deferred policy acquisition costs is presented below for the years ended December 31, 2003 and 2002:

|                                      | 2003                   | 2002       |
|--------------------------------------|------------------------|------------|
|                                      | (Dollars in thousands) |            |
| Balance at beginning of year         | \$ 595,450             | \$ 492,757 |
| Costs deferred during the year       | 135,655                | 192,093    |
| Amortized to expense during the year | (52,982)               | (39,930)   |
| Effect of net unrealized losses      | 25,541                 | (49,470)   |
| Balance at end of year               | \$ 703,664             | \$ 595,450 |

#### 5. Reinsurance and Policy Provisions

##### Coinsurance

Effective August 1, 2001, the Company entered into a coinsurance agreement with EquiTrust Life Insurance Company ("EquiTrust"), an affiliate of Farm Bureau Life Insurance Company ("Farm Bureau") covering 70% of certain of the Company's non-multi-year guarantee fixed annuities and equity index annuities issued from August 1, 2001 through December 31, 2001 and 40% of those contracts for 2002 and 2003. As of December 31, 2003, Farm Bureau beneficially owned 14.9% of the Company's common stock. Total annuity deposits ceded were approximately \$649.4 million, \$837.9 million and \$418.3 million for the years ended December 31, 2003, 2002 and 2001, respectively. Expense allowances received were approximately \$65.6 million, \$99.4 million and \$51.2 million for the years ended December 31, 2003, 2002 and 2001, respectively. The amount of coinsurance deposits with EquiTrust was \$1.93 billion and \$1.29 billion at December 31, 2003 and 2002, respectively. None of the coinsurance deposits with EquiTrust are deemed by management to be uncollectible. The balance due under this agreement to EquiTrust was \$22.6 million at December 31, 2003 and \$1.5 million at December 31, 2002, and represents the market value of the call options related to the ceded business held by the Company to fund the index credits and cash due to or from EquiTrust related to the transfer of annuity deposits.

On December 29, 2003, the Company entered into a coinsurance agreement with EquiTrust, effective January 1, 2004, covering 20% of certain of its non-multi-year rate guarantee fixed annuities and index annuities. However, for each calendar year, the quota share will reduce to 0% in any month where the year-to-date premium ceded exceeds \$500 million at the end of the prior month. This agreement may be terminated at any time by either party upon the giving of forty-five days prior notice.

During 1998, the Company entered into a modified coinsurance agreement to cede 70% of its variable annuity business to EquiTrust. Under this agreement, the Company paid EquiTrust \$0.2 million for each of the years ended December 31, 2003, 2002 and 2001. The modified coinsurance agreement has an initial term of four years and will continue thereafter until termination by written notice at the election of either party. Any such termination will apply to the submission or acceptance of new policies, and business reinsured under the agreement prior to any such termination is not eligible for recapture before the expiration of 10 years. EquiTrust (or one of its affiliates) provides the administrative support necessary to manage this business.

##### Financial Reinsurance

The Company has entered into two reinsurance transactions with Hannover Life Reassurance Company of America ("Hannover"), which are treated as reinsurance under statutory accounting practices and as financial reinsurance under accounting principles generally accepted in the United States ("GAAP"). The first transaction became effective November 1, 2002 (the "2002 Hannover Transaction") and the second transaction became effective September 30, 2003 (the "2003 Hannover Transaction"). The agreements for these transactions include a coinsurance segment and a yearly renewable term segment reinsuring a portion of death benefits payable on certain annuities issued from January 1, 2002 to December 31, 2002 (2002 Hannover Transaction) and issued from January 1, 2003 to September 30, 2003 (the 2003 Hannover Transaction). The coinsurance segments provide reinsurance to the extent of 6.88% (2002 Hannover Transaction) and 13.41% (2003 Hannover Transaction) of all risks associated with the Company's annuity policies covered by these reinsurance agreements. The 2002 Hannover Transaction provided approximately \$29.8 million in statutory surplus benefit during 2002 and \$6.8 million in statutory surplus reduction during 2003. The 2003 Hannover Transaction provided approximately \$29.7 million in statutory surplus benefit during 2003. The remaining statutory surplus benefit under these agreements will be reduced in the following years as follows: 2004—\$10.9 million; 2005—\$11.6 million; 2006—\$12.4 million; 2007—\$13.2 million; 2008—\$6.2 million. Risk charges attributable to the 2003 and 2002 Hannover Transactions of \$1.6 million were incurred during 2003. Risk charges attributable to the 2002 Hannover Transaction of \$0.2 million were incurred during 2002.

The statutory surplus benefit provided by the 2003 Hannover Transaction replaced the statutory surplus benefit previously provided by a financial reinsurance agreement entered into during 2001 with a subsidiary of Swiss Reinsurance Company ("Swiss Re"). The Company terminated this agreement and recaptured all reserves subject to this agreement effective September 30, 2003. The Swiss Re agreement was treated as reinsurance under statutory accounting requirements and as financial reinsurance under GAAP. An amount due to reinsurer (\$10.9 million at December 31, 2002) was recorded under GAAP equal to the amount of the expense allowance received and was being repaid ratably over a five-year period. The termination of this agreement resulted in the full repayment of the amount due to reinsurer. The agreement bore interest at the ninety day London Interbank Offered Rate ("LIBOR") plus 140 basis points. Risk charges and interest expense incurred on the cash portion of the surplus benefit provided by the agreement were \$0.2 million, \$0.6 million and \$0.5 million for the years ended

December 31, 2003, 2002 and 2001, respectively. This agreement provided an initial statutory surplus benefit of \$35.0 million in 2001. The statutory surplus benefit remaining at January 1, 2003 was \$30.9 million, all of which was eliminated upon termination of the agreement.

#### Indemnity Reinsurance

In the normal course of business, the Company seeks to limit its exposure to loss on any single insured and to recover a portion of benefits paid under its life and accident and health insurance products by ceding reinsurance to other insurance enterprises or reinsurers. Reinsurance coverages for life insurance vary according to the age and risk classification of the insured. Reinsurance contracts do not relieve the Company of its obligations to its policyholders. To the extent that reinsuring companies are later unable to meet obligations under reinsurance agreements, the Company's life insurance subsidiaries would be liable for these obligations, and payment of these obligations could result in losses to the Company. To limit the possibility of such losses, the Company evaluates the financial condition of its reinsurers, and monitors concentrations of credit risk. No allowance for uncollectible

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amounts has been established against the Company's asset for amounts receivable from other insurance companies since none of the receivables are deemed by management to be uncollectible.

#### 6. Income Taxes

The Company files a consolidated federal income tax return with all its subsidiaries. The Company filed a consolidated income tax return for 2001 with all its subsidiaries except American Equity Life and American Equity Investment Life Insurance Company of New York, which filed a separate consolidated federal income tax return.

Deferred income taxes are established by the Company and its subsidiaries based upon the temporary differences among financial reporting and tax bases of assets and liabilities within each entity, the reversal of which will result in taxable or deductible amounts in future years when the related asset or liability is recovered or settled, measured using the enacted tax rates.

The Company's income tax expense is as follows:

|                       | For the year ended December 31, |                 |               |
|-----------------------|---------------------------------|-----------------|---------------|
|                       | 2003                            | 2002            | 2001          |
|                       | (Dollars in thousands)          |                 |               |
| Current income taxes  | \$ 15,812                       | \$ 18,390       | \$ 6,127      |
| Deferred income taxes | (2,307)                         | (11,091)        | (5,794)       |
|                       | <u>\$ 13,505</u>                | <u>\$ 7,299</u> | <u>\$ 333</u> |

Income tax expense differed from the amount computed at the applicable statutory federal income tax rate (35%) as follows:

|  | Year ended December 31, |                 |               |
|--|-------------------------|-----------------|---------------|
|  | 2003                    | 2002            | 2001          |
|  | (Dollars in thousands)  |                 |               |
| Income before income taxes, minority interests and cumulative effect of change in accounting principle   | \$ 38,945               | \$ 28,951       | \$ 9,453      |
| Income tax expense on income before income taxes, minority interests and cumulative effect of change in accounting principle at statutory rate | \$ 13,631               | \$ 10,133       | \$ 3,309      |
| Tax effect of:   |                         |                 |               |
| Earnings attributable to company-obligated mandatorily redeemable preferred securities of subsidiary trusts (see note 9)                       | —                       | (2,606)         | (2,607)       |
| State income taxes   | (67)                    | (233)           | (201)         |
| Dividends received deduction   | (11)                    | (41)            | (100)         |
| Other  | (48)                    | 46              | (68)          |
| Income tax expense   | <u>\$ 13,505</u>        | <u>\$ 7,299</u> | <u>\$ 333</u> |

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The tax effect of individual temporary differences at December 31, 2003 and 2002, is as follows:

|  | December 31,           |      |
|--|------------------------|------|
|  | 2003                   | 2002 |
|  | (Dollars in thousands) |      |

|   |    |           |            |
|---|----|-----------|------------|
| <b>Deferred income tax assets:</b>  |    |           |            |
| Policy benefit reserves   | \$ | 252,950   | \$ 207,651 |
| Unrealized depreciation on available for sale fixed maturity securities and equity securities |    | 12,246    | 6,431      |
| Deferred compensation   |    | 859       | 534        |
| Net operating loss carryforwards  |    | 5,769     | 5,830      |
| Amounts due from reinsurers   |    | —         | 3,818      |
| Other   |    | 951       | 570        |
|   |    | 272,775   | 224,834    |
| <b>Deferred income tax liabilities:</b>   |    |           |            |
| Accrued discount on fixed maturity securities   |    | (15,645)  | (6,888)    |
| Deferred policy acquisition costs   |    | (195,986) | (166,856)  |
| Value of insurance in force acquired  |    | (73)      | (109)      |
| Amounts due to reinsurers   |    | (1,907)   | —          |
| Other   |    | (331)     | (270)      |
|   |    | (213,942) | (174,123)  |
| Deferred income tax asset   | \$ | 58,833    | \$ 50,711  |

The Company regularly reviews its need for a valuation allowance against its deferred income tax assets. At December 31, 2003, no valuation allowance against deferred income tax assets has been established due to the Company's adoption of plans and policies relative to future taxable income or loss of non-life entities.

At December 31, 2003, the Company has non-life net operating loss carryforwards for tax purposes of \$13.9 million which expire in 2010 through 2023.

## 7. Notes Payable and Amounts Due Under Repurchase Agreements

The Company has a credit agreement with three banks. The amount outstanding under this agreement was \$31.8 million at December 31, 2003 and \$43.3 million at December 31, 2002. Principal and interest under this agreement are paid quarterly. On October 24, 2003, the Company amended its credit agreement to defer the quarterly principal payments for the quarters ending December 31, 2003 and March 31, 2004 until June 30, 2004. The notes bear interest (3.57% at December 31, 2003) at prime or LIBOR plus a specified margin of up to 2.25%. Under this agreement, the Company is required to maintain minimum capital and surplus levels at American Equity Life and meet certain other financial and operating ratio requirements. The Company is also prohibited from incurring other indebtedness for borrowed money without obtaining a waiver from the lenders and from paying dividends on its capital stock in excess of 25% of consolidated net income for the prior fiscal year. At December 31, 2003, the annual maturities of the notes payable are as follows: 2004—\$19.1 million; 2005—\$8.7 million; 2006—\$2.0 million; 2007—\$2.0 million.

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As part of its investment strategy, the Company enters into securities repurchase agreements (short-term collateralized borrowings). These borrowings are collateralized by investment securities with fair market values approximately equal to the amount due. Such borrowings averaged approximately \$147.8 million, \$137.8 million, \$100.0 million for the years ended December 31, 2003, 2002 and 2001, respectively. The weighted average interest rate on amounts due under repurchase agreements was 1.35%, 1.59% and 6.51% for the years ended December 31, 2003, 2002 and 2001, respectively.

## 8. General Agency Commission and Servicing Agreement

The Company has a General Agency Commission and Servicing Agreement with American Equity Investment Service Company (the Service Company), wholly-owned by Mr. Noble, Chairman, Chief Executive Officer and President of the Company, whereby, the Service Company acts as a national supervisory agent with responsibility for paying commissions to agents of the Company. Under the terms of the original agreement, the Service Company was required to pay the greater of (a) 5% of the premiums collected by the Company on the sale of certain annuity products, or (b) 50% of the agent's commissions payable by the Company on the sale of those same policies. In return, the Company agreed to pay quarterly renewal commissions to the Service Company equal to .3875% of the premiums received by the Company on policies that still remain in force.

On December 31, 1997, the Service Company and the Company amended the Agreement to provide for the payment of 100% of the agents' commissions by the Service Company for policies issued from July 1, 1997 through December 31, 1997. In return, the Company agreed to pay the Service Company quarterly renewal commissions of .7% of the premiums received by the Company before January 1, 1998 that still remain in force, and .325% for in-force amounts received thereafter. The revised quarterly renewal commission schedule commenced December 31, 1997. For policies issued from January 1, 1998 through August 30, 1999, the original agreement remains in effect and, accordingly, the Company pays renewal commissions of .325% of the premiums received on such policies which remain in force.

During 1999, the Service Company and the Company amended the Agreement to provide for the payment of 30% of agents' commissions by the Service Company for policies issued on or after September 1, 1999, and the Company agreed to pay the Service Company quarterly renewal commissions of .25% for in force amounts received thereafter.

During 2002, the Service Company and the Company amended the Agreement to provide for the payment of 35% of the agents' commissions payable by the Service Company for policies issued from October 1, 2002 through December 31, 2002, and the Company agreed to pay the Service Company quarterly renewal commissions of .325% of in-force amounts received thereafter. Effective October 1, 2002, the Company also agreed to pay the Service Company quarterly renewal commissions of .325% of in-force amounts on policies issued from January 1, 1998 through August 31, 1999 and .7% of in-force amounts on policies issued prior to January 1, 1998. The termination date of the agreement was extended to December 31, 2008.

During 2003, the Service Company and the Company amended the Agreement to provide for the payment of 27% of the agents' commissions payable by the Service Company for policies issued from July 1, 2003 through December 31, 2003, and the Company agreed to pay the Service Company quarterly renewal commissions of .375% of in-force amounts received thereafter.

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In connection with the General Agency Commission and Servicing Agreement, the Company records commissions and a related payable for amounts paid by the Service Company. Interest expense is recorded based upon estimated future payments to the Service Company based upon an imputed interest rate (approximately 9.0%) for each of the periods presented. Estimated future payments are evaluated regularly and the imputed interest rate will be adjusted when deemed necessary. During the years ended December 31, 2003 and 2002, the Service Company paid \$14.4 million and \$11.8 million, respectively, to agents of the Company. The Service Company made no payments to the agents of the Company during the year ended December 31, 2001. The Company paid renewal commissions to the Service Company of \$22.1 million, \$21.7 million, and \$23.2 million during the years ended December 31, 2003, 2002 and 2001, respectively.

Estimated future payments under the General Agency Commission and Servicing Agreement at December 31, 2003 are as follows (Dollars in thousands):

|                               |    |         |
|-------------------------------|----|---------|
| Year ending December 31:      |    |         |
| 2004                          | \$ | 29,968  |
| 2005                          |    | 8,961   |
| 2006                          |    | 4,759   |
| 2007                          |    | 1,312   |
|                               |    | 45,000  |
| Amounts representing interest |    | (4,399) |
| Net amount                    | \$ | 40,601  |

As a source of funding its portion of producing agents' commission payments, the Service Company borrowed funds from David J. Noble. The amount payable to Mr. Noble by the Service Company at December 31, 2003 and 2002 was \$14.3 million and \$24.4 million, respectively. As an alternate source of funds for such first year commissions, the Service Company borrowed funds from the Company. During 2003, the Service Company borrowed \$14.5 million from the Company. At December 31, 2003 and 2002, amounts receivable from the Service Company totaled \$27.9 million and \$20.5 million, respectively. Principal and interest on all loans to the Service Company are payable quarterly over five years from the date of the advance. The Service Company repays the above described indebtedness from the renewal commissions paid to it under the General Agency Commission and Servicing Agreement. Interest on such indebtedness accrues at "reference rate" of the financial institution that is the Company's principal lender. This rate averaged 7.40% in 2003, and 9.18% in 2002 and 9.16% in 2001.

## 9. Subordinated Debentures and Minority Interests in Subsidiary Trusts

During 1999, American Equity Capital Trust I ("Trust I"), a wholly-owned subsidiary of the Company, issued \$26.0 million of 8% Convertible Trust Preferred Securities (the "8% Trust Preferred Securities"). In connection with Trust I's issuance of the 8% Trust Preferred Securities and the related purchase by the Company of all of Trust I's common securities, the Company issued \$26.8 million in principal amount of its 8% Convertible Junior Subordinated Debentures, due September 30, 2029 (the "8% Debentures") to Trust I. The sole assets of Trust I are the 8% Debentures and any interest accrued thereon. The 8% Trust Preferred Securities are convertible into 3,198,717 shares of the Company's common stock. The interest payment dates on the 8% Debentures correspond to the

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distribution dates on the 8% Trust Preferred Securities. The 8% Trust Preferred Securities, which have a liquidation value of \$30 per share plus accrued and unpaid distributions, mature simultaneously with the 8% Debentures. At December 31, 2003, 865,671 shares of 8% Trust Preferred Securities were outstanding (2,000 shares are held by one of the Company's subsidiaries), all of which are unconditionally guaranteed by the Company to the extent of the assets of Trust I.

Also during 1999, American Equity Capital Trust II ("Trust II"), a wholly-owned subsidiary of the Company, issued 97,000 shares of 5% Trust Preferred Securities (the "5% Trust Preferred Securities") to Iowa Farm Bureau Federation, which owns more than 50% of the voting capital stock of FBL Financial Group, Inc. ("FBL"), parent company of Farm Bureau. The consideration received by Trust II in connection with the issuance of the 5% Trust Preferred Securities consisted of fixed income trust preferred securities of equal value which were issued by FBL. The 5% Trust Preferred Securities, which have a liquidation value of \$100 per share (\$97.0 million in the aggregate), were assigned a fair value of \$72.5 million (based upon an effective 7% yield-to-maturity). The difference between the fair value and liquidation value of the 5% Trust Preferred Securities is being accreted over the life of the securities.

In connection with Trust II's issuance of the 5% Preferred Securities and the related purchase by the Company of all of Trust II's common securities, the Company issued \$100.0 million in face amount of its 5% Subordinated Debentures, due June 1, 2047 (the "5% Debentures") to Trust II. The 5% Debentures are carried at their discounted value of \$77.2 million and \$76.8 million at December 31, 2003 and 2002, respectively, which reflects their fair value based upon an effective 7% yield to maturity. The sole assets of Trust II are the 5% Debentures and any interest accrued thereon. The interest payment dates on the 5% Debentures correspond to the distribution dates on the 5% Trust Preferred Securities. The 5% Trust Preferred Securities mature simultaneously with the 5% Debentures. All of the 5% Trust Preferred Securities are unconditionally guaranteed by the Company to the extent of the assets of Trust II.

During December 2003, American Equity Capital Trust IV ("Trust IV"), a wholly-owned subsidiary of the Company, issued 12 million shares of floating rate Trust Preferred Securities. In connection with Trust IV's issuance of these trust preferred securities and the related purchase by the Company of all of Trust IV's common securities, the Company issued \$12.4 million in principal amount of its floating rate subordinated debentures, due January 8, 2034 to Trust IV. The sole assets of Trust IV are the subordinated debentures and any interest accrued thereon. The interest payment dates on the subordinated debentures correspond to the distribution dates on the trust preferred securities issued by Trust IV. The trust preferred securities mature simultaneously with the subordinated debentures. All of the trust preferred securities are unconditionally guaranteed by the Company to the extent of the assets of Trust IV.

The Company adopted FIN 46, "Consolidation of Variable Interest Entities, an Interpretation of Accounting Research Bulletin No. 51" on December 31, 2003, retroactive to January 1, 2003. Prior to the adoption of FIN 46, the subsidiary trusts were included in the Company's consolidated financial statements. The subsidiary trusts are no longer consolidated upon adoption of the Interpretation. In addition, prior to 2003, the dividends on the company-obligated mandatorily redeemable preferred securities of subsidiary trusts were treated as minority interests in the consolidated statement of income. In 2003, with the adoption of FIN 46, the interest payments on the Company's subordinated debt obligations to the trusts were treated as interest expense.

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## 10. Retirement and Stock Compensation Plans

The Company has adopted a contributory defined contribution plan which is qualified under Section 401(k) of the Internal Revenue Code. The plan covers substantially all full-time employees of the Company, subject to minimum eligibility requirements. Employees can contribute up to 15% of their annual salary (with a maximum contribution of \$12,000 in 2003 and \$11,000 in 2002 and \$10,500 in 2001) to the plan. The Company contributes an additional amount, subject to limitations, based on the voluntary contribution of the employee. Further, the plan provides for additional employer contributions based on the discretion of the Board of Directors. Plan contributions charged to expense were \$0.1 million for each of the years ended December 31, 2003, 2002 and 2001.

The Company has entered into deferred compensation arrangements with certain officers, directors, and consultants, whereby these individuals agreed to take common stock of the Company at a future date in lieu of cash payments. The common stock is to be issued in conjunction with a "trigger event", as that term is defined in the individual agreements. At December 31, 2003 and 2002, these individuals have earned, and the Company has reserved for future issuance, 345,829 and 325,829 shares of common stock, respectively, pursuant to these arrangements. The Company has also accrued \$1.5 million and \$1.3 million as an other liability at December 31, 2003 and 2002, respectively, representing the value associated with the shares earned.

During 1997, the Company established the American Equity Investment NMO Deferred Compensation Plan ("NMO Deferred Compensation Plan") whereby agents can earn common stock in addition to their normal commissions. Awards are calculated using formulas determined annually by the Company's Board of Directors and are generally based upon new annuity deposits. For the years ended December 31, 2003, 2002 and 2001, agents earned the right to receive 325,370; 692,439 and 563,637 shares, respectively. These shares will be distributed at the end of the vesting and deferral period of 9 years. A portion of the awards may be subject to forfeiture if certain production levels are not met over the remaining vesting period. The Company recognizes commission expense as the awards vest. For the years ended December 31, 2003, 2002 and 2001, agents vested in 405,796; 476,918 and 351,717 shares of common stock, respectively, and the Company recorded commission expense (which was subsequently capitalized as deferred policy acquisition costs) of \$2.6 million, \$2.6 million and \$2.5 million, respectively, under these plans. Amounts accrued are reported as other liabilities until the stock has been issued. At December 31, 2003, the Company has reserved 2,086,000 shares for future issuance under the plans. Two of the Company's national marketing organizations each accounted for more than 10% of the annuity deposits and insurance premium collections during 2003. One of the Company's national marketing organizations accounted for more than 10% of the annuity deposits and insurance premium collections during 2002 and 2001.

During 2003, the Company created a Rabbi Trust, the NMO Deferred Compensation Trust (the "Trust") and issued 1,591,083 shares of its common stock to the Trust to fund the vested share liability established under the NMO Deferred Compensation Plan. In accordance with FASB's Emerging Issues Task Force Issue No. 97-14, "Accounting for Deferred Compensation Arrangements where Amounts Earned are Held in a Rabbi Trust and Invested", the stock held in the Trust is included as part of common stock issued and outstanding. In the December 31, 2003 consolidated balance sheet, the common shares held in the Rabbi Trust and the related Trust obligation funded by such shares are included in the common stock and additional paid-in-capital components as a respective deduction and addition, with no impact on the reported amount of total stockholders' equity, as the Plan does not

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permit diversification and must be settled by the delivery of a fixed number of shares of the Company's stock.

Prior to the Company's initial public offering, the Company performed an internal valuation which involved estimates by management to determine a market value as there was no publicly quoted market value for the Company's stock. Those estimates were based upon various factors including past stock transactions with third parties, growth in the Company's revenues, comparison of the Company's growth pattern to other companies and annual valuations completed by investment bankers familiar with the operations of the Company. The results of the internal valuation affected the amount of commission expense recognized (which was capitalized as deferred policy acquisition costs) in connection with the American Equity Investment NMO Deferred Compensation Plan as described in the preceding paragraph. The results of the internal valuation of the Company's stock also affected the calculation of earnings per common share—assuming dilution by affecting the number of dilutive securities used in the calculation (see Note 13).

The Company has a Stock Option and Warrant Agreement with Mr. Noble (owner of 4% of its outstanding common stock at December 31, 2003) which allows the purchase of 1,200,000 shares of the Company's common stock. Included in this amount are warrants to purchase 240,000 shares of common stock at \$3.33 per share that were exercised in 2000 and options expiring in 2007 to purchase 600,000 shares of common stock at \$3.33 per share and 360,000 shares of common stock at \$7.33 per share.

During 2000, as a separate deferred compensation agreement, the Company loaned Mr. Noble \$0.8 million pursuant to a forgivable loan agreement. The forgivable loan agreement is with full recourse, and although the proceeds of the loan were used for the exercise of warrants described in the preceding paragraph, the loan is not collateralized by the shares issued in connection with the exercise of these warrants. Further, these warrants were not issued in connection with the Company's employee stock option plan, but were issued to Mr. Noble, the Company's founding shareholder, as part of his initial capitalization of the Company. This loan is repayable in five equal annual installments of principal and interest, each of which may be forgiven if Mr. Noble remains continuously employed by the Company in his present capacity, subject to specified exceptions.

The Company's 1996 Stock Option Plan authorizes the grants of options to officers, directors and employees for up to 1,200,000 shares of the Company's common stock. All 1996 options granted have 10 year terms, and vest and become fully exercisable immediately. In 2000, the Company adopted the 2000 Employee Stock Option Plan which authorizes grants of options to officers and employees on up to 1,800,000 shares of the Company's common stock. Also in 2000, the Company adopted the 2000 Directors Stock Option Plan which authorizes grants of options to directors on up to 225,000 shares. All 2000 options granted have 10 year terms, and have a six month vesting period after which they become fully exercisable immediately.

Changes in the number of stock options outstanding during the years ended December 31, 2003, 2002 and 2001 are as follows:

|   | Number of<br>Shares | Weighted-<br>Average<br>Exercise<br>Price per<br>Share | Total<br>Exercise<br>Price |
|---|---------------------|--|----------------------------|
| (Dollars in thousands, except per share data) |                     |  |                            |
| Outstanding at January 1, 2001                | 2,577,554           | \$ 5.54  | \$ 14,290                  |
| Granted                                       | 87,500              | 9.67   | 846                        |
| Cancelled                                     | (15,050)            | 7.91   | (119)                      |
| Exercised                                     | (5,052)             | 7.72   | (39)                       |
| Outstanding at December 31, 2001              | 2,644,952           | 5.66   | 14,978                     |
| Granted                                       | —                   | —  | —                          |
| Cancelled                                     | (15,547)            | 9.13   | (142)                      |
| Exercised                                     | (103)               | 9.68   | (1)                        |
| Outstanding at December 31, 2002              | 2,629,302           | 5.65   | 14,835                     |
| Granted                                       | 300,000             | 9.00   | 2,700                      |
| Cancelled                                     | (21,640)            | 6.69   | (145)                      |
| Exercised                                     | —                   | —  | —                          |
| Outstanding at December 31, 2003              | 2,907,662           | 5.98   | \$ 17,390                  |

Stock options outstanding at December 31, 2003 are as follows:

|                 | Number of<br>Shares | Weighted-<br>Average<br>Remaining Life<br>(in Years) |
|-----------------|---------------------|--|
| Exercise price: |                     |  |
| \$3.33          | 1,060,500           | 3.19   |
| \$4.00          | 346,350             | 3.56   |
| \$5.33          | 114,000             | 4.64   |
| \$7.33          | 568,770             | 4.16   |
| \$8.67          | 18,000              | 5.92   |
| \$9.00          | 300,000             | 9.94   |
| \$9.67          | 500,042             | 7.15   |
|                 | 2,907,662           |  |

At December 31, 2003, the Company had no shares of common stock available for future grant under the 1996 Stock Option Plan, 1,155,708 shares of common stock available for future grant under the 2000 Employee Stock Option Plan, and 225,000 shares of common stock available for future grant under the 2000 Directors Stock Option Plan.

On December 1, 1997, in connection with a rights offering of shares of the Company's common stock, the Company issued subscription rights to purchase an aggregate of 2,157,375 shares of the Company's common stock to certain officers and directors. The subscription rights have an exercise

price of \$5.33 per share, were exercisable immediately, and expire on December 1, 2005. During 2002, the expiration date was extended from December 1, 2002 to December 1, 2005 and the Company recognized compensation expense of \$0.2 million.

## 11. Life Insurance Subsidiaries

Prior approval of regulatory authorities is required for the payment of dividends to the Company by its life insurance subsidiaries which exceed an annual limitation. During 2003, American Equity Life could pay dividends to its parent of \$37.5 million, without prior approval from regulatory authorities.

Statutory accounting practices prescribed or permitted by regulatory authorities for the Company's life insurance subsidiaries differ from generally accepted accounting principles. Combined net income (loss) for the Company's life insurance subsidiaries as determined in accordance with statutory accounting practices was \$25.4 million, \$26.0 million and \$(17.2) million in 2003, 2002 and 2001, respectively, and total statutory capital and surplus of the Company's life insurance subsidiaries was \$374.6 million and \$227.2 million at December 31, 2003 and 2002, respectively.

Life and health insurance companies are subject to certain risk-based capital (RBC) requirements as specified by the NAIC. Under those requirements, the amount of capital and surplus maintained by a life and health insurance company is to be determined based on the various risk factors related to it. At December 31, 2003, the Company's life subsidiaries meet the RBC requirements.

## 12. Commitments and Contingencies

The Company leases its home office space and certain equipment under operating leases which expire through December 2008. During the years ended December 31, 2003, 2002 and 2001, rent expense totaled \$1.0 million, \$1.0 million and \$0.5 million, respectively. At December 31, 2003, minimum rental payments due under all noncancellable operating leases with initial terms of one year or more are (dollars in thousands):

| Year ending December 31: |                 |
|--------------------------|-----------------|
| 2004                     | \$ 1,050        |
| 2005                     | 969             |
| 2006                     | 525             |
| 2007                     | 89              |
| 2008                     | 51              |
|                          | <u>\$ 2,684</u> |

Assessments are, from time to time, levied on the Company by life and health guaranty associations in most states in which the Company is licensed to cover losses to policyholders of insolvent or rehabilitated companies. In some states, these assessments can be partially recovered through a reduction in future premium taxes. Management believes that assessments against the Company for failures known to date will be minimal.

In recent years, companies in the life insurance and annuity business have faced litigation, including class action lawsuits alleging improper product design, improper sales practices and similar claims. The Company is currently a defendant in two purported class action lawsuits filed in state courts alleging improper sales practices. In both lawsuits, the plaintiffs are seeking returns of premiums

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and other compensatory and punitive damages. In neither case has the class been certified at this time. Although the Company has denied all allegations in these lawsuits and intend to vigorously defend against them, the lawsuits are in the early stages of litigation and their outcomes cannot at this time be determined. However, the Company does not believe that these lawsuits will have a material adverse effect on its business, financial condition or results of operations.

In addition, the Company is from time to time subject to other legal proceedings and claims in the ordinary course of business, none of which management believe are likely to have a material adverse effect on our financial position, results of operations or cash flows. There can be no assurance that such litigation, or any future litigation, will not have a material adverse effect on the Company's financial position, results of operations or cash flows.

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## 13. Earnings Per Share

The following table sets forth the computation of earnings per common share and earnings per common share—assuming dilution:

|  | Year ended December 31,                       |                  |               |
|--|---|------------------|---------------|
|  | 2003  | 2002             | 2001          |
|  | (Dollars in thousands, except per share data) |                  |               |
| <b>Numerator:</b>  |   |                  |               |
| Income before cumulative effect of change in accounting principle  | \$ 25,440                                     | \$ 14,207        | \$ 1,671      |
| Cumulative effect of change in accounting for derivatives  | —   | —                | (799)         |
| Net income—numerator for earnings per common share   | 25,440  | 14,207           | 872           |
| Interest (dividends in 2002 and 2001 related to convertible trust preferred securities) related to convertible subordinated debentures (net of income tax benefit) | 1,347   | 1,348            | —             |
| Numerator for earnings per common share—assuming dilution  | <u>\$ 26,787</u>                              | <u>\$ 15,555</u> | <u>\$ 872</u> |
| <b>Denominator:</b>  |   |                  |               |
| Weighted average common shares outstanding   | 15,684,932                                    | 14,528,387       | 14,530,978    |
| Participating preferred stock  | 1,875,000                                     | 1,875,000        | 1,875,000     |
| Denominator for earnings per common share  | 17,559,932                                    | 16,403,387       | 16,405,978    |
| <b>Effect of dilutive securities:</b>  |   |                  |               |
| Convertible subordinated debentures (convertible trust preferred securities in 2002 and 2001)  | 3,198,717                                     | 2,592,514        | —             |

|  |                   |                   |                   |
|--|-------------------|-------------------|-------------------|
| Stock options, management subscription rights and warrants         | 683,548           | 381,024           | 1,378,739         |
| Deferred compensation agreements                                   | 727,653           | 1,015,924         | 737,601           |
| <b>Denominator for earnings per common share—assuming dilution</b> | <b>22,169,850</b> | <b>20,392,849</b> | <b>18,522,318</b> |
| Earnings per common share:   |                   |                   |                   |
| Income before cumulative effect of change in accounting principle  | \$ 1.45           | \$ 0.87           | \$ 0.10           |
| Cumulative effect of change in accounting for derivatives          | —                 | —                 | (0.05)            |
| <b>Earnings per common share</b>                                   | <b>\$ 1.45</b>    | <b>\$ 0.87</b>    | <b>\$ 0.05</b>    |
| Earnings per common share—assuming dilution:                       |                   |                   |                   |
| Income before cumulative effect of change in accounting principle  | \$ 1.21           | \$ 0.76           | \$ 0.09           |
| Cumulative effect of change in accounting for derivatives          | —                 | —                 | (0.04)            |
| <b>Earnings per common share—assuming dilution</b>                 | <b>\$ 1.21</b>    | <b>\$ 0.76</b>    | <b>\$ 0.05</b>    |

The effect of the convertible trust preferred securities has not been included in the computation of dilutive earnings per common share for 2001 as the effect is antidilutive.

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#### 14. Quarterly Financial Information (Unaudited)

Unaudited quarterly results of operations are summarized below.

| Quarter ended                                      | March 31       | June 30        | September 30   | December 31    |
|--|----------------|----------------|----------------|----------------|
| (Dollars in thousands, except per share data)      |                |                |                |                |
| <b>2003</b>  |                |                |                |                |
| Premiums and product charges                       | \$ 9,333       | \$ 8,750       | \$ 8,509       | \$ 7,546       |
| Net investment income                              | 90,696         | 84,235         | 89,299         | 94,299         |
| Realized gains (losses) on investments             | 196            | 7,592          | (907)          | 65             |
| Change in fair value of derivatives                | (13,962)       | 33,053         | 6,050          | 27,384         |
| Total revenues                                     | 86,263         | 133,630        | 102,951        | 129,294        |
| Net income   | 4,477          | 6,383          | 6,368          | 8,212          |
| <b>Earnings per common share</b>                   | <b>\$ 0.27</b> | <b>\$ 0.39</b> | <b>\$ 0.39</b> | <b>\$ 0.39</b> |
| <b>Earnings per common share—assuming dilution</b> | <b>\$ 0.23</b> | <b>\$ 0.34</b> | <b>\$ 0.34</b> | <b>\$ 0.32</b> |
| <b>2002</b>  |                |                |                |                |
| Premiums and product charges                       | \$ 5,954       | \$ 7,842       | \$ 7,316       | \$ 7,928       |
| Net investment income                              | 67,586         | 76,592         | 77,878         | 86,492         |
| Realized gains (losses) on investments             | (1,087)        | 569            | 608            | (212)          |
| Change in fair value of derivatives                | (9,672)        | (34,314)       | (12,482)       | (1,285)        |
| Total revenues                                     | 62,781         | 50,689         | 73,320         | 92,923         |
| Net income   | 3,258          | 4,251          | 2,901          | 3,797          |
| <b>Earnings per common share</b>                   | <b>\$ 0.20</b> | <b>\$ 0.26</b> | <b>\$ 0.18</b> | <b>\$ 0.23</b> |
| <b>Earnings per common share—assuming dilution</b> | <b>\$ 0.18</b> | <b>\$ 0.22</b> | <b>\$ 0.16</b> | <b>\$ 0.20</b> |

The differences between the change in fair value of derivatives by quarter primarily corresponds to the performance of the indices upon which the Company's call options are based. Earnings per common share for each quarter is computed independently of earnings per common share for the year. As a result, the sum of the quarterly earnings per common share amounts may not equal the earnings per common share for the year.

The 2003 quarterly amounts have been revised for the adoption of FIN 46 effective December 31, 2003, retroactively to January 1, 2003. The effect of this revision was to increase net investment income and total revenues from amounts previously reported. The adoption of FIN 46 had no impact on quarterly net income as previously reported.

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**Schedule I—Summary of Investments—Other  
Than Investments in Related Parties**

**AMERICAN EQUITY INVESTMENT LIFE HOLDING COMPANY**

**December 31, 2003**

| Column A                                      | Column B            | Column C            | Column D                                      |
|---|---------------------|---------------------|---|
| Type of Investment                            | Amortized Cost(1)   | Fair Value          | Amount at which shown in the balance sheet(2) |
| <b>(Dollars in thousands)</b>                 |                     |                     |   |
| <b>Fixed maturity securities:</b>             |                     |                     |   |
| Available for sale                            |                     |                     |   |
| United States Government and agencies         | \$ 2,594,861        | \$ 2,538,325        | \$ 2,538,325                                  |
| Public utilities                              | 51,300              | 51,835              | 51,835  |
| Corporate securities                          | 330,993             | 333,725             | 333,725                                       |
| Redeemable preferred stocks                   | 8,923               | 10,079              | 10,079  |
| Mortgage and asset-backed securities          | 717,679             | 684,061             | 684,061                                       |
|   | <u>3,703,756</u>    | <u>3,618,025</u>    | <u>3,618,025</u>                              |
| Held for investment                           |                     |                     |   |
| United States Government and agencies         | 1,751,532           | 1,641,467           | 1,751,532                                     |
| Corporate securities                          | 75,757              | 75,757              | 75,757  |
|   | <u>1,827,289</u>    | <u>1,717,224</u>    | <u>1,827,289</u>                              |
| <b>Total fixed maturity securities</b>        | <b>5,531,045</b>    | <b>\$ 5,335,249</b> | <b>5,445,314</b>                              |
| <b>Equity securities, available for sale:</b> |                     |                     |   |
| Non-redeemable preferred stocks               | 16,182              | \$ 16,091           | 16,091  |
| Common stocks                                 | 5,612               | 5,318               | 5,318   |
|   | <u>21,794</u>       | <u>\$ 21,409</u>    | <u>21,409</u>                                 |
| Mortgage loans on real estate                 | 608,715             |                     | 608,715                                       |
| Derivative instruments                        | 119,833             |                     | 119,833                                       |
| Policy loans                                  | 324                 |                     | 324   |
| Cash and cash equivalents                     | 32,598              |                     | 32,598  |
|   | <u>\$ 6,314,309</u> |                     | <u>\$ 6,228,193</u>                           |

(1) On the basis of cost adjusted for repayments and amortization of premiums and accrual of discounts for fixed maturity securities, derivative instruments, and short-term investments, and unpaid principal balance for mortgage loans.

(2) Derivative instruments are carried at estimated fair value.

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**Schedule II—Condensed Financial Information of Registrant**

**AMERICAN EQUITY INVESTMENT LIFE HOLDING COMPANY (PARENT COMPANY)**

**Condensed Balance Sheets**

**(Dollars in thousands)**

|  | December 31, |        |
|--|--------------|--------|
|  | 2003         | 2002   |
| <b>Assets</b>  |              |        |
| Cash and cash equivalents  | \$ 1,947     | \$ 791 |
| Fixed maturity security, available for sale, at market (amortized cost: 2003—\$40,000) | 40,024       | —      |

|  |                   |                   |
|--|-------------------|-------------------|
| Equity securities of subsidiary trusts (not eliminated in consolidation)                                   | 3,417             | —                 |
| Receivable from subsidiary (eliminated in consolidation)   | 1,420             | 480               |
| Receivables from related party   | 27,921            | 20,462            |
| Property, furniture and equipment, less allowances for depreciation of \$1,072 in 2003 and \$1,031 in 2002 | 46                | 68                |
| Federal income tax recoverable   | 1,020             | 558               |
| Deferred income tax asset  | 6,175             | 5,943             |
| Other assets   | 3,103             | 2,301             |
|  | <u>85,073</u>     | <u>30,603</u>     |
| Investment in and advances to subsidiaries   | 329,421           | 196,815           |
|  | <u>329,421</u>    | <u>196,815</u>    |
| Total assets   | <u>\$ 414,494</u> | <u>\$ 227,418</u> |

### Liabilities and Stockholders' Equity

|  |                |                |
|--|----------------|----------------|
| Liabilities:   |                |                |
| Notes payable  | \$ 31,833      | \$ 43,333      |
| Subordinated debentures payable to subsidiary trusts (eliminated in consolidation prior to 2003) | 116,425        | 103,591        |
| Payable to subsidiaries  | —              | 1,216          |
| Amounts due to related party   | 27             | 100            |
| Other liabilities  | 2,493          | 1,700          |
|  | <u>150,778</u> | <u>149,940</u> |
| Total liabilities  | 150,778        | 149,940        |

### Stockholders' equity:

|  |                   |                   |
|--|-------------------|-------------------|
| Series preferred stock                     | 625               | 625               |
| Common stock                               | 35,294            | 14,438            |
| Additional paid-in capital                 | 208,436           | 56,811            |
| Accumulated other comprehensive loss       | (22,742)          | (11,944)          |
| Retained earnings                          | 42,103            | 17,548            |
|  | <u>263,716</u>    | <u>77,478</u>     |
| Total stockholders' equity                 | 263,716           | 77,478            |
|  | <u>263,716</u>    | <u>77,478</u>     |
| Total liabilities and stockholders' equity | <u>\$ 414,494</u> | <u>\$ 227,418</u> |

See accompanying note to condensed financial statements.

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## Schedule II—Condensed Financial Information of Registrant (Continued)

### AMERICAN EQUITY INVESTMENT LIFE HOLDING COMPANY (PARENT COMPANY)

#### Condensed Statements of Income

(Dollars in thousands)

|  | Year ended December 31, |               |               |
|--|-------------------------|---------------|---------------|
|  | 2003                    | 2002          | 2001          |
| Revenues:  |                         |               |               |
| Net investment income  | \$ 31                   | \$ 20         | \$ 1,017      |
| Dividends from subsidiary (eliminated in consolidation)  | 4,000                   | 5,000         | —             |
| Dividends from subsidiary trusts (eliminated in consolidation prior to 2003)                           | 214                     | 214           | 214           |
| Investment advisory fees (eliminated in consolidation)   | 5,246                   | 1,994         | —             |
| Surplus note interest from subsidiary (eliminated in consolidation)                                    | 4,080                   | 2,780         | 3,076         |
| Interest on note receivable from related party   | 1,291                   | 2,379         | 3,386         |
|  | <u>14,862</u>           | <u>12,387</u> | <u>7,693</u>  |
| Total revenues   | 14,862                  | 12,387        | 7,693         |
| Expenses:  |                         |               |               |
| Interest expense on notes payable  | 1,486                   | 1,901         | 2,881         |
| Interest expense on debentures issued to subsidiary trusts (eliminated in consolidation prior to 2003) | 7,661                   | 7,660         | 7,663         |
| Other operating costs and expenses   | 3,013                   | 2,453         | 1,147         |
|  | <u>12,160</u>           | <u>12,014</u> | <u>11,691</u> |
| Total expenses   | 12,160                  | 12,014        | 11,691        |

|  |           |           |         |
|--|-----------|-----------|---------|
| Income (loss) before income tax benefit, equity in undistributed income of subsidiaries and minority interests | 2,702     | 373       | (3,998) |
| Income tax benefit   | 703       | 1,912     | 1,590   |
| Income (loss) before equity in undistributed income of subsidiaries and minority interests                     | 3,405     | 2,285     | (2,408) |
| Equity in undistributed income of subsidiaries (eliminated in consolidation)                                   | 22,035    | 19,367    | 10,729  |
| Income before minority interests in subsidiaries   | 25,440    | 21,652    | 8,321   |
| Minority interests in subsidiaries:  |           |           |         |
| Earnings attributable to company-obligated mandatorily redeemable preferred securities of subsidiary trusts    | —         | (7,445)   | (7,449) |
| Net income   | \$ 25,440 | \$ 14,207 | \$ 872  |

See accompanying note to condensed financial statements.

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## Schedule II—Condensed Financial Information of Registrant (Continued)

### AMERICAN EQUITY INVESTMENT LIFE HOLDING COMPANY (PARENT COMPANY)

#### Condensed Statements of Cash Flows

(Dollars in thousands)

|  | Year ended December 31, |           |          |
|--|-------------------------|-----------|----------|
|  | 2003                    | 2002      | 2001     |
| <b>Operating activities</b>  |                         |           |          |
| Net income   | \$ 25,440               | \$ 14,207 | \$ 872   |
| Adjustments to reconcile net income to net cash provided by (used in) operating activities:  |                         |           |          |
| Provision for depreciation and amortization  | 285                     | 159       | 198      |
| Accrual of discount on fixed maturity security   | —                       | —         | (59)     |
| Equity in undistributed income of subsidiaries   | (22,035)                | (19,367)  | (10,729) |
| Minority interests in subsidiaries—earnings attributable to company-obligated mandatorily redeemable preferred securities of subsidiary trusts | —                       | 7,445     | 7,449    |
| Accrual of discount on debenture issued to subsidiary trust  | 522                     | 521       | 522      |
| Deferred income tax benefit  | (241)                   | (1,353)   | (1,590)  |
| Changes in operating assets and liabilities:   |                         |           |          |
| Receivable from subsidiary   | (940)                   | 20        | —        |
| Receivable from related party  | (7,459)                 | 8,677     | 13,234   |
| Federal income tax recoverable   | (462)                   | (558)     | —        |
| Other assets   | (433)                   | 343       | (126)    |
| Amounts due to related parties   | (73)                    | 100       | (4,000)  |
| Other liabilities  | 793                     | 352       | (77)     |
| Net cash provided by (used in) operating activities  | (4,603)                 | 10,546    | 5,694    |
| <b>Investing activities</b>  |                         |           |          |
| Capital contributions to subsidiaries  | (125,025)               | (50)      | (10,025) |
| Acquisition of fixed maturity security—available for sale  | (40,000)                | —         | —        |
| Sales of preferred stock   | —                       | —         | 16,942   |
| Purchases of property, plant and equipment   | (19)                    | —         | (177)    |
| Purchase of surplus notes from subsidiary  | —                       | (10,000)  | (16,000) |
| Net cash used in investing activities  | (165,044)               | (10,050)  | (9,260)  |
| <b>Financing activities</b>  |                         |           |          |
| Financing fees incurred and deferred   | \$ (610)                | \$ (100)  | \$ —     |
| Proceeds from notes payable  | —                       | 10,000    | 6,000    |
| Repayments of notes payable  | (11,500)                | (13,334)  | (3,333)  |
| Proceeds from issuance of subordinated debentures  | 12,000                  | —         | —        |
| Net proceeds from issuance of common stock   | 171,265                 | 137       | 39       |
| Dividends paid   | (352)                   | (163)     | (164)    |
| Net cash provided by (used in) financing activities  | 170,803                 | (3,460)   | 2,542    |

|  |          |         |          |
|--|----------|---------|----------|
| Increase (decrease) in cash and cash equivalents | 1,156    | (2,964) | (1,024)  |
| Cash and cash equivalents at beginning of year   | 791      | 3,755   | 4,779    |
| Cash and cash equivalents at end of year         | \$ 1,947 | \$ 791  | \$ 3,755 |

#### Supplemental disclosures of cash flow information

##### Cash paid during the year for interest:

|                         |          |          |          |
|-------------------------|----------|----------|----------|
| Notes payable           | \$ 2,629 | \$ 1,763 | \$ 2,881 |
| Subordinated debentures | 7,139    | 7,139    | 7,141    |

##### Non-cash investing and financing activities:

|   |     |   |        |
|---|-----|---|--------|
| Fixed maturity security contributed to subsidiary   | —   | — | 19,962 |
| Subordinated debentures issued to subsidiary trust for common equity securities of the subsidiary trust | 372 | — | —      |

See accompanying note to condensed financial statements.

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### Schedule II—Condensed Financial Information of Registrant (Continued)

#### AMERICAN EQUITY INVESTMENT LIFE HOLDING COMPANY (PARENT COMPANY)

##### Note to Condensed Financial Statements

December 31, 2003

#### 1. Basis of Presentation

The accompanying condensed financial statements should be read in conjunction with the consolidated financial statements and notes thereto of American Equity Investment Life Holding Company.

In the parent company financial statements, the Company's investment in and advances to subsidiaries (which includes surplus notes issued by American Equity Life) is stated at cost plus equity in undistributed income (losses) of subsidiaries since the date of acquisition and net unrealized gains/losses on the subsidiaries' fixed maturity securities classified as "available for sale" and equity securities in accordance with SFAS 115, Accounting for Certain Investments in Debt and Equity Securities.

Equity securities of subsidiary trusts (not eliminated in consolidation) represents the parent company's investment in the common equity securities of three subsidiary trusts that are no longer included in the Company's consolidated financial statements. See notes 1 and 9 to the consolidated financial statements for a discussion of the financial reporting for these subsidiary trusts as a result of the adoption of FIN 46, "Consolidation of Variable Interest Entities, an Interpretation of Accounting Research Bulletin No. 51" on December 31, 2003.

See note 7 to the consolidated financial statements for a description of the parent company's notes payable.

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### Schedule III—Supplementary Insurance Information

#### AMERICAN EQUITY INVESTMENT LIFE HOLDING COMPANY

| Column A | Column B                          | Column C   | Column D          | Column E                                 |
|----------|-----------------------------------|--|-------------------|--|
|          | Deferred policy acquisition costs | Future policy benefits, losses, claims and loss expenses | Unearned premiums | Other policy claims and benefits payable |

(Dollars in thousands)

|                          |            |              |      |           |
|--------------------------|------------|--------------|------|-----------|
| As of December 31, 2003: |            |              |      |           |
| Life insurance           | \$ 703,664 | \$ 8,315,874 | \$ — | \$ 60,995 |

|                          |            |              |      |           |
|--------------------------|------------|--------------|------|-----------|
| As of December 31, 2002: |            |              |      |           |
| Life insurance           | \$ 595,450 | \$ 6,737,888 | \$ — | \$ 35,644 |

|                          |            |              |      |           |
|--------------------------|------------|--------------|------|-----------|
| As of December 31, 2001: |            |              |      |           |
| Life insurance           | \$ 492,757 | \$ 4,420,720 | \$ — | \$ 22,046 |

| Column A | Column F | Column G | Column H | Column I | Column J |
|----------|----------|----------|----------|----------|----------|
|----------|----------|----------|----------|----------|----------|

| <u>Premium<br/>revenue</u> | <u>Net<br/>investment<br/>income</u> | <u>Benefits,<br/>claims,<br/>losses and<br/>settlement<br/>expenses</u> | <u>Amortization<br/>of deferred<br/>policy<br/>acquisition<br/>costs</u> | <u>Other<br/>operating<br/>expenses</u> |
|----------------------------|--------------------------------------|---|--|---|
|----------------------------|--------------------------------------|---|--|---|

(Dollars in thousands)

|                               |           |            |            |           |           |
|-------------------------------|-----------|------------|------------|-----------|-----------|
| Year ended December 31, 2003: |           |            |            |           |           |
| Life insurance                | \$ 34,138 | \$ 358,529 | \$ 321,168 | \$ 52,982 | \$ 39,043 |
| <hr/>                         |           |            |            |           |           |
| Year ended December 31, 2002: |           |            |            |           |           |
| Life insurance                | \$ 29,040 | \$ 308,548 | \$ 181,923 | \$ 39,930 | \$ 28,909 |
| <hr/>                         |           |            |            |           |           |
| Year ended December 31, 2001: |           |            |            |           |           |
| Life insurance                | \$ 25,661 | \$ 209,086 | \$ 120,606 | \$ 23,040 | \$ 27,277 |
| <hr/>                         |           |            |            |           |           |

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#### Schedule IV—Reinsurance

##### AMERICAN EQUITY INVESTMENT LIFE HOLDING COMPANY

| <u>Column A</u>   | <u>Column B</u>        | <u>Column C</u>                     | <u>Column D</u>                             | <u>Column E</u>   | <u>Column F</u>                                 |
|---|------------------------|-------------------------------------|---|-------------------|---|
|   | <u>Gross amount</u>    | <u>Ceded to other<br/>companies</u> | <u>Assumed from<br/>other<br/>companies</u> | <u>Net amount</u> | <u>Percent of<br/>amount<br/>assumed to net</u> |
|   | (Dollars in thousands) |                                     |   |                   |   |
| Year ended December 31, 2003:                               |                        |                                     |   |                   |   |
| Life insurance in force, at end of year                     | \$ 2,580,812           | \$ 1,034                            | \$ 141,817                                  | \$ 2,721,595      | 5.21%   |
| Insurance premiums and other considerations:                |                        |                                     |   |                   |   |
| Annuity and single premium universal life product charges   | \$ 26,025              | \$ 5,573                            | \$ —  | \$ 20,452         | —%  |
| Traditional life and accident and health insurance premiums | 11,941                 | 156                                 | 1,901                                       | 13,686            | 13.89%  |
|   | <u>\$ 37,966</u>       | <u>\$ 5,729</u>                     | <u>\$ 1,901</u>                             | <u>\$ 34,138</u>  | <u>5.57%</u>                                    |
| Year ended December 31, 2002:                               |                        |                                     |   |                   |   |
| Life insurance in force, at end of year                     | \$ 2,084,417           | \$ 807                              | \$ 133,745                                  | \$ 2,217,355      | 6.03%   |
| Insurance premiums and other considerations:                |                        |                                     |   |                   |   |
| Annuity and single premium universal life product charges   | \$ 17,091              | \$ 1,715                            | \$ —  | \$ 15,376         | —%  |
| Traditional life and accident and health insurance premiums | 10,421                 | 362                                 | 3,605                                       | 13,664            | 26.38%  |
|   | <u>\$ 27,512</u>       | <u>\$ 2,077</u>                     | <u>\$ 3,605</u>                             | <u>\$ 29,040</u>  | <u>12.41%</u>                                   |
| Year ended December 31, 2001:                               |                        |                                     |   |                   |   |
| Life insurance in force, at end of year                     | \$ 2,366,765           | \$ 260,675                          | \$ 209,647                                  | \$ 2,315,737      | 9.05%   |
| Insurance premiums and other considerations:                |                        |                                     |   |                   |   |
| Annuity and single premium universal life product charges   | \$ 12,555              | \$ 35                               | \$ —  | \$ 12,520         | —%  |
| Traditional life and accident and health insurance premiums | 9,043                  | 156                                 | 4,254                                       | 13,141            | 32.37%  |
|   | <u>\$ 21,598</u>       | <u>\$ 191</u>                       | <u>\$ 4,254</u>                             | <u>\$ 25,661</u>  | <u>16.58%</u>                                   |

**Item 16. Exhibits and Financial Statement Schedules.****(a) Exhibits:**

| Exhibit No. | Description  |
|-------------|--|
| 3.1         | Articles of Incorporation, including Articles of Amendment**††   |
| 3.2         | Articles of Amendment to Articles of Incorporation filed on September 23, 2003#  |
| 3.3         | Amended and Restated Bylaws†   |
| 4.1         | Agreement dated December 4, 1997 between American Equity Investment Life Holding Company and Farm Bureau Life Insurance Company re Right of First Refusal*   |
| 4.2         | Stockholders' Agreement dated April 30, 1997 among American Equity Investment Life Holding Company and stockholders*   |
| 4.3         | Registration Rights Agreement dated April 30, 1997 between American Equity Investment Life Holding Company and stockholders*   |
| 4.4         | Amended and Restated Declaration of Trust of American Equity Capital Trust I dated September 7, 1999†  |
| 4.5         | Indenture dated September 7, 1999 between American Equity Investment Life Holding Company and West Des Moines State Bank, as trustee#  |
| 4.6         | Trust Preferred Securities Guarantee Agreement dated September 7, 1999 between American Equity Investment Life Holding Company and West Des Moines State Bank, as trustee#   |
| 4.7         | Trust Common Securities Guarantee Agreement dated September 7, 1999 between American Equity Investment Life Holding Company and West Des Moines State Bank, as trustee#  |
| 4.8         | Indenture dated October 29, 1999 between American Equity Investment Life Holding Company and West Des Moines State Bank, as trustee)#  |
| 4.9         | Trust Preferred Securities Guarantee Agreement dated October 29, 1999 between American Equity Investment Life Holding Company and West Des Moines, State Bank, as trustee#   |
| 4.10        | Trust Common Securities Guarantee Agreement dated October 29, 1999 between American Equity Investment Life Holding Company and West Des Moines State Bank, as trustee#   |
| 4.11        | Indenture dated December 16, 2003, between American Equity Investment Life Holding Company and Wilmington Trust Company, as trustee  |
| 4.12        | Guarantee Agreement dated December 16, 2003, between American Equity Investment Life Holding Company and Wilmington Trust Company, as trustee  |
| 9           | Voting Trust Agreement dated December 30, 1997 among Farm Bureau Life Insurance Company, American Equity Investment Life Holding Company and David J. Noble, David S. Mulcahy and Debra J. Richardson (Voting Trustees)* |
| 10.1        | Restated and Amended General Agency Commission and Servicing Agreement dated June 30, 1997 between American Equity Investment Life Insurance Company and American Equity Investment Service Company*                     |
| 10.1-A      | 1999 General Agency Commission and Servicing Agreement dated as of June 30, 1999 between American Equity Investment Life Insurance Company and American Equity Investment Service Company†                               |
| 10.1-B      | Second Restated and Amended General Agency Commission and Servicing Agreement dated as of October 1, 2002 between American Equity Investment Life Insurance Company and American Equity Investment Service Company†††††  |
| 10.1-C      | First Amendment to the 1999 General Agency Commission and Servicing Agreement effective July 1, 2003 between American Equity Investment Life Insurance Company and American Equity Investment Service Company            |
| 10.2        | 1996 Stock Option Plan*  |
| 10.3        | Restated and Amended Stock Option and Warrant Agreement dated April 30, 1997 between American Equity Investment Life Holding Company and D.J. Noble*   |
| 10.4        | Warrant to Purchase Common Stock dated May 12, 1997 issued to Sanders Morris Mundy Inc.*   |
| 10.5        | Deferred Compensation Agreements between American Equity Investment Life Holding Company and   |

- (a) James M. Gerlach dated June 6, 1996\*
- (b) Terry A. Reimer dated November 11, 1996\*
- (c) David S. Mulcahy dated December 31, 1997\*
- 10.6 Forgivable Loan Agreement dated April 30, 2000 between American Equity Investment Life Holding Company and D.J. Noble††
- 10.7 2000 Employee Stock Option Plan††
- 10.8 2000 Director Stock Option Plan††
- 10.9 Coinsurance and Yearly Renewable Term Reinsurance Agreement dated January 1, 2001 between American Equity Investment Life Holding Company and Atlantic International Reinsurance Company LTD.††††
- 10.10 Coinsurance Agreement dated December 19, 2001 between American Equity Investment Life Holding Company and EquiTrust Life Insurance Company†††††
- 10.10-A Coinsurance Agreement dated December 29, 2003 between American Equity Investment Life Holding Company and EquiTrust Life Insurance Company
- 10.11 Amended and Restated Credit Agreement dated December 30, 2002 among American Equity Investment Life Holding Company, West Des Moines State Bank, as co-agent, Fleet National Bank, as documentation agent and U.S. Bank National Association, as agent††††††
- 10.12 2002 Coinsurance and Yearly Renewable Term Reinsurance Agreement dated November 1, 2002 between American Equity Investment Life Holding Company and Hannover Life Reassurance Company of America†††††††
- 10.13 2003 Coinsurance and yearly Renewable Term Reinsurance Agreement dated September 30, 2003 between American Equity Investment Life Holding Company and Hannover Life Reassurance Company of America#
- 10.13-A First Amendment to 2003 Coinsurance and yearly Renewable Term Reinsurance Agreement dated September 30, 2003 between American Equity Investment Life Holding Company and Hannover Life Reassurance Company of America
- 10.14 Form of Change in Control Agreement between American Equity Investment Life Holding Company and each of John M. Matovina, Kevin R. Wingert, Debra J. Richardson and Wendy L. Carlson#
- 
- 10.15 Form of Change in Control Agreement between American Equity Investment Life Holding Company and each James M. Gerlach and Terry A. Reimer#
- 10.16 First Amendment dated August 14, 2003 to Amended and Restated Credit Agreement dated December 30, 2002 among American Equity Investment Life Holding Company, West Des Moines State Bank, as co-agent, Fleet National Bank, documentation agent and U.S. National Association, as agent#
- 10.17 Second Amendment dated October 24, 2003 to Amended and Restated Credit Agreement dated December 30, 2002 among American Equity Investment Life Holding Company, West Des Moines State Bank, as co-agent, Fleet National Bank, as documentation agent and U.S. Bank National Association, as agent#
- 10.18 Third Amendment dated December 31, 2003, to Amended and Restated Credit Agreement dated December 30, 2002 among American Equity Investment Life Holding Company, West Des Moines State Bank, as co-agent, Fleet National Bank, as documentation agent and U.S. Bank National Association, as agent
- 21.1 Subsidiaries of American Equity Investment Life Holding Company
- 31.1 Certification of Chief Executive Officer pursuant to 18 U.S.C. Section 1350, as Adopted Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002
- 31.2 Certification of Chief Financial Officer pursuant to 18 U.S.C. Section 1350, as Adopted Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002
- 32.1 Certification of Chief Executive Officer pursuant to 18 U.S.C. Section 1350, as Adopted Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002
- 32.2 Certification of Chief Financial Officer pursuant to 18 U.S.C. Section 1350, as Adopted Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002

\* Incorporated by reference to American Equity Investment Life Holding Company's Registration Statement on Form 10 dated April 29, 1999

\*\* Incorporated by reference to the Registration Statement on Form 10 dated April 29, 1999 and Post-Effective Amendment No. 1 to the Registration Statement on Form 10 dated July 20, 1999

† Incorporated by reference to Form 10-K for the period ended December 31, 1999

††

Incorporated by reference to Form 10-Q for the period ended June 30, 2000

††† Incorporated by reference to Form 10-K for the period ended December 31, 2000

†††† Incorporated by reference to Form 10-Q for the period ended September 30, 2001

††††† Incorporated by reference to Form 10-K for the period ended December 31, 2001

†††††† Incorporated by reference to Form 10-K for the period ended December 31, 2002

†††††† Incorporated by reference to Form 10-Q for the period ended June 30, 2003

# Incorporated by reference to the Registration Statement on Form S-1 dated September 15, 2003, including all pre-effective amendments thereto

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[AMERICAN EQUITY INVESTMENT LIFE HOLDING COMPANY CONSOLIDATED STATEMENTS OF CHANGES IN STOCKHOLDERS' EQUITY \(Dollars in thousands, except per share data\)](#)

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**AMERICAN EQUITY INVESTMENT LIFE HOLDING COMPANY**

as Issuer

**INDENTURE**

Dated as of December 16, 2003

**WILMINGTON TRUST COMPANY**

as Trustee

**FLOATING RATE JUNIOR SUBORDINATED DEBT SECURITIES DUE 2034**

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THIS INDENTURE, dated as of December 16, 2003, between American Equity Investment Life Holding Company, an insurance holding company incorporated in the State of Iowa (hereinafter sometimes called the "Company"), and Wilmington Trust Company, a Delaware banking corporation, as trustee (hereinafter sometimes called the "Trustee").

**WITNESSETH:**

WHEREAS, for its lawful corporate purposes, the Company has duly authorized the issuance of its Floating Rate Junior Subordinated Debt Securities due 2034 (the "Debt Securities") under this Indenture and to provide, among other things, for the execution and authentication, delivery and administration thereof, the Company has duly authorized the execution of this Indenture.

NOW, THEREFORE, in consideration of the premises, and the purchase of the Debt Securities by the holders thereof, the Company covenants and agrees with the Trustee for the equal and proportionate benefit of the respective holders from time to time of the Debt Securities as follows:

**ARTICLE I  
DEFINITIONS**

SECTION 1.01 *Definitions.*

The terms defined in this Section 1.01 (except as herein otherwise expressly provided or unless the context otherwise requires) for all purposes of this Indenture and of any indenture supplemental hereto shall have the respective meanings specified in this Section 1.01. All accounting terms used herein and not expressly defined shall have the meanings assigned to such terms in accordance with generally accepted accounting principles and the term "generally accepted

accounting principles" means such accounting principles as are generally accepted in the United States at the time of any computation. The words "herein," "hereof" and "hereunder" and other words of similar import refer to this Indenture as a whole and not to any particular Article, Section or other subdivision.

"Additional Interest" has the meaning set forth in Section 3.06.

"Additional Provisions" has the meaning set forth in Section 15.01.

"Administrative Action" has the meaning specified within the definition of "Tax Event" in this Section 1.01.

"Authenticating Agent" means any agent or agents of the Trustee which at the time shall be appointed and acting pursuant to Section 6.12.

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

"Board of Directors" means the board of directors or the executive committee or any other duly authorized designated officers of the Company.

"Board Resolution" means a copy of a resolution certified by the Secretary or an Assistant Secretary of the Company 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.

"Business Day" means any day other than a Saturday, Sunday or any other day on which banking institutions in Wilmington, Delaware, The City of New York or Des Moines, Iowa are permitted or required by law or executive order to close.

"Calculation Agent" means the Person identified as "Trustee" in the first paragraph hereof with respect to the Debt Securities and the Institutional Trustee with respect to the Trust Securities.

"Capital Securities" means undivided beneficial interests in the assets of the Trust which are designated as "TRuPS®" and rank *pari passu* with Common Securities issued by the Trust; *provided, however*, that if an Event of Default (as defined in the Declaration) has occurred and is continuing, the rights of holders of such Common Securities to payment in respect of distributions and payments upon

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liquidation, redemption and otherwise are subordinated to the rights of holders of such Capital Securities.

"Capital Securities Guarantee" means the guarantee agreement that the Company will enter into with Wilmington Trust Company or other Persons that operates directly or indirectly for the benefit of holders of Capital Securities of the Trust.

"Certificate" means a certificate signed by any one of the principal executive officer, the principal financial officer or the principal accounting officer of the Company.

"Code" means the Internal Revenue Code of 1986, as amended from time to time, or any successor legislation.

"Common Securities" means undivided beneficial interests in the assets of the Trust which are designated as "Common Securities" and rank *pari passu* with Capital Securities issued by the Trust; *provided, however*, that if an Event of Default (as defined in the Declaration) has occurred and is continuing, the rights of holders of such Common Securities to payment in respect of distributions and payments upon liquidation, redemption and otherwise are subordinated to the rights of holders of such Capital Securities.

"Company" means American Equity Investment Life Holding Company, an insurance holding company incorporated in the State of Iowa, and, subject to the provisions of Article XI, shall include its successors and assigns.

"Debt Security" or "Debt Securities" has the meaning stated in the first recital of this Indenture.

"Debt Security Register" has the meaning specified in Section 2.05.

"Declaration" means the Amended and Restated Declaration of Trust of the Trust, dated as of December 16, 2003, as amended or supplemented from time to time.

"Default" means any event, act or condition that with notice or lapse of time, or both, would constitute an Event of Default.

"Defaulted Interest" has the meaning set forth in Section 2.08.

"Deferred Interest" has the meaning set forth in Section 2.11.

"Event of Default" means any event specified in Section 5.01, which has continued for the period of time, if any, and after the giving of the notice, if any, therein designated.

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

"Extension Period" has the meaning set forth in Section 2.11.

"Indenture" means this Indenture as originally executed or, if amended or supplemented as herein provided, as so amended or supplemented, or both.

"Institutional Trustee" has the meaning set forth in the Declaration.

"Interest Payment Date" means January 8, April 8, July 8 and October 8 of each year, commencing on April 8, 2004, subject to Section 14.07.

"Interest Period" has the meaning set forth in Section 2.08.

"Interest Rate" means, with respect to any Interest Period, a per annum rate of interest equal to LIBOR, as determined on the LIBOR Determination Date for such Interest Period, plus 4.00%; *provided, however*, that the Interest Rate for any Interest Period prior to the Interest Period commencing on the Interest Payment Date in January 2009 may not exceed 12.5% per annum;

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*provided, further*, that the Interest Rate for any Interest Period may not exceed the highest rate permitted by New York law, as the same may be modified by United States law of general application.

"Investment Company Event" means the receipt by the Company and the Trust of an Opinion of Counsel experienced in such matters to the effect that, as a result of a change in law or regulation or written change in interpretation or application of law or regulation by any legislative body, court, governmental agency or regulatory authority, there is more than an insubstantial risk that the Trust is or, within 90 days of the date of such opinion will be, considered an "investment company" that is required to be registered under the Investment Company Act of 1940, as amended, which change or prospective change becomes effective or would become effective, as the case may be, on or after the date of the original issuance of the Debt Securities.

"LIBOR" means the London Interbank Offered Rate for three-month U.S. Dollar deposits in Europe as determined by the Calculation Agent according to Section 2.10(b).

"LIBOR Banking Day" has the meaning set forth in Section 2.10(b)(i). 3

"LIBOR Business Day" has the meaning set forth in Section 2.10(b)(i).

"LIBOR Determination Date" has the meaning set forth in Section 2.10(b)(i).

"Liquidation Amount" means the liquidation amount of \$1,000 per Trust Security.

"Maturity Date" means January 8, 2034, subject to Section 14.07.

"Officers' Certificate" means a certificate signed by the Chairman of the Board, the Vice Chairman, the President or any Vice President, and by the Chief Financial Officer, the Treasurer, an Assistant Treasurer, the Comptroller, an Assistant Comptroller, the Secretary or an Assistant Secretary of the Company, and delivered to the Trustee. Each such certificate shall include the statements provided for in Section 14.06 if and to the extent required by the provisions of such Section.

"Opinion of Counsel" means an opinion in writing signed by legal counsel, who may be an employee of or counsel to the Company, or who may be other counsel reasonably satisfactory to the Trustee. Each such opinion shall include the statements provided for in Section 14.06 if and to the extent required by the provisions of such Section.

The term "outstanding," when used with reference to Debt Securities, subject to the provisions of Section 7.04, means, as of any particular time, all Debt Securities authenticated and delivered by the Trustee or the Authenticating Agent under this Indenture, except

(a) Debt Securities theretofore canceled by the Trustee or the Authenticating Agent or delivered to the Trustee for cancellation;

(b) Debt Securities, or portions thereof, for the payment or redemption of which moneys in the necessary amount shall have been deposited in trust with the Trustee or with any Paying Agent (other than the Company) or shall have been set aside and segregated in trust by the Company (if the Company shall act as its own Paying Agent); *provided*, that, if such Debt Securities, or portions thereof, are to be redeemed prior to maturity thereof, notice of such redemption shall have been given as provided in Articles X and XIV or provision satisfactory to the Trustee shall have been made for giving such notice; and

(c) Debt Securities paid pursuant to Section 2.06 or in lieu of or in substitution for which other Debt Securities shall have been authenticated and delivered pursuant to the terms of Section 2.06 unless proof satisfactory to the Company and the Trustee is presented that any such Debt Securities are held by bona fide holders in due course.

"Optional Redemption Date" has the meaning set forth in Section 10.01.

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"Optional Redemption Price" means an amount in cash equal to 100% of the principal amount of the Debt Securities being redeemed plus unpaid interest accrued on such Debt Securities to the related Optional Redemption Date.

"Paying Agent" has the meaning set forth in Section 3.04(e).

"Person" means a legal person, including any individual, corporation, estate, partnership, joint venture, association, joint stock company, limited liability company, trust, unincorporated association, or government or any agency or political subdivision thereof, or any other entity of whatever nature.

"Predecessor Security" of any particular Debt Security means every previous Debt Security evidencing all or a portion of the same debt as that evidenced by such particular Debt Security; and, for the purposes of this definition, any Debt Security authenticated and delivered under Section 2.06 in lieu of a lost, destroyed or stolen Debt Security shall be deemed to evidence the same debt as the lost, destroyed or stolen Debt Security.

"Principal Office of the Trustee" means the office of the Trustee at which at any particular time its corporate trust business shall be principally administered, which at all times shall be located within the United States and at the time of the execution of this Indenture shall be Rodney Square North, 1100 North Market Street, Wilmington, DE 19890-0001.

"Reference Banks" has the meaning set forth in Section 2.10(b)(ii).

"Resale Restriction Termination Date" means, with respect to any Debt Security, the date which is the later of (i) two years (or such shorter period of time as permitted by Rule 144(k) under the Securities Act) after the later of (y) the date of original issuance of such Debt Security and (z) the last date on which the Company or any Affiliate (as defined in Rule 405 under the Securities Act) of the Company was the holder of such Debt Security (or any predecessor thereto) and (ii) such later date, if any, as may be required by any subsequent change in applicable law.

"Responsible Officer" means, with respect to the Trustee, any officer within the Principal Office of the Trustee with direct responsibility for the administration of the Indenture, including any vice-president, any assistant vice-president, any secretary, any assistant secretary, the treasurer, any assistant treasurer, any trust officer or other officer of the Principal Office of the Trustee customarily performing functions similar to those performed by any of the above designated officers and also means, with respect to a particular corporate trust matter, any other officer to whom such matter is referred because of that officer's knowledge of and familiarity with the particular subject.

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

"Securityholder," "holder of Debt Securities" or other similar terms, means any Person in whose name at the time a particular Debt Security is registered on the Debt Security Register.

"Senior Indebtedness" means, with respect to the Company, (i) the principal, premium, if any, and interest in respect of (A) indebtedness of the Company for money borrowed and (B) indebtedness evidenced by securities, debentures, notes, bonds or other similar instruments issued by the Company, (ii) all capital lease obligations of the Company, (iii) all obligations of the Company issued or assumed as the deferred purchase price of property, all conditional sale obligations of the Company and all obligations of the Company under any title retention agreement (but excluding trade accounts payable arising in the ordinary course of business), (iv) all obligations of the Company for the reimbursement of any letter of credit, any banker's acceptance, any security purchase facility, any repurchase agreement or similar arrangement, any interest rate swap, any other hedging arrangement, any obligation under options or any similar credit or other transaction, (v) all obligations of the type referred to in clauses (i) through (iv) above of other Persons for the payment of which the Company is responsible or liable as obligor, guarantor or otherwise and (vi) all obligations of the type referred to in clauses (i) through (v) above of other Persons secured by any lien on any property or asset of the

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Company (whether or not such obligation is assumed by the Company), whether incurred on or prior to the date of this Indenture or thereafter incurred, unless it is provided in the instrument creating or evidencing the same or pursuant to which the same is outstanding that such obligations are not superior or are *pari passu* in right of payment to the Debt Securities; *provided, however*, that Senior Indebtedness shall not include (A) any debt securities issued to any trust other than the Trust (or a trustee of such trust) that is a financing vehicle of the Company (a "financing entity"), in connection with the issuance by such financing entity of equity or other securities in transactions substantially similar in structure to the transactions contemplated hereunder and in the Declaration or (B) any guarantees of the Company in respect of the equity or other securities of any financing entity referred to in clause (A) above.

"Special Event" means either a Tax Event or an Investment Company Event, or both.

"Special Redemption Date" has the meaning set forth in Section 10.02.

"Special Redemption Price" means, with respect to the redemption of any Debt Security following a Special Event, an amount in cash equal to 104.75% of the principal amount of Debt Securities to be redeemed prior to January 8, 2005 and thereafter equal to the percentage of the principal amount of the Debt Securities that is specified below for the Special Redemption Date plus, in each case, unpaid interest accrued thereon to the Special Redemption Date:

| Special Redemption During the 12-Month<br>Period Beginning January 8, | Percentage of Principal Amount |
|---|--------------------------------|
| 2005  | 103.80%                        |
| 2006  | 102.85%                        |
| 2007  | 101.90%                        |
| 2008  | 100.95%                        |
| 2009 and thereafter   | 100.00%                        |

"Subsidiary" means, with respect to any Person, (i) any corporation, at least a majority of the outstanding voting stock of which is owned, directly or indirectly, by such Person or one or more of its Subsidiaries or by such Person and one or more of its Subsidiaries, (ii) any general partnership, joint venture or similar entity, at least a majority of the outstanding partnership or similar interests of which shall at the time be owned by such Person or one or more of its Subsidiaries or by such Person and one or more of its Subsidiaries, and (iii) any limited partnership of which such Person or any of its Subsidiaries is a general partner. For the purposes of this definition, "voting stock" means shares, interests, participations or other equivalents in the equity interest (however designated) in such Person having ordinary voting power for the election of a majority of the directors (or the equivalent) of such Person, other than shares, interests, participations or other equivalents having such power only by reason of the occurrence of a contingency.

"Tax Event" means the receipt by the Company and the Trust of an Opinion of Counsel experienced in such matters to the effect that, as a result of any amendment to or change (including any announced prospective change) in the laws or any regulations thereunder of the United States or any political subdivision or taxing authority thereof or therein, or as a result of any official administrative pronouncement (including any private letter ruling, technical advice memorandum, regulatory procedure, notice or announcement (an "Administrative Action")) or judicial decision interpreting or applying such laws or regulations, regardless of whether such Administrative Action or judicial decision is issued to or in connection with a proceeding involving the Company or the Trust and whether or not subject to review or appeal, which amendment, clarification, change, Administrative Action or decision is enacted, promulgated or announced, in each case on or after the date of original issuance of the Debt Securities, there is more than an insubstantial risk that: (i) the Trust is, or will be within 90 days of the date of such opinion, subject to United States federal income tax with respect to income received or accrued on the Debt Securities; (ii) if the Company is organized and existing under

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the laws of the United States or any state thereof or the District of Columbia, interest payable by the Company on the Debt Securities is not, or within 90 days of the date of such opinion, will not be, deductible by the Company, in whole or in part, for United States federal income tax purposes; or (iii) the Trust is, or will be within 90 days of the date of such opinion, subject to or otherwise required to pay, or required to withhold from distributions to holders of Trust Securities, more than a de minimis amount of other taxes (including withholding taxes), duties, assessments or other governmental charges.

"Trust" means American Equity Capital Trust IV, the Delaware statutory trust, or any other similar trust created for the purpose of issuing Capital Securities in connection with the issuance of Debt Securities under this Indenture, of which the Company is the sponsor.

"Trust Indenture Act" means the Trust Indenture Act of 1939, as amended from time to time, or any successor legislation.

"Trust Securities" means Common Securities and Capital Securities of the Trust.

"Trustee" means the Person identified as "Trustee" in the first paragraph hereof, and, subject to the provisions of Article VI hereof, shall also include its successors and assigns as Trustee hereunder.

"United States" means the United States of America and the District of Columbia.

"U.S. Person" has the meaning given to United States Person as set forth in Section 7701(a)(30) of the Code.

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## ARTICLE II DEBT SECURITIES

### SECTION 2.01 *Authentication and Dating.*

Upon the execution and delivery of this Indenture, or from time to time thereafter, Debt Securities in an aggregate principal amount not in excess of \$12,372,000 may be executed and delivered by the Company to the Trustee for authentication, and the Trustee shall thereupon authenticate and make available for delivery said Debt Securities to or upon the written order of the Company, signed by its Chairman of the Board of Directors, Vice Chairman, President or Chief Financial Officer or one of its Vice Presidents, without any further action by the Company hereunder. In authenticating such Debt Securities, and accepting the additional responsibilities under this Indenture in relation to such Debt Securities, the Trustee shall be entitled to receive, and (subject to Section 6.01) shall be fully protected in relying upon a copy of any Board Resolution or Board Resolutions relating thereto and, if applicable, an appropriate record of any action taken pursuant to such resolution, in each case certified by the Secretary or an Assistant Secretary or other officers with appropriate delegated authority of the Company as the case may be.

The Trustee shall have the right to decline to authenticate and deliver any Debt Securities under this Section if the Trustee, being advised by counsel, determines that such action may not lawfully be taken or if a Responsible Officer of the Trustee in good faith shall determine that such action would expose the Trustee to personal liability to existing Securityholders.

The definitive Debt Securities shall be typed, printed, lithographed or engraved on steel engraved borders or may be produced in any other manner, all as determined by the officers executing such Debt Securities, as evidenced by their execution of such Debt Securities.

### SECTION 2.02 *Form of Trustee's Certificate of Authentication.*

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

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

Wilmington Trust Company, not in its individual capacity but solely as trustee

By: /s/ DENISE M. GERAN

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Authorized Officer

### SECTION 2.03 *Form and Denomination of Debt Securities.*

The Debt Securities shall be substantially in the form of Exhibit A hereto. The Debt Securities shall be in registered, certificated form without coupons and in minimum denominations of \$100,000 and any multiple of \$1,000 in excess thereof. The Debt Securities shall be numbered, lettered, or otherwise distinguished in such manner or in accordance with such plans as the officers executing the same may determine with the approval of the Trustee as evidenced by the execution and authentication thereof.

### SECTION 2.04 *Execution of Debt Securities.*

The Debt Securities shall be signed in the name and on behalf of the Company by the manual or facsimile signature of its Chairman of the Board of Directors, Vice Chairman, President or Chief Financial Officer or one of its Executive Vice Presidents, Senior Vice Presidents or Vice Presidents, under its corporate seal (if legally required) which may be affixed thereto or printed, engraved or

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otherwise reproduced thereon, by facsimile or otherwise, and which need not be attested. Only such Debt Securities as shall bear thereon a certificate of authentication substantially in the form herein before recited, executed by the Trustee or the Authenticating Agent by the manual signature of an authorized officer, shall be entitled to the benefits of this Indenture or be valid or obligatory for any purpose. Such certificate by the Trustee or the Authenticating Agent upon any Debt Security executed by the Company shall be conclusive evidence that the Debt Security so authenticated has been duly authenticated and delivered hereunder and that the holder is entitled to the benefits of this Indenture.

In case any officer of the Company who shall have signed any of the Debt Securities shall cease to be such officer before the Debt Securities so signed shall have been authenticated and delivered by the Trustee or the Authenticating Agent, or disposed of by the Company, such Debt Securities nevertheless may be authenticated and delivered or disposed of as though the Person who signed such Debt Securities had not ceased to be such officer of the Company; and any Debt Security may be signed on behalf of the Company by such Persons as, at the actual date of the execution of such Debt Security, shall be the proper officers of the Company, although at the date of the execution of this Indenture any such person was not such an officer.

Every Debt Security shall be dated the date of its authentication.

#### SECTION 2.05 *Exchange and Registration of Transfer of Debt Securities.*

The Company shall cause to be kept, at the office or agency maintained for the purpose of registration of transfer and for exchange as provided in Section 3.02, a register (the "Debt Security Register") for the Debt Securities issued hereunder in which, subject to such reasonable regulations as it may prescribe, the Company shall provide for the registration and transfer of all Debt Securities as provided in this Article II. Such register shall be in written form or in any other form capable of being converted into written form within a reasonable time.

Debt Securities to be exchanged may be surrendered at the Principal Office of the Trustee or at any office or agency to be maintained by the Company for such purpose as provided in Section 3.02, and the Company shall execute, the Company or the Trustee shall register and the Trustee or the Authenticating Agent shall authenticate and make available for delivery in exchange therefor, the Debt Security or Debt Securities which the Securityholder making the exchange shall be entitled to receive. Upon due presentment for registration of transfer of any Debt Security at the Principal Office of the Trustee or at any office or agency of the Company maintained for such purpose as provided in Section 3.02, the Company shall execute, the Company or the Trustee shall register and the Trustee or the Authenticating Agent shall authenticate and make available for delivery in the name of the transferee or transferees, a new Debt Security for a like aggregate principal amount. Registration or registration of transfer of any Debt Security by the Trustee or by any agent of the Company appointed pursuant to Section 3.02, and delivery of such Debt Security, shall be deemed to complete the registration or registration of transfer of such Debt Security.

All Debt Securities presented for registration of transfer or for exchange or payment shall (if so required by the Company or the Trustee or the Authenticating Agent) be duly endorsed by, or be accompanied by, a written instrument or instruments of transfer in form satisfactory to the Company and either the Trustee or the Authenticating Agent duly executed by, the holder or such holder's attorney duly authorized in writing.

No service charge shall be made for any exchange or registration of transfer of Debt Securities, but the Company or the Trustee may require payment of a sum sufficient to cover any tax, fee or other governmental charge that may be imposed in connection therewith other than exchanges pursuant to Section 2.07, Section 9.04 or Section 10.04 not involving any transfer.

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The Company or the Trustee shall not be required to exchange or register a transfer of any Debt Security for a period of 15 days immediately preceding the date of selection of Debt Securities for redemption.

Notwithstanding the foregoing, Debt Securities may not be transferred prior to the Resale Restriction Termination Date except in compliance with the legend set forth below, unless otherwise determined by the Company in accordance with applicable law, which legend shall be placed on each Debt Security:

**THIS SECURITY HAS NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), OR ANY STATE SECURITIES LAWS OR ANY OTHER APPLICABLE SECURITIES LAWS. NEITHER THIS SECURITY NOR ANY INTEREST OR PARTICIPATION HEREIN MAY BE REOFFERED, SOLD, ASSIGNED, TRANSFERRED, PLEDGED, ENCUMBERED OR OTHERWISE DISPOSED OF IN THE ABSENCE OF SUCH REGISTRATION OR UNLESS SUCH TRANSACTION IS EXEMPT. FROM, OR NOT SUBJECT TO, THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT. THE HOLDER OF THIS SECURITY OR ANY INTEREST OR PARTICIPATION HEREIN, BY ITS ACCEPTANCE HEREOF OR THEREOF, AS THE CASE MAY BE, AGREES TO OFFER, SELL OR OTHERWISE TRANSFER SUCH SECURITY OR ANY INTEREST OR PARTICIPATION HEREIN PRIOR TO THE DATE WHICH IS THE LATER OF (i) TWO YEARS (OR SUCH SHORTER PERIOD OF TIME AS PERMITTED BY RULE 144(k) UNDER THE SECURITIES ACT) AFTER THE LATER OF (Y) THE DATE OF ORIGINAL ISSUANCE HEREOF AND (Z) THE LAST DATE ON WHICH THE COMPANY OR ANY AFFILIATE (AS DEFINED IN RULE 405 UNDER THE SECURITIES ACT) OF THE COMPANY WAS THE HOLDER OF THIS SECURITY OR SUCH INTEREST OR PARTICIPATION (OR ANY PREDECESSOR THERETO) AND (ii) SUCH LATER DATE, IF ANY, AS MAY BE REQUIRED BY ANY SUBSEQUENT CHANGE IN APPLICABLE LAW, ONLY (A) TO THE COMPANY, (B) PURSUANT TO RULE 144A UNDER THE SECURITIES ACT ("RULE 144A"), TO A PERSON THE HOLDER REASONABLY BELIEVES IS A "QUALIFIED INSTITUTIONAL BUYER", AS DEFINED IN RULE 144A, THAT PURCHASES FOR ITS OWN ACCOUNT OR FOR THE ACCOUNT OF A QUALIFIED INSTITUTIONAL BUYER TO WHOM NOTICE IS GIVEN THAT THE TRANSFER IS BEING MADE IN RELIANCE ON RULE 144A, (C) PURSUANT TO AN EXEMPTION FROM THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT TO AN "ACCREDITED INVESTOR" WITHIN THE MEANING OF SUBPARAGRAPH (a) (1), (2), (3), (7) OR (8) OF RULE 501 UNDER THE SECURITIES ACT THAT IS ACQUIRING THIS SECURITY OR SUCH INTEREST OR PARTICIPATION FOR ITS OWN ACCOUNT, OR FOR THE ACCOUNT OF SUCH AN ACCREDITED INVESTOR, FOR INVESTMENT PURPOSES AND NOT WITH A VIEW TO, OR FOR OFFER OR SALE IN CONNECTION WITH, ANY DISTRIBUTION IN VIOLATION OF THE SECURITIES ACT, (D) PURSUANT TO OFFERS AND SALES TO NON-US PERSONS THAT OCCUR OUTSIDE THE UNITED STATES PURSUANT TO REGULATION S UNDER THE SECURITIES ACT OR (E) PURSUANT TO ANOTHER AVAILABLE EXEMPTION FROM THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT, SUBJECT TO THE COMPANY'S RIGHT PRIOR TO ANY SUCH OFFER, SALE OR TRANSFER PURSUANT TO CLAUSE (C) OR (E) ABOVE TO REQUIRE THE DELIVERY OF AN OPINION OF COUNSEL, CERTIFICATION AND/OR OTHER INFORMATION SATISFACTORY TO IT IN ACCORDANCE WITH THE INDENTURE, A COPY OF WHICH MAY BE OBTAINED FROM THE COMPANY. THE HOLDER OF THIS SECURITY OR ANY INTEREST OR PARTICIPATION HEREIN, BY ITS ACCEPTANCE HEREOF OR THEREOF, AS THE CASE MAY BE, AGREES THAT IT WILL COMPLY WITH THE FOREGOING RESTRICTIONS.**

RETIREMENT ACCOUNT OR OTHER PLAN OR ARRANGEMENT SUBJECT TO TITLE I OF THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974, AS AMENDED ("ERISA"), OR SECTION 4975 OF THE INTERNAL REVENUE CODE OF 1986, AS AMENDED (THE "CODE") (EACH A "PLAN"), OR AN ENTITY WHOSE UNDERLYING ASSETS INCLUDE "PLAN ASSETS" BY REASON OF ANY PLAN'S INVESTMENT IN THE ENTITY AND NO PERSON INVESTING "PLAN ASSETS" OF ANY PLAN MAY ACQUIRE OR HOLD THIS SECURITY OR ANY INTEREST OR PARTICIPATION HEREIN, UNLESS SUCH PURCHASER OR HOLDER IS ELIGIBLE FOR THE EXEMPTIVE RELIEF AVAILABLE UNDER U.S. DEPARTMENT OF LABOR PROHIBITED TRANSACTION CLASS EXEMPTION 96-23,95-60,91-38,90-1 OR 84-14 OR ANOTHER APPLICABLE EXEMPTION OR ITS PURCHASE AND HOLDING OF THIS SECURITY OR SUCH INTEREST OR PARTICIPATION IS NOT PROHIBITED BY SECTION 406 OF ERISA OR SECTION 4975 OF THE CODE WITH RESPECT TO SUCH PURCHASE OR HOLDING. ANY PURCHASER OR HOLDER OF THIS SECURITY OR ANY INTEREST OR PARTICIPATION HEREIN WILL BE DEEMED TO HAVE REPRESENTED BY ITS PURCHASE AND HOLDING HEREOF OR THEREOF, AS THE CASE MAY BE, THAT EITHER (i) IT IS NOT AN EMPLOYEE BENEFIT PLAN WITHIN THE MEANING OF SECTION 3(3) OF ERISA, OR A PLAN TO WHICH SECTION 4975 OF THE CODE IS APPLICABLE, A TRUSTEE OR OTHER PERSON ACTING ON BEHALF OF AN EMPLOYEE BENEFIT PLAN OR PLAN, OR ANY OTHER PERSON OR ENTITY USING THE ASSETS OF ANY EMPLOYEE BENEFIT PLAN OR PLAN TO FINANCE SUCH PURCHASE, OR (ii) SUCH PURCHASE AND HOLDING WILL NOT RESULT IN A PROHIBITED TRANSACTION UNDER SECTION 406 OF ERISA OR SECTION 4975 OF THE CODE FOR WHICH THERE IS NO APPLICABLE STATUTORY OR ADMINISTRATIVE EXEMPTION.

IN CONNECTION WITH ANY TRANSFER, THE HOLDER OF THIS SECURITY WILL DELIVER TO THE REGISTRAR AND TRANSFER AGENT SUCH CERTIFICATES AND OTHER INFORMATION AS MAY BE REQUIRED BY THE INDENTURE TO CONFIRM THAT THE TRANSFER COMPLIES WITH THE FOREGOING RESTRICTIONS.

THIS SECURITY WILL BE ISSUED AND MAY BE TRANSFERRED ONLY IN MINIMUM DENOMINATIONS OF \$100,000 AND MULTIPLES OF \$1,000 IN EXCESS THEREOF. ANY ATTEMPTED TRANSFER OF THIS SECURITY IN DENOMINATIONS OF LESS THAN \$100,000 SHALL BE DEEMED TO BE VOID AND OF NO LEGAL EFFECT WHATSOEVER. ANY SUCH PURPORTED TRANSFEREE SHALL BE DEEMED NOT TO BE THE HOLDER OF THIS SECURITY OR ANY INTEREST OR PARTICIPATION HEREIN FOR ANY PURPOSE, INCLUDING, BUT NOT LIMITED TO, THE RECEIPT OF DISTRIBUTIONS ON THIS SECURITY OR SUCH INTEREST OR PARTICIPATION, AND SUCH PURPORTED TRANSFEREE SHALL BE DEEMED TO HAVE NO INTEREST WHATSOEVER IN THIS SECURITY OR ANY INTEREST OR PARTICIPATION HEREIN.

SECTION 2.06 *Mutilated, Destroyed, Lost or Stolen Debt Securities.*

In case any Debt Security shall become mutilated or be destroyed, lost or stolen, the Company shall execute, and upon its written request the Trustee shall authenticate and deliver, a new Debt Security bearing a number not contemporaneously outstanding, in exchange and substitution for the mutilated Debt Security, or in lieu of and in substitution for the Debt Security so destroyed, lost or stolen. In every case the applicant for a substituted Debt Security shall furnish to the Company and the Trustee such security or indemnity as may be required by them to save each of them harmless, and, in every case of destruction, loss or theft, the applicant shall also furnish to the Company and the Trustee evidence to their satisfaction of the destruction, loss or theft of such Debt Security and of the ownership thereof.

The Trustee may authenticate any such substituted Debt Security and deliver the same upon the written request or authorization of any officer of the Company. Upon the issuance of any substituted

Debt Security, the Company 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 connected therewith. In case any Debt Security which has matured or is about to mature or has been called for redemption in full shall become mutilated or be destroyed, lost or stolen, the Company may, instead of issuing a substitute Debt Security, pay or authorize the payment of the same (without surrender thereof except in the case of a mutilated Debt Security) if the applicant for such payment shall furnish to the Company and the Trustee such security or indemnity as may be required by them to save each of them harmless and, in case of destruction, loss or theft, evidence satisfactory to the Company and to the Trustee of the destruction, loss or theft of such Security and of the ownership thereof.

Every substituted Debt Security issued pursuant to the provisions of this Section 2.06 by virtue of the fact that any such Debt Security is destroyed, lost or stolen shall constitute an additional contractual obligation of the Company, whether or not the destroyed, lost or stolen Debt Security shall be found at any time, and shall be entitled to all the benefits of this Indenture equally and proportionately with any and all other Debt Securities duly issued hereunder. All Debt Securities shall be held and owned upon the express condition that, to the extent permitted by applicable law, the foregoing provisions are exclusive with respect to the replacement or payment of mutilated, destroyed, lost or stolen Debt Securities and shall preclude any and all other rights or remedies notwithstanding any law or statute existing or hereafter enacted to the contrary with respect to the replacement or payment of negotiable instruments or other securities without their surrender.

SECTION 2.07 *Temporary Debt Securities.*

Pending the preparation of definitive Debt Securities, the Company may execute and the Trustee shall authenticate and make available for delivery temporary Debt Securities that are typed, printed or lithographed. Temporary Debt Securities shall be issuable in any authorized denomination, and substantially in the form of the definitive Debt Securities but with such omissions, insertions and variations as may be appropriate for temporary Debt Securities, all as may be determined by the Company. Every such temporary Debt Security shall be executed by the Company and be authenticated by the Trustee upon the same conditions and in substantially the same manner, and with the same effect, as the definitive Debt Securities. Without unreasonable delay, the Company will execute and deliver to the Trustee or the Authenticating Agent definitive Debt Securities and thereupon any or all temporary Debt Securities may be surrendered in exchange therefor, at the Principal Office of the Trustee or at any office or agency maintained by the Company for such purpose as provided in Section 3.02,

and the Trustee or the Authenticating Agent shall authenticate and make available for delivery in exchange for such temporary Debt Securities a like aggregate principal amount of such definitive Debt Securities. Such exchange shall be made by the Company at its own expense and without any charge therefor except that in case of any such exchange involving a registration of transfer the Company may require payment of a sum sufficient to cover any tax, fee or other governmental charge that may be imposed in relation thereto. Until so exchanged, the temporary Debt Securities shall in all respects be entitled to the same benefits under this Indenture as definitive Debt Securities authenticated and delivered hereunder.

#### SECTION 2.08 *Payment of Interest.*

Each Debt Security will bear interest at the then applicable Interest Rate (i) in the case of the initial Interest Period, for the period from, and including, the date of original issuance of such Debt Security to, but excluding, the initial Interest Payment Date and (ii) thereafter, for the period from, and including, the first day following the end of the preceding Interest Period to, but excluding, the applicable Interest Payment Date or, in the case of the last Interest Period, the related Optional Redemption Date, Special Redemption Date or Maturity Date, as applicable (each such period, an "Interest Period"), on the principal thereof, on any overdue principal and (to the extent that payment of such interest is enforceable under applicable law) on Deferred Interest and on any overdue

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installment of interest (including Defaulted Interest), payable (subject to the provisions of Article XII) on each Interest Payment Date. Interest and any Deferred Interest on any Debt Security that is payable, and is punctually paid or duly provided for by the Company, on any Interest Payment Date shall be paid to the Person in whose name such Debt Security (or one or more Predecessor Securities) is registered at the close of business on the regular record date for such interest installment, except that interest and any Deferred Interest payable on the Maturity Date, any Optional Redemption Date or the Special Redemption Date, as the case may be, shall be paid to the Person to whom principal is paid. In case (i) the Maturity Date of any Debt Security or (ii) any Debt Security or portion thereof is called for redemption and the related Optional Redemption Date or the Special Redemption Date, as the case may be, is subsequent to the regular record date with respect to any Interest Payment Date and either on or prior to such Interest Payment Date, interest on such Debt Security will be paid upon presentation and surrender of such Debt Security.

Any interest on any Debt Security, other than Deferred Interest, that is payable, but is not punctually paid or duly provided for by the Company, on any Interest Payment Date (herein called "Defaulted Interest") shall forthwith cease to be payable to the holder on the relevant regular record date by virtue of having been such holder, and such Defaulted Interest shall be paid by the Company to the Persons in whose names such Debt Securities (or their respective Predecessor Securities) are registered at the close of business on a special record date for the payment of such Defaulted Interest, which shall be fixed in the following manner: the Company shall notify the Trustee in writing of the amount of Defaulted Interest proposed to be paid on each such Debt Security and the date of the proposed payment, and at the same time the Company shall deposit with the Trustee an amount of money equal to the aggregate amount proposed to be paid in respect of such Defaulted Interest or shall make arrangements reasonably satisfactory to the Trustee for such deposit prior to the date of the proposed payment, such money when deposited to be held in trust for the benefit of the Persons entitled to such Defaulted Interest as provided in this paragraph. Thereupon the Trustee shall fix a special record date for the payment of such Defaulted Interest, which shall not be more than fifteen nor less than ten days prior to the date of the proposed payment and not less than ten days after the receipt by the Trustee of the notice of the proposed payment. The Trustee shall promptly notify the Company of such special record date and, in the name and at the expense of the Company, shall cause notice of the proposed payment of such Defaulted Interest and the special record date therefor to be mailed, first class postage prepaid, to each Securityholder at his or her address as it appears in the Debt Security Register, not less than ten days prior to such special record date. Notice of the proposed payment of such Defaulted Interest and the special record date therefor having been mailed as aforesaid, such Defaulted Interest shall be paid to the Persons in whose names such Debt Securities (or their respective Predecessor Securities) are registered on such special record date and thereafter the Company shall have no further payment obligation in respect of the Defaulted Interest.

Any interest scheduled to become payable on an Interest Payment Date occurring during an Extension Period shall not be Defaulted Interest and shall be payable on such other date as may be specified in the terms of such Debt Securities.

The term "regular record date", as used in this Section, shall mean the fifteenth day prior to the applicable Interest Payment Date, whether or not such day is a Business Day.

Subject to the foregoing provisions of this Section, each Debt Security delivered under this Indenture upon registration of transfer of or in exchange for or in lieu of any other Debt Security shall carry the rights to interest accrued and unpaid, and to accrue, that were carried by such other Debt Security.

#### SECTION 2.09 *Cancellation of Debt Securities Paid, etc.*

All Debt Securities surrendered for the purpose of payment, redemption, exchange or registration of transfer, shall, if surrendered to the Company or any Paying Agent, be surrendered to the Trustee

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and promptly canceled by it, or, if surrendered to the Trustee or any Authenticating Agent, shall be promptly canceled by it, and no Debt Securities shall be issued in lieu thereof except as expressly permitted by any of the provisions of this Indenture. All Debt Securities canceled by any Authenticating Agent shall be delivered to the Trustee. The Trustee shall destroy all canceled Debt Securities unless the Company otherwise directs the Trustee in writing, in which case the Trustee shall dispose of such Debt Securities as directed by the Company. If the Company shall acquire any of the Debt Securities, however, such acquisition shall not operate as a redemption or satisfaction of the indebtedness represented by such Debt Securities unless and until the same are surrendered to the Trustee for cancellation.

#### SECTION 2.10 *Computation of Interest.*

(a) The amount of interest payable for any Interest Period will be computed on the basis of a 360-day year and the actual number of days elapsed in such Interest Period.

(b) LIBOR shall be determined by the Calculation Agent for each Interest Period in accordance with the following provisions:

(i) On the second LIBOR Business Day (provided, that on such day commercial banks are open for business (including dealings in foreign currency deposits) in London (a "LIBOR Banking Day"), and otherwise the next preceding LIBOR Business Day that is also a LIBOR Banking Day) prior to January 15, April 15, July 15 or October 15, as the case may be, immediately succeeding the commencement of such Interest Period (or, in the case of the first Interest Period, prior to December 16, 2003) (each such day, a "LIBOR Determination Date"), LIBOR shall equal the rate, as obtained by the Calculation Agent, for three-month U.S. Dollar deposits in Europe, which appears on Telerate (as defined in the International Swaps and Derivatives Association, Inc. 2000 Interest Rate and Currency Exchange Definitions) page 3750 or such other page as may replace such page 3750, as of 11:00 a.m. (London time) on such LIBOR Determination Date, as reported by Bloomberg Financial Markets Commodities News or any successor service ("Telerate Page 3750"). "LIBOR Business Day" means any day that is not a Saturday, Sunday or other day on which commercial banking institutions in The City of New York or Wilmington, Delaware are authorized or obligated by law or executive order to be closed. If such rate is superseded on Telerate Page 3750 by a corrected rate before 12:00 noon (London time) on such LIBOR Determination Date, the corrected rate as so substituted will be LIBOR for such LIBOR Determination Date.

(ii) If, on such LIBOR Determination Date, such rate does not appear on Telerate Page 3750, the Calculation Agent shall determine the arithmetic mean of the offered quotations of the Reference Banks to leading banks in the London interbank market for three-month U.S. Dollar deposits in Europe (in an amount determined by the Calculation Agent) by reference to requests for quotations as of approximately 11:00 a.m. (London time) on such LIBOR Determination Date made by the Calculation Agent to the Reference Banks. If, on such LIBOR Determination Date, at least two of the Reference Banks provide such quotations, LIBOR shall equal the arithmetic mean of such quotations. If, on such LIBOR Determination Date, only one or none of the Reference Banks provide such a quotation, LIBOR shall be deemed to be the arithmetic mean of the offered quotations that at least two leading banks in The City of New York (as selected by the Calculation Agent) are quoting on such LIBOR Determination Date for threemonth U.S. Dollar deposits in Europe at approximately 11:00 a.m. (London time) (in an amount determined by the Calculation Agent). As used herein, "Reference Banks" means four major banks in the London interbank market selected by the Calculation Agent.

(iii) If the Calculation Agent is required but is unable to determine a rate in accordance with at least one of the procedures provided above, LIBOR for such Interest Period shall be LIBOR in effect for the immediately preceding Interest Period.

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(c) All percentages resulting from any calculations on the Debt Securities will be rounded, if necessary, to the nearest one hundred-thousandth of a percentage point, with five one-millionths of a percentage point rounded upward (e.g., 9.876545% (or .09876545) being rounded to 9.87655% (or .0987655)), and all dollar amounts used in or resulting from such calculation will be rounded to the nearest cent (with one-half cent being rounded upward).

(d) On each LIBOR Determination Date, the Calculation Agent shall notify, in writing, the Company and the Paying Agent of the applicable Interest Rate that applies to the related Interest Period. The Calculation Agent shall, upon the request of a holder of any Debt Securities, inform such holder of the Interest Rate that applies to the related Interest Period. All calculations made by the Calculation Agent in the absence of manifest error shall be conclusive for all purposes and binding on the Company and the holders of the Debt Securities. The Paying Agent shall be entitled to rely on information received from the Calculation Agent or the Company as to the applicable Interest Rate. The Company shall, from time to time, provide any necessary information to the Paying Agent relating to any original issue discount and interest on the Debt Securities that is included in any payment and reportable for taxable income calculation purposes.

#### SECTION 2.11 *Extension of Interest Payment Period.*

So long as no Event of Default has occurred and is continuing, the Company shall have the right, from time to time and without causing an Event of Default, to defer payments of interest on the Debt Securities by extending the interest payment period on the Debt Securities at any time and from time to time during the term of the Debt Securities, for up to 20 consecutive quarterly periods (each such extended interest payment period, together with all previous and further consecutive extensions thereof, is referred to herein as an "Extension Period"). No Extension Period may end on a date other than an Interest Payment Date or extend beyond the Maturity Date, any Optional Redemption Date or the Special Redemption Date, as the case may be. During any Extension Period, interest will continue to accrue on the Debt Securities, and interest on such accrued interest (such accrued interest and interest thereon referred to herein as "Deferred Interest") will accrue at an annual rate equal to the Interest Rate applicable during such Extension Period, compounded quarterly from the date such Deferred Interest would have been payable were it not for the Extension Period, to the extent permitted by applicable law. No interest or Deferred Interest (except any Additional Interest that may be due and payable) shall be due and payable during an Extension Period, except at the end thereof. At the end of any Extension Period, the Company shall pay all Deferred Interest then accrued and unpaid on the Debt Securities; *provided, however*, that during any Extension Period, the Company shall be subject to the restrictions set forth in Section 3.08. Prior to the termination of any Extension Period, the Company may further extend such Extension Period, *provided*, that no Extension Period (including all previous and further consecutive extensions that are part of such Extension Period) shall exceed 20 consecutive quarterly periods. Upon the termination of any Extension Period and upon the payment of all Deferred Interest, the Company may commence a new Extension Period, subject to the foregoing requirements. The Company must give the Trustee notice of its election to begin or extend an Extension Period at least one Business Day prior to the regular record date applicable to the next succeeding Interest Payment Date. The Trustee shall give notice of the Company's election to begin or extend an Extension Period to the Securityholders.

#### SECTION 2.12 *CUSIP Numbers.*

The Company in issuing the Debt Securities may use a "CUSIP" number (if then generally in use), and, if so, the Trustee shall use a "CUSIP" number in notices of redemption as a convenience to Securityholders; *provided*, that any such notice may state that no representation is made as to the correctness of such number either as printed on the Debt 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 Debt Securities, and any such redemption shall not be affected by any defect in or omission of such

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numbers. The Company will promptly notify the Trustee in writing of any change in the CUSIP number.

SECTION 3.01 *Payment of Principal, Premium and Interest, Agreed Treatment of the Debt Securities.*

(a) The Company covenants and agrees that it will duly and punctually pay or cause to be paid all payments due in respect of the Debt Securities at the place, at the respective times and in the manner provided in this Indenture and the Debt Securities. Payment of the principal of and premium, if any, and interest on the Debt Securities due on the Maturity Date, any Optional Redemption Date or the Special Redemption Date, as the case may be, will be made by the Company in immediately available funds against presentation and surrender of such Debt Securities. At the option of the Company, each installment of interest on the Debt Securities due on an Interest Payment Date other than the Maturity Date, any Optional Redemption Date or the Special Redemption Date, as the case may be, may be paid (i) by mailing checks for such interest payable to the order of the holders of Debt Securities entitled thereto as they appear on the Debt Security Register or (ii) by wire transfer of immediately available funds to any account with a banking institution located in the United States designated by such holders to the Paying Agent no later than the related record date. Notwithstanding anything to the contrary contained in this Indenture or any Debt Security, if the Trust or the trustee of the Trust is the holder of any Debt Security, then all payments in respect of such Debt Security shall be made by the Company in immediately available funds when due.

(b) The Company will treat the Debt Securities as indebtedness, and the interest payable in respect of such Debt Securities as interest, for all U.S. federal income tax purposes. All payments in respect of such Debt Securities will be made free and clear of U.S. withholding tax to any beneficial owner thereof that has provided an Internal Revenue Service Form W-8 BEN (or any substitute or successor form) establishing its non-U.S. status for U.S. federal income tax purposes.

(c) As of the date of this Indenture, the Company represents that it has no intention to exercise its right under Section 2.11 to defer payments of interest on the Debt Securities by commencing an Extension Period.

(d) As of the date of this Indenture, the Company represents that the likelihood that it would exercise its right under Section 2.11 to defer payments of interest on the Debt Securities by commencing an Extension Period at any time during which the Debt Securities are outstanding is remote because of the restrictions that would be imposed on the Company's ability to declare or pay dividends or distributions on, or to redeem, purchase or make a liquidation payment with respect to, any of its outstanding equity and on the Company's ability to make any payments of principal of or premium, if any, or interest on, or repurchase or redeem, any of its debt securities that rank in all respects *pari passu* with or junior in interest to the Debt Securities.

SECTION 3.02 *Offices for Notices and Payments, etc.*

So long as any of the Debt Securities remain outstanding, the Company will maintain in Wilmington, Delaware or in Des Moines, Iowa an office or agency where the Debt Securities may be presented for payment, an office or agency where the Debt Securities may be presented for registration of transfer and for exchange as provided in this Indenture and an office or agency where notices and demands to or upon the Company in respect of the Debt Securities or of this Indenture may be served. The Company will give to the Trustee written notice of the location of any such office or agency and of any change of location thereof until otherwise designated from time to time by the Company in a notice to the Trustee, or specified as contemplated by Section 2.05, such office or agency for all of the

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above purposes shall be the Principal Office of the Trustee. In case the Company shall fail to maintain any such office or agency in Wilmington, Delaware or in Des Moines, Iowa, or shall fail to give such notice of the location or of any change in the location thereof, presentations and demands may be made and notices may be served at the Principal Office of the Trustee.

In addition to any such office or agency, the Company may from time to time designate one or more offices or agencies outside Wilmington, Delaware or Des Moines, Iowa where the Debt Securities may be presented for registration of transfer and for exchange in the manner provided in this Indenture, and the Company may from time to time rescind such designation, as the Company may deem desirable or expedient; *provided, however*, that no such designation or rescission shall in any manner relieve the Company of its obligation to maintain any such office or agency in Wilmington, Delaware or in Des Moines, Iowa for the purposes above mentioned. The Company will give to the Trustee prompt written notice of any such designation or rescission thereof.

SECTION 3.03 *Appointments to Fill Vacancies in Trustee's Office.*

The Company, whenever necessary to avoid or fill a vacancy in the office of Trustee, will appoint, in the manner provided in Section 6.09, a Trustee, so that there shall at all times be a Trustee hereunder.

SECTION 3.04 *Provision as to Paying Agent.*

(a) If the Company shall appoint a Paying Agent other than the Trustee, it will cause such Paying Agent to execute and deliver to the Trustee an instrument in which such agent shall agree with the Trustee, subject to the provision of this Section 3.04,

(i) that it will hold all sums held by it as such agent for the payment of all payments due in respect of the Debt Securities (whether such sums have been paid to it by the Company or by any other obligor on the Debt Securities) in trust for the benefit of the holders of the Debt Securities;

(ii) that it will give the Trustee prompt written notice of any failure by the Company (or by any other obligor on the Debt Securities) to make any payment in respect of the Debt Securities when the same shall be due and payable; and

(iii) that it will, at any time during the continuance of any Event of Default, upon the written request of the Trustee, forthwith pay to the Trustee all sums so held in trust by such Paying Agent.

(b) If the Company shall act as its own Paying Agent, it will, on or before each due date of the payments due in respect of the Debt Securities, set aside, segregate and hold in trust for the benefit of the holders of the Debt Securities a sum sufficient to make such payments so becoming due and will notify the Trustee in writing of any failure to take such action and of any failure by the Company (or by any other obligor under the Debt Securities) to make any payment in respect of the Debt Securities when the same shall become due and payable.

Whenever the Company shall have one or more Paying Agents for the Debt Securities, it will, on or prior to each due date of the payments in respect of the Debt Securities, deposit with a Paying Agent a sum sufficient to pay all payments so becoming due, such sum to be held in trust for the benefit of the Persons

entitled thereto and (unless such Paying Agent is the Trustee) the Company shall promptly notify the Trustee in writing of its action or failure to act.

(c) Anything in this Section 3.04 to the contrary notwithstanding, the Company may, at any time, for the purpose of obtaining a satisfaction and discharge with respect to the Debt Securities, or for any other reason, pay, or direct any Paying Agent to pay, to the Trustee all sums held in trust by the Company or any such Paying Agent, such sums to be held by the Trustee upon the same terms and conditions herein contained.

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(d) Anything in this Section 3.04 to the contrary notwithstanding, the agreement to hold sums in trust as provided in this Section 3.04 is subject to Sections 12.03 and 12.04.

(e) The Company hereby initially appoints the Trustee to act as paying agent for the Debt Securities (the "Paying Agent").

**SECTION 3.05** *Certificate to Trustee.*

The Company will deliver to the Trustee on or before 120 days after the end of each fiscal year, so long as Debt Securities are outstanding hereunder, a Certificate stating that in the course of the performance by the signers of their duties as officers of the Company they would normally have knowledge of any default by the Company in the performance of any covenants of the Company contained herein, stating whether or not they have knowledge of any such default and, if so, specifying each such default of which the signers have knowledge and the nature thereof.

**SECTION 3.06** *Additional Interest.*

If and for so long as the Trust is the holder of all Debt Securities and is subject to or otherwise required to pay (or is required to withhold from distributions to holders of Trust Securities) any additional taxes (including withholding taxes), duties, assessments or other governmental charges as a result of a Tax Event, the Company will pay such additional amounts (the "Additional Interest") on the Debt Securities or the Trust Securities, as the case may be, as shall be required so that the net amounts received and retained by the holders of Debt Securities or Trust Securities, as the case may be, after payment of all taxes (including withholding taxes), duties, assessments or other governmental charges, will be equal to the amounts that such holders would have received and retained had no such taxes (including withholding taxes), duties, assessments or other governmental charges been imposed.

Whenever in this Indenture or the Debt Securities there is a reference in any context to the payment of principal of or premium, if any, or interest on the Debt Securities, such mention shall be deemed to include mention of payments of the Additional Interest provided for in this Section to the extent that, in such context, Additional Interest is, was or would be payable in respect thereof pursuant to the provisions of this Section and express mention of the payment of Additional Interest (if applicable) in any provisions hereof shall not be construed as excluding Additional Interest in those provisions hereof where such express mention is not made, *provided, however*, that, notwithstanding anything to the contrary contained in this Indenture or any Debt Security, the deferral of the payment of interest during an Extension Period pursuant to Section 2.11 shall not defer the payment of any Additional Interest that may be due and payable.

**SECTION 3.07** *Compliance with Consolidation Provisions.*

The Company will not, while any of the Debt Securities remain outstanding, consolidate with, or merge into, any other Person, or merge into itself, or sell, convey, transfer or otherwise dispose of all or substantially all of its property or capital stock to any other Person unless the provisions of Article XI hereof are complied with.

**SECTION 3.08** *Limitation on Dividends.*

If (i) there shall have occurred and be continuing an Event of Default, (ii) the Company shall be in default with respect to its payment of any obligations under the Capital Securities Guarantee or (iii) the Company shall have given notice of its election to defer payments of interest on the Debt Securities by extending the interest payment period as provided herein and such period, or any extension thereof, shall have commenced and be continuing, then the Company may not (A) declare or pay any dividends or distributions on, or redeem, purchase, acquire, or make a liquidation payment with respect to, any of the Company's capital stock, (B) make any payment of principal of or premium, if any, or interest on or repay, repurchase or redeem any debt securities of the Company that rank in all respects *pari passu* with or junior in interest to the Debt Securities or (C) make any payment under

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any guarantees of the Company that rank in all respects *pari passu* with or junior in interest to the Capital Securities Guarantee (other than (a) repurchases, redemptions or other acquisitions of shares of capital stock of the Company (I) in connection with any employment contract, benefit plan or other similar arrangement with or for the benefit of one or more employees, officers, directors or consultants, (II) in connection with a dividend reinvestment or stockholder stock purchase plan or (III) in connection with the issuance of capital stock of the Company (or securities convertible into or exercisable for such capital stock) as consideration in an acquisition transaction entered into prior to the occurrence of (i), (ii) or (iii) above, (b) as a result of any exchange or conversion of any class or series of the Company's capital stock (or any capital stock of a subsidiary of the Company) for any class or series of the Company's capital stock or of any class or series of the Company's indebtedness for any class or series of the Company's capital stock, (c) the purchase of fractional interests in shares of the Company's capital stock pursuant to the conversion or exchange provisions of such capital stock or the security being converted or exchanged, (d) any declaration of a dividend in connection with any stockholder's rights plan, or the issuance of rights, stock or other property under any stockholder's rights plan, or the redemption or repurchase of rights pursuant thereto or (e) any dividend in the form of stock, warrants, options or other rights where the dividend stock or the stock issuable upon exercise of such warrants, options or other rights is the same stock as that on which the dividend is being paid or ranks *pari passu* with or junior in interest to such stock).

**SECTION 3.09** *Covenants as to the Trust.*

For so long as such Trust Securities remain outstanding, the Company shall maintain 100% ownership of the Common Securities; *provided, however*, that any permitted successor of the Company under this Indenture may succeed to the Company's ownership of such Common Securities. The Company, as owner of the Common Securities, shall use commercially reasonable efforts to cause the Trust (a) to remain a statutory trust, except in connection with a distribution of

Debt Securities to the holders of Trust Securities in liquidation of the Trust, the redemption of all of the Trust Securities or mergers, consolidations or amalgamations, each as permitted by the Declaration, (b) to otherwise continue to be classified as a grantor trust for United States federal income tax purposes and (c) to cause each holder of Trust Securities to be treated as owning an undivided beneficial interest in the Debt Securities.

#### ARTICLE IV LISTS

##### SECTION 4.01 *Securityholders' Lists.*

The Company covenants and agrees that it will furnish or cause to be furnished to the Trustee:

- (a) on each regular record date for an Interest Payment Date, a list, in such form as the Trustee may reasonably require, of the names and addresses of the Securityholders of the Debt Securities as of such record date; and
- (b) at such other times as the Trustee may request in writing, within 30 days after the receipt by the Company of any such request, a list of similar form and content as of a date not more than 15 days prior to the time such list is furnished; except that no such lists need be furnished under this Section 4.01 so long as the Trustee is in possession thereof by reason of its acting as Debt Security registrar.

##### SECTION 4.02 *Preservation and Disclosure of Lists.*

- (a) The Trustee shall preserve, in as current a form as is reasonably practicable, all information as to the names and addresses of the holders of Debt Securities (1) contained in the most recent list furnished to it as provided in Section 4.01 or (2) received by it in the capacity of Debt Securities

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registrar (if so acting) hereunder. The Trustee may destroy any list furnished to it as provided in Section 4.01 upon receipt of a new list so furnished.

- (b) In case three or more holders of Debt Securities (hereinafter referred to as "applicants") apply in writing to the Trustee and furnish to the Trustee reasonable proof that each such applicant has owned a Debt Security for a period of at least six months preceding the date of such application, and such application states that the applicants desire to communicate with other holders of Debt Securities with respect to their rights under this Indenture or under such Debt Securities and is accompanied by a copy of the form of proxy or other communication which such applicants propose to transmit, then the Trustee shall within five Business Days after the receipt of such application, at its election, either:

- (i) afford such applicants access to the information preserved at the time by the Trustee in accordance with the provisions of subsection (a) of this Section 4.02, or
- (ii) inform such applicants as to the approximate number of holders of Debt Securities whose names and addresses appear in the information preserved at the time by the Trustee in accordance with the provisions of subsection (a) of this Section 4.02, and as to the approximate cost of mailing to such Securityholders the form of proxy or other communication, if any, specified in such application.

If the Trustee shall elect not to afford such applicants access to such information, the Trustee shall, upon the written request of such applicants, mail to each Securityholder of Debt Securities whose name and address appear in the information preserved at the time by the Trustee in accordance with the provisions of subsection (a) of this Section 4.02 a copy of the form of proxy or other communication which is specified in such request with reasonable promptness after a tender to the Trustee of the material to be mailed and of payment, or provision for the payment, of the reasonable expenses of mailing, unless within five days after such tender, the Trustee shall mail to such applicants and file with the Securities and Exchange Commission, if permitted or required by applicable law, together with a copy of the material to be mailed, a written statement to the effect that, in the opinion of the Trustee, such mailing would be contrary to the best interests of the holders of all Debt Securities, as the case may be, or would be in violation of applicable law. Such written statement shall specify the basis of such opinion. If said Commission, as permitted or required by applicable law, after opportunity for a hearing upon the objections specified in the written statement so filed, shall enter an order refusing to sustain any of such objections or if, after the entry of an order sustaining one or more of such objections, said Commission shall find, after notice and opportunity for hearing, that all the objections so sustained have been met and shall enter an order so declaring, the Trustee shall mail copies of such material to all such Securityholders with reasonable promptness after the entry of such order and the renewal of such tender; otherwise the Trustee shall be relieved of any obligation or duty to such applicants respecting their application.

- (c) Each and every holder of Debt Securities, by receiving and holding the same, agrees with the Company and the Trustee that none of the Company, the Trustee or any Paying Agent shall be held accountable by reason of the disclosure of any such information as to the names and addresses of the holders of Debt Securities in accordance with the provisions of subsection (b) of this Section 4.02, regardless of the source from which such information was derived, and that the Trustee shall not be held accountable by reason of mailing any material pursuant to a request made under said subsection (b).

##### SECTION 4.03 *Financial and Other Information.*

- (a) The Company shall deliver to each holder of Debt Securities: (1) within 45 days after the end of each quarterly fiscal period other than year end, (i) unaudited consolidated financial statements of the Company (including balance sheet and income statement) covering such period and (ii) an Officer's Certificate of the Company to the effect specified in Exhibit B hereto; (2) within 60 days after year

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end, (i) unaudited consolidated financial statements of the Company (include balance sheet and income statement) covering the related annual period and (ii) an Officer's Certificate of the Company to the effect specified in Exhibit B hereto; (3) within the earlier of (y) 90 days after the end of each fiscal year and (z) such earlier number of days prescribed by the Securities and Exchange Commission for the filing with it of a Form 10-K by companies subject to the informational reporting requirements of the Exchange Act, (i) audited consolidated financial statements of the Company (including balance sheet and income statement) covering such fiscal year, (ii) the report of the independent accountants with respect to such financial statements and (iii) an Officer's Certificate of the Company

detailing any material differences between the unaudited financial statements for such fiscal year delivered pursuant to clause (2)(i) above and those delivered pursuant to this clause; (4) within 7 days after the filing thereof, each Form 10-K and Form 10-Q that is prepared and filed by the Company with the Securities and Exchange Commission in accordance with the Exchange Act, if any; (5) if the Company is not then (y) subject to Section 13 or 15(d) of the Exchange Act or (z) exempt from reporting pursuant to Rule 12g3-2(b) thereunder, the information required to be provided by Rule 144A(d)(4) under the Securities Act unless all of such information has been previously delivered to holders of the Debt Securities under clause (1), (2) or (3) above; and (6) within 30 days after the end of the fiscal year of the Company, Form 1099 or such other annual U.S. federal income tax information statement required by the Code containing such information with regard to the Debt Securities held by such holder as is required by the Code and the income tax regulations of the U.S. Treasury thereunder.

(b) If and so long as the holder of the Debt Securities is InCapS Funding II, Ltd. or a trustee thereof, the Company will cause copies of the annual financial statements of the Company and/or Affiliates that are filed with the insurance regulator in each jurisdiction in which the Company or any such Affiliate is incorporated to be delivered to the holder of the Debt Securities promptly following their filing.

## ARTICLE V REMEDIES OF THE TRUSTEE AND SECURITYHOLDERS

### SECTION 5.01 *Events of Default.*

The following events shall be "Events of Default" with respect to Debt Securities:

(a) the Company defaults in the payment of any interest upon any Debt Security when it becomes due and payable, and continuance of such default for a period of 30 days; for the avoidance of doubt, an extension of any interest payment period by the Company in accordance with Section 2.11 of this Indenture shall not constitute a default under this clause 5:01(a); or

(b) the Company defaults in the payment of all or any part of the principal of (or premium, if any, on) any Debt Securities as and when the same shall become due and payable, whether at maturity, upon redemption, by acceleration of maturity pursuant to Section 5.01 of this Indenture or otherwise; or

(c) the Company defaults in the performance of, or breaches, any of its covenants or agreements in Sections 3.06, 3.07, 3.08 or 3.09 of this Indenture (other than a covenant or agreement a default in whose performance or whose breach is elsewhere in this Section specifically dealt with), and continuance of such default or breach for a period of 90 days after there has been given, by registered or certified mail, to the Company by the Trustee or to the Company and the Trustee by the holders of not less than 25% in aggregate principal amount of the outstanding Debt Securities, a written notice specifying such default or breach and requiring it to be remedied and stating that such notice is a "Notice of Default" hereunder; or

(d) a court having jurisdiction in the premises shall enter a decree or order for relief in respect of the Company in an involuntary case under any applicable bankruptcy, insolvency or other similar law

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now or hereafter in effect, or appoints a receiver, liquidator, assignee, custodian, trustee, sequestrator or other similar official of the Company or for any substantial part of its property, or orders the winding-up or liquidation of its affairs and such decree, appointment or order shall remain unstayed and in effect for a period of 90 consecutive days; or

(e) the Company shall commence a voluntary case under any applicable bankruptcy, insolvency or other similar law now or hereafter in effect, shall consent to the entry of an order for relief in an involuntary case under any such law, or shall consent to the appointment of or taking possession by a receiver, liquidator, assignee, trustee, custodian, sequestrator or other similar official of the Company or of any substantial part of its property, or shall make any general assignment for the benefit of creditors, or shall fail generally to pay its debts as they become due; or

(f) the Trust shall have voluntarily or involuntarily liquidated, dissolved, wound-up its business or otherwise terminated its existence except in connection with (1) the distribution of the Debt Securities to holders of the Trust Securities in liquidation of their interests in the Trust, (2) the redemption of all of the outstanding Trust Securities or (3) mergers, consolidations or amalgamations, each as permitted by the Declaration.

If an Event of Default specified under clause (a), (b) or (c) of this Section 5.01 occurs and is continuing with respect to the Debt Securities, then, in each and every such case, either the Trustee or the holders of not less than 25% in aggregate principal amount of the Debt Securities then outstanding hereunder, by notice in writing to the Company (and to the Trustee if given by Securityholders), may declare the entire principal of the Debt Securities and any premium and interest accrued, but unpaid, thereon to be due and payable immediately, and upon any such declaration the same shall become immediately due and payable. If an Event of Default specified under clause (d), (e) or (f) of this Section 5.01 occurs, then, in each and every such case, the entire principal amount of the Debt Securities and any premium and interest accrued, but unpaid, thereon shall *ipso facto* become immediately due and payable without further action.

The foregoing provisions, however, are subject to the condition that if, at any time after the principal of the Debt Securities shall have become due by acceleration, and before any judgment or decree for the payment of the moneys due shall have been obtained or entered as hereinafter provided, (i) the Company shall pay or shall deposit with the Trustee a sum sufficient to pay all matured installments of interest upon all the Debt Securities and all payments in respect of the Debt Securities which shall have become due otherwise than by acceleration (with interest upon all such payments and Deferred Interest, to the extent permitted by law) and such amount as shall be sufficient to cover reasonable compensation to the Trustee and each predecessor Trustee, their respective agents, attorneys and counsel, and all other amounts due to the Trustee pursuant to Section 6.06, if any, and (ii) all Events of Default under this Indenture, other than the non-payment of the payments in respect of Debt Securities which shall have become due by acceleration, shall have been cured, waived or otherwise remedied as provided herein, then, in each and every such case, the holders of a majority in aggregate principal amount of the Debt Securities then outstanding, by written notice to the Company and to the Trustee, may waive all defaults and rescind and annul such acceleration and its consequences, but no such waiver or rescission and annulment shall extend to or shall affect any subsequent default or shall impair any right consequent thereon; *provided, however*, that if the Debt Securities are held by the Trust or a trustee of the Trust, such waiver or rescission and annulment shall not be effective until the holders of a majority in aggregate liquidation amount of the outstanding Capital Securities of the Trust shall have consented to such waiver or rescission and annulment.

In case the Trustee shall have proceeded to enforce any right under this Indenture and such proceedings shall have been discontinued or abandoned because of such rescission or annulment or for any other reason or shall have been determined adversely to the Trustee, then and in every such case the Company, the Trustee and the holders of the Debt Securities shall be restored respectively to their

several positions and rights hereunder, and all rights, remedies and powers of the Company, the Trustee and the holders of the Debt Securities shall continue as though no such proceeding had been taken.

*SECTION 5.02 Payment of Debt Securities on Default, Suit Therefor.*

The Company covenants that upon the occurrence of an Event of Default pursuant to clause (a) or (b) of Section 5.01 and upon demand of the Trustee, the Company will pay to the Trustee, for the benefit of the holders of the Debt Securities, the whole amount that then shall have become due and payable on all Debt Securities, including Deferred Interest accrued on the Debt Securities; and, in addition thereto, such further amount as shall be sufficient to cover the costs and expenses of collection, including a reasonable compensation to the Trustee, its agents, attorneys and counsel, and any other amounts due to the Trustee under Section 6.06. In case the Company shall fail forthwith to pay such amounts upon such demand, the Trustee, in its own name and as trustee of an express trust, shall be entitled and empowered to institute any actions or proceedings at law or in equity for the collection of the sums so due and unpaid, and may prosecute any such action or proceeding to judgment or final decree, and may enforce any such judgment or final decree against the Company or any other obligor on such Debt Securities and collect in the manner provided by law out of the property of the Company or any other obligor on such Debt Securities wherever situated the moneys adjudged or decreed to be payable.

In case there shall be pending proceedings for the bankruptcy or for the reorganization of the Company or any other obligor on the Debt Securities under Bankruptcy Law, or in case a receiver or trustee shall have been appointed for the property of the Company or such other obligor, or in the case of any other similar judicial proceedings relative to the Company or other obligor upon the Debt Securities, or to the creditors or property of the Company or such other obligor, the Trustee, irrespective of whether the principal of the Debt Securities shall then be due and payable as therein expressed or by acceleration or otherwise and irrespective of whether the Trustee shall have made any demand pursuant to the provisions of this Section 5.02, shall be entitled and empowered, by intervention in such proceedings or otherwise, to file and prove a claim or claims for the whole amount of principal and interest owing and unpaid in respect of the Debt Securities and, in case of any judicial proceedings, to file such proofs of claim and other papers or documents as may be necessary or advisable in order to have the claims of the Trustee (including any claim for reasonable compensation to the Trustee and each predecessor Trustee, and their respective agents, attorneys and counsel, and for reimbursement of all other amounts due to the Trustee under Section 6.06) and of the Securityholders allowed in such judicial proceedings relative to the Company or any other obligor on the Debt Securities, or to the creditors or property of the Company or such other obligor, unless prohibited by applicable law and regulations, to vote on behalf of the holders of the Debt Securities in any election of a trustee or a standby trustee in arrangement, reorganization, liquidation or other bankruptcy or insolvency proceedings or Person performing similar functions in comparable proceedings, and to collect and receive any moneys or other property payable or deliverable on any such claims, and to distribute the same after the deduction of its charges and expenses; and any receiver, assignee or trustee in bankruptcy or reorganization is hereby authorized by each of the Securityholders to make such payments to the Trustee, and, in the event that the Trustee shall consent to the making of such payments directly to the Securityholders, to pay to the Trustee such amounts as shall be sufficient to cover reasonable compensation to the Trustee, each predecessor Trustee and their respective agents, attorneys and counsel, and all other amounts due to the Trustee under Section 6.06.

Nothing herein contained shall be construed to authorize the Trustee to authorize or consent to or accept or adopt on behalf of any Securityholder any plan of reorganization, arrangement, adjustment or composition affecting the Debt Securities or the rights of any holder thereof or to authorize the Trustee to vote in respect of the claim of any Securityholder in any such proceeding.

All rights of action and of asserting claims under this Indenture, or under any of the Debt Securities, may be enforced by the Trustee without the possession of any of the Debt Securities, or the production thereof at any trial or other proceeding relative thereto, and any such suit or proceeding instituted by the Trustee shall be brought in its own name as trustee of an express trust, and any recovery of judgment shall be for the ratable benefit of the holders of the Debt Securities.

In any proceedings brought by the Trustee (and also any proceedings involving the interpretation of any provision of this Indenture to which the Trustee shall be a party), the Trustee shall be held to represent all the holders of the Debt Securities, and it shall not be necessary to make any holders of the Debt Securities parties to any such proceedings.

*SECTION 5.03 Application of Moneys Collected by Trustee.*

Any moneys collected by the Trustee shall be applied in the following order, at the date or dates fixed by the Trustee for the distribution of such moneys, upon presentation of the several Debt Securities in respect of which moneys have been collected, and stamping thereon the payment, if only partially paid, and upon surrender thereof if fully paid:

First: To the payment of costs and expenses incurred by, and reasonable fees of, the Trustee, its agents, attorneys and counsel, and of all other amounts due to the Trustee under Section 6.06;

Second: To the payment of all Senior Indebtedness of the Company if and to the extent required by Article XV;

Third: To the payment of the amounts then due and unpaid in respect of Debt Securities, in respect of which or for the benefit of which money has been collected, ratably, without preference or priority of any kind, according to the amounts due in respect of such Debt Securities; and

Fourth: The balance, if any, to the Company.

*SECTION 5.04 Proceedings by Securityholders.*

No holder of any Debt Security shall have any right to institute any suit, action or proceeding for any remedy hereunder, unless such holder previously shall have given to the Trustee written notice of an Event of Default with respect to the Debt Securities and unless the holders of not less than 25% in aggregate principal amount of the Debt Securities then outstanding shall have given the Trustee a written request to institute such action, suit or proceeding and shall have offered to the Trustee such reasonable indemnity as it may require against the costs, expenses and liabilities to be incurred thereby, and the Trustee for 60 days

after its receipt of such notice, request and offer of indemnity shall have failed to institute any such action, suit or proceeding; *provided*, that no holder of Debt Securities shall have any right to prejudice the rights of any other holder of Debt Securities, obtain priority or preference over any other such holder or enforce any right under this Indenture except in the manner herein provided and for the equal, ratable and common benefit of all holders of Debt Securities.

Notwithstanding any other provisions in this Indenture, the right of any holder of any Debt Security to receive payment of the principal of and premium, if any, and interest on such Debt Security when due, or to institute suit for the enforcement of any such payment, shall not be impaired or affected without the consent of such holder. For the protection and enforcement of the provisions of this Section, each and every Securityholder and the Trustee shall be entitled to such relief as can be given either at law or in equity.

#### SECTION 5.05 *Proceedings by Trustee.*

In case of an Event of Default, the Trustee may in its discretion proceed to protect and enforce the rights vested in it by this Indenture by such appropriate judicial proceedings as the Trustee shall deem most effectual to protect and enforce any of such rights, either by suit in equity or by action at law or by proceeding in bankruptcy or otherwise, whether for the specific enforcement of any covenant

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or agreement contained in this Indenture or in aid of the exercise of any power granted in this Indenture, or to enforce any other legal or equitable right vested in the Trustee by this Indenture or by law.

#### SECTION 5.06 *Remedies Cumulative and Continuing.*

Except as otherwise provided in Section 2.06, all powers and remedies given by this Article V to the Trustee or to the Securityholders shall, to the extent permitted by law, be deemed cumulative and not exclusive of any other powers and remedies available to the Trustee or the holders of the Debt Securities, by judicial proceedings or otherwise, to enforce the performance or observance of the covenants and agreements contained in this Indenture or otherwise established with respect to the Debt Securities, and no delay or omission of the Trustee or of any holder of any of the Debt Securities to exercise any right or power accruing upon any Event of Default occurring and continuing as aforesaid shall impair any such right or power, or shall be construed to be a waiver of any such default or an acquiescence therein; and, subject to the provisions of Section 5.04, every power and remedy given by this Article V or by law to the Trustee or to the Securityholders may be exercised from time to time, and as often as shall be deemed expedient, by the Trustee or by the Securityholders..

#### SECTION 5.07 *Direction of Proceedings and Waiver of Defaults by Majority of Securityholders.*

The holders of a majority in aggregate principal amount of the Debt Securities affected at the time outstanding and, if the Debt Securities are held by the Trust or a trustee of the Trust, the holders of a majority in aggregate liquidation amount of the outstanding Capital Securities of the Trust shall have the right to direct the time, method and place of conducting any proceeding for any remedy available to the Trustee, or exercising any trust or power conferred on the Trustee with respect to such Debt Securities; *provided, however*, that if the Debt Securities are held by the Trust or a trustee of the Trust, such time, method and place or such exercise, as the case may be, may not be so directed until the holders of a majority in aggregate liquidation amount of the outstanding Capital Securities of the Trust shall have directed such time, method and place or such exercise, as the case may be; *provided, further*, that (subject to the provisions of Section 6.01) the Trustee shall have the right to decline to follow any such direction if the Trustee shall determine that the action so directed would be unjustly prejudicial to the holders not taking part in such direction or if the Trustee being advised by counsel determines that the action or proceeding so directed may not lawfully be taken or if a Responsible Officer of the Trustee shall determine that the action or proceedings so directed would involve the Trustee in personal liability. Prior to any declaration of acceleration, or *ipso facto* acceleration, of the maturity of the Debt Securities, the holders of a majority in aggregate principal amount of the Debt Securities at the time outstanding may on behalf of the holders of all of the Debt Securities waive (or modify any previously granted waiver of) any past Default or Event of Default and its consequences, except a default (a) in the payment of principal of or premium, if any, or interest on any of the Debt Securities, (b) in respect of covenants or provisions hereof which cannot be modified or amended without the consent of the holder of each Debt Security affected, or (c) in respect of the covenants contained in Section 3.09; *provided, however*, that if the Debt Securities are held by the Trust or a trustee of the Trust, such waiver or modification to such waiver shall not be effective until the holders of a majority in aggregate liquidation amount of the outstanding Capital Securities of the Trust shall have consented to such waiver or modification to such waiver; *provided, further*, that if the consent of the holder of each outstanding Debt Security is required, such waiver or modification to such waiver shall not be effective until each holder of the outstanding Capital Securities of the Trust shall have consented to such waiver or modification to such waiver. Upon any such waiver or modification to such waiver, the Default or Event of Default covered thereby shall be deemed to be cured for all purposes of this Indenture and the Company, the Trustee and the holders of the Debt Securities shall be restored to their former positions and rights hereunder, respectively; but no such waiver or modification to such waiver shall extend to any subsequent or other Default or Event of Default or impair any right consequent thereon. Whenever any Default or Event of Default hereunder shall have

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been waived as permitted by this Section, said Default or Event of Default shall for all purposes of the Debt Securities and this Indenture be deemed to have been cured and to be not continuing.

#### SECTION 5.08 *Notice of Defaults.*

The Trustee shall, within 90 days after a Responsible Officer of the Trustee shall have actual knowledge or received written notice of the occurrence of a default with respect to the Debt Securities, mail to all Securityholders, as the names and addresses of such holders appear upon the Debt Security Register, notice of all defaults with respect to the Debt Securities known to the Trustee, unless such defaults shall have been cured before the giving of such notice (the term "default" for the purpose of this Section is hereby defined to be any event specified in Section 5.01, not including periods of grace, if any, provided for therein); *provided, that*, except in the case of default in the payment of the principal of or premium, if any, or interest on any of the Debt Securities, the Trustee shall be protected in withholding such notice if and so long as a Responsible Officer of the Trustee in good faith determines that the withholding of such notice is in the interests of the Securityholders.

#### SECTION 5.09 *Undertaking to Pay Costs.*

All parties to this Indenture agree, and each holder of any Debt Security by such holder's acceptance thereof shall be deemed to have agreed, that any court may in its discretion require, 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, the filing by any party litigant in such suit of an undertaking to pay the costs of such suit, and that such court may in its discretion assess reasonable costs, including reasonable attorneys' fees and expenses, against any party litigant in such suit, having due regard to the merits and good faith of the claims or defenses made by such party litigant; but the provisions of this Section shall not apply to any suit instituted by the Trustee, to any suit instituted by any Securityholder, or group of Securityholders, holding in the aggregate more than 10% in principal amount of the outstanding Debt Securities (or, if such Debt Securities are held by the Trust or a trustee of the Trust, more than 10% in liquidation amount of the outstanding Capital Securities), to any suit instituted by any Securityholder for the enforcement of the payment of the principal of or premium, if any, or interest on any Debt Security against the Company on or after the same shall have become due and payable or to any suit instituted in accordance with Section 14.12.

## ARTICLE VI CONCERNING THE TRUSTEE

### SECTION 6.01 *Duties and Responsibilities of Trustee.*

With respect to the holders of Debt Securities issued hereunder, the Trustee, prior to the occurrence of an Event of Default and after the curing or waiving of all Events of Default which may have occurred, undertakes to perform such duties and only such duties as are specifically set forth in this Indenture. In case an Event of Default has occurred (which has not been cured or waived), the Trustee shall exercise such of the rights and powers vested in it by this Indenture, and use the same degree of care and skill in their exercise, as a prudent person would exercise or use under the circumstances in the conduct of such person's own affairs.

No provision of this Indenture shall be construed to relieve the Trustee from liability for its own negligent action, its own negligent failure to act or its own willful misconduct or bad faith, except that:

- (a) prior to the occurrence of an Event of Default and after the curing or waiving of all Events of Default which may have occurred:
  - (i) the duties and obligations of the Trustee with respect to the Debt Securities shall be determined solely by the express provisions of this Indenture, and the Trustee shall not be liable except for the performance of such duties and obligations with respect to the Debt Securities as

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are specifically set forth in this Indenture, and no implied covenants or obligations shall be read into this Indenture against the Trustee; and

- (ii) in the absence of bad faith on the part of the Trustee, the Trustee may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon any certificates or opinions furnished to the Trustee and conforming to the requirements of this Indenture; but, in the case of any such certificates or opinions which by any provision hereof are specifically required to be furnished to the Trustee, the Trustee shall be under a duty to examine the same to determine whether or not they conform on their face to the requirements of this Indenture;

- (b) the Trustee shall not be liable for any error of judgment made in good faith by a Responsible Officer or Officers of the Trustee, unless it shall be proved that the Trustee was negligent in ascertaining the pertinent facts;

- (c) the Trustee shall not be liable with respect to any action taken or omitted to be taken by it in good faith, in accordance with the direction of the Securityholders pursuant to Section 5.07, relating to the time, method and place of conducting any proceeding for any remedy available to the Trustee, or exercising any trust or power conferred upon the Trustee, under this Indenture; and

- (d) the Trustee shall not be charged with knowledge of any Default or Event of Default with respect to the Debt Securities unless either (1) a Responsible Officer shall have actual knowledge of such Default or Event of Default or (2) written notice of such Default or Event of Default shall have been given to the Trustee by the Company or any other obligor on the Debt Securities or by any holder of the Debt Securities, except that the Trustee shall be deemed to have knowledge of any Event of Default pursuant to Sections 5.01(a) or 5.01(b) hereof (other than an Event of Default resulting from the default in the payment of Additional Interest if the Trustee does not have actual knowledge or written notice that such payment is due and payable).

None of the provisions contained in this Indenture shall require the Trustee to expend or risk its own funds or otherwise incur personal financial liability in the performance of any of its duties or in the exercise of any of its rights or powers.

### SECTION 6.02 *Reliance on Documents, Opinions, etc.*

Except as otherwise provided in Section 6.01:

- (a) the Trustee may conclusively rely and shall be fully protected in acting or refraining from acting upon any resolution, certificate, statement, instrument, opinion, report, notice, request, consent, order, bond, note, debenture or other paper or document believed by it in good faith to be genuine and to have been signed or presented by the proper party or parties;

- (b) any request, direction, order or demand of the Company mentioned herein shall be sufficiently evidenced by an Officers' Certificate (unless other evidence in respect thereof be herein specifically prescribed); and any Board Resolution may be evidenced to the Trustee by a copy thereof certified by the Secretary or an Assistant Secretary of the Company;

- (c) the Trustee may consult with counsel of its selection and any advice or Opinion of Counsel shall be full and complete authorization and protection in respect of any action taken, suffered or omitted by it hereunder in good faith and in accordance with such advice or Opinion of Counsel;

- (d) the Trustee shall be under no obligation to exercise any of the rights or powers vested in it by this Indenture at the request, order or direction of any of the Securityholders, pursuant to the provisions of this Indenture, unless such Securityholders shall have offered to the Trustee reasonable security or indemnity, against the costs, expenses and liabilities which may be incurred therein or thereby;

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(e) the Trustee shall not be liable for any action taken or omitted by it in good faith and reasonably believed by it to be authorized or within the discretion or rights or powers conferred upon it by this Indenture; nothing contained herein shall, however, relieve the Trustee of the obligation, upon the occurrence of an Event of Default (which has not been cured or waived) to exercise such of the rights and powers vested in it by this Indenture, and to use the same degree of care and skill in their exercise, as a prudent person would exercise or use under the circumstances in the conduct of such person's own affairs;

(f) the Trustee shall not be bound to make any investigation into the facts or matters stated in any resolution, certificate, statement, instrument, opinion, report, notice, request, consent, order, approval, bond, debenture, coupon or other paper or document, unless requested in writing to do so by the holders of a majority in aggregate principal amount of the outstanding Debt Securities affected thereby; *provided, however*, that if the payment within a reasonable time to the Trustee of the costs, expenses or liabilities likely to be incurred by it in the making of such investigation is, in the opinion of the Trustee, not reasonably assured to the Trustee by the security afforded to it by the terms of this Indenture, the Trustee may require reasonable indemnity against such expense or liability as a condition to so proceeding; and

(g) the Trustee may execute any of the trusts or powers hereunder or perform any duties hereunder either directly or by or through agents (including any Authenticating Agent) or attorneys, and the Trustee shall not be responsible for any misconduct or negligence on the part of any such agent or attorney appointed by it with due care.

#### SECTION 6.03 *No Responsibility for Recitals, etc.*

The recitals contained herein, and in the Debt Securities (except in the certificate of authentication of the Trustee or the Authenticating Agent) shall be taken as the statements of the Company, and the Trustee and the Authenticating Agent assume no responsibility for the correctness of the same. The Trustee and the Authenticating Agent make no representations as to the validity or sufficiency of this Indenture or of the Debt Securities. The Trustee and the Authenticating Agent shall not be accountable for the use or application by the Company of any Debt Securities or the proceeds of any Debt Securities authenticated and delivered by the Trustee or the Authenticating Agent in conformity with the provisions of this Indenture.

#### SECTION 6.04 *Trustee, Authenticating Agent, Paying Agents, Transfer Agents or Registrar May Own Debt Securities.*

The Trustee, any Authenticating Agent, any Paying Agent, any transfer agent or any Debt Security registrar, in its individual or any other capacity, may become the owner or pledgee of Debt Securities with the same rights it would have if it were not Trustee, Authenticating Agent, Paying Agent, transfer agent or Debt Security registrar.

#### SECTION 6.05 *Moneys to be Held in Trust.*

Subject to the provisions of Section 12.04, all moneys received by the Trustee or any Paying Agent shall, until used or applied as herein provided, be held in trust for the purpose for which they were received, but need not be segregated from other funds except to the extent required by law. The Trustee and any Paying Agent shall be under no liability for interest on any money received by it hereunder except as otherwise agreed in writing with the Company. So long as no Event of Default shall have occurred and be continuing, all interest allowed on any such moneys, if any, shall be paid from time to time to the Company upon the written order of the Company, signed by the Chairman of the Board of Directors, the President, the Chief Operating Officer, a Vice President, the Treasurer or an Assistant Treasurer of the Company.

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#### SECTION 6.06 *Compensation and Expenses of Trustee.*

The Company covenants and agrees to pay to the Trustee from time to time, and the Trustee shall be entitled to, such compensation as shall be agreed to in writing between the Company and the Trustee (which shall not be limited by any provision of law in regard to the compensation of a trustee of an express trust), and the Company will pay or reimburse the Trustee upon its written request for all documented reasonable expenses, disbursements and advances incurred or made by the Trustee in accordance with any of the provisions of this Indenture (including the reasonable compensation and the reasonable expenses and disbursements of its counsel and of all Persons not regularly in its employ) except any such expense, disbursement or advance that arises from its negligence, willful misconduct or bad faith. The Company also covenants to indemnify each of the Trustee (including in its individual capacity) and any predecessor Trustee (and its officers, agents, directors and employees) for, and to hold it harmless against, any and all loss, damage, claim, liability or expense including taxes (other than taxes based on the income of the Trustee), except to the extent such loss, damage, claim, liability or expense results from the negligence, willful misconduct or bad faith of such indemnitee, arising out of or in connection with the acceptance or administration of this trust, including the costs and expenses of defending itself against any claim or liability in the premises. The obligations of the Company under this Section to compensate and indemnify the Trustee and to pay or reimburse the Trustee for documented expenses, disbursements and advances shall constitute additional indebtedness hereunder. Such additional indebtedness shall be secured by a lien prior to that of the Debt Securities upon all property and funds held or collected by the Trustee as such, except funds held in trust for the benefit of the holders of particular Debt Securities.

Without prejudice to any other rights available to the Trustee under applicable law, when the Trustee incurs expenses or renders services in connection with an Event of Default specified in clause (d), (e) or (f) of Section 5.01, the expenses (including the reasonable charges and expenses of its counsel) and the compensation for the services are intended to constitute expenses of administration under any applicable federal or state bankruptcy, insolvency or other similar law.

The provisions of this Section shall survive the resignation or removal of the Trustee and the defeasance or other termination of this Indenture.

Notwithstanding anything in this Indenture or any Debt Security to the contrary, the Trustee shall have no obligation whatsoever to advance funds to pay any principal of or interest on or other amounts with respect to the Debt Securities or otherwise advance funds to or on behalf of the Company.

#### SECTION 6.07 *Officers' Certificate as Evidence.*

Except as otherwise provided in Sections 6.01 and 6.02, whenever in the administration of the provisions of this Indenture the Trustee shall deem it necessary or desirable that a matter be proved or established prior to taking or omitting any action hereunder, such matter (unless other evidence in respect

thereof be herein specifically prescribed) may, in the absence of negligence, willful misconduct or bad faith on the part of the Trustee, be deemed to be conclusively proved and established by an Officers' Certificate delivered to the Trustee, and such certificate, in the absence of negligence, willful misconduct or bad faith on the part of the Trustee, shall be full warrant to the Trustee for any action taken or omitted by it under the provisions of this Indenture upon the faith thereof.

SECTION 6.08 *Eligibility of Trustee.*

The Trustee hereunder shall at all times be a U. S. Person that is a banking corporation or national association organized and doing business under the laws of the United States of America or any state thereof or of the District of Columbia and authorized under such laws to exercise corporate trust powers, having a combined capital and surplus of at least fifty million U.S. dollars (\$50,000,000) and subject to supervision or examination by federal, state, or District of Columbia authority. If such corporation or national association publishes reports of condition at least annually, pursuant to law or

to the requirements of the aforesaid supervising or examining authority, then for the purposes of this Section the combined capital and surplus of such corporation or national association shall be deemed to be its combined capital and surplus as set forth in its most recent records of condition so published.

The Company may not, nor may any Person directly or indirectly controlling, controlled by, or under common control with the Company, serve as Trustee, notwithstanding that such corporation or national association shall be otherwise eligible and qualified under this Article.

In case at any time the Trustee shall cease to be eligible in accordance with the provisions of this Section, the Trustee shall resign immediately in the manner and with the effect specified in Section 6.09.

If the Trustee has or shall acquire any "conflicting interest" within the meaning of §310(b) of the Trust Indenture Act, the Trustee shall either eliminate such interest or resign, to the extent and in the manner provided by, and subject to, this Indenture.

SECTION 6.09 *Resignation or Removal of Trustee.*

(a) The Trustee, or any trustee or trustees hereafter appointed, may at any time resign by giving written notice of such resignation to the Company and by mailing notice thereof, at the Company's expense, to the holders of the Debt Securities at their addresses as they shall appear on the Debt Security Register. Upon receiving such notice of resignation, the Company shall promptly appoint a successor trustee or trustees by written instrument, in duplicate, executed by order of its Board of Directors, one copy of which instrument shall be delivered to the resigning Trustee and one copy to the successor Trustee. If no successor Trustee shall have been so appointed and have accepted appointment within 30 days after the mailing of such notice of resignation to the affected Securityholders, the resigning Trustee may petition any court of competent jurisdiction for the appointment of a successor Trustee, or any Securityholder who has been a bona fide holder of a Debt Security or Debt Securities for at least six months may, subject to the provisions of Section 5.09, on behalf of himself or herself and all others similarly situated, petition any such court for the appointment of a successor Trustee. Such court may thereupon, after such notice, if any, as it may deem proper and prescribe, appoint a successor Trustee.

(b) In case at any time any of the following shall occur:

(i) the Trustee shall fail to comply with the provisions of the last paragraph of Section 6.08 after written request therefor by the Company or by any Securityholder who has been a bona fide holder of a Debt Security or Debt Securities for at least six months;

(ii) the Trustee shall cease to be eligible in accordance with the provisions of Section 6.08 and shall fail to resign after written request therefor by the Company or by any such Securityholder; or

(iii) the Trustee shall become incapable of acting, or shall be adjudged bankrupt or insolvent, or a receiver of the Trustee or of its property shall be appointed, or any public officer shall take charge or control of the Trustee or of its property or affairs for the purpose of rehabilitation, conservation or liquidation,

then, in any such case, the Company may remove the Trustee and appoint a successor Trustee by written instrument, in duplicate, executed by order of the Board of Directors, one copy of which instrument shall be delivered to the Trustee so removed and one copy to the successor Trustee, or, subject to the provisions of Section 5.09, if no successor Trustee shall have been so appointed and have accepted appointment within 30 days of the occurrence of any of (i), (ii) or (iii) above, any Securityholder who has been a bona fide holder of a Debt Security or Debt Securities for at least six months may, on behalf of himself or herself and all others similarly situated, petition any court of competent jurisdiction for the removal of the Trustee and the appointment of a successor Trustee. Such

court may thereupon, after such notice, if any, as it may deem proper and prescribe, remove the Trustee and appoint a successor Trustee.

(c) Upon prior written notice to the Company and the Trustee, the holders of a majority in aggregate principal amount of the Debt Securities at the time outstanding may at any time remove the Trustee and nominate a successor Trustee, which shall be deemed appointed as successor Trustee unless within ten Business Days after such nomination the Company objects thereto, in which case or in the case of a failure by such holders to nominate a successor Trustee, the Trustee so removed or any Securityholder, upon the terms and conditions and otherwise as in subsection (a) of this Section, may petition any court of competent jurisdiction for an appointment of a successor.

(d) Any resignation or removal of the Trustee and appointment of a successor Trustee pursuant to any of the provisions of this Section shall become effective upon acceptance of appointment by the successor Trustee as provided in Section 6.10.

SECTION 6.10 *Acceptance by Successor Trustee.*

Any successor Trustee appointed as provided in Section 6.09 shall execute, acknowledge and deliver to the Company and to its predecessor Trustee an indenture supplemental hereto which shall contain such provisions as shall be deemed necessary or desirable to confirm that all of the rights, powers, trusts and duties of the retiring Trustee shall be vested in the successor Trustee, and thereupon the resignation or removal of the retiring Trustee shall become effective and such successor Trustee, without any further act, deed or conveyance, shall become vested with all the rights, powers, duties and obligations with respect to the Debt Securities of its predecessor hereunder, with like effect as if originally named as Trustee herein; but, nevertheless, on the written request of the Company or of the successor Trustee, the Trustee ceasing to act shall, upon payment of the amounts then due it pursuant to the provisions of Section 6.06, execute and deliver an instrument transferring to such successor Trustee all the rights and powers of the Trustee so ceasing to act and shall duly assign, transfer and deliver to such successor Trustee all property and money held by such retiring Trustee hereunder. Upon request of any such successor Trustee, the Company shall execute any and all instruments in writing for more fully and certainly vesting in and confirming to such successor Trustee all such rights and powers. Any Trustee ceasing to act shall, nevertheless, retain a lien upon all property or funds held or collected by such Trustee to secure any amounts then due it pursuant to the provisions of Section 6.06.

No successor Trustee shall accept appointment as provided in this Section unless at the time of such acceptance such successor Trustee shall be eligible and qualified under the provisions of Section 6.08.

In no event shall a retiring Trustee be liable for the acts or omissions of any successor Trustee hereunder.

Upon acceptance of appointment by a successor Trustee as provided in this Section, the Company shall mail notice of the succession of such Trustee hereunder to the holders of Debt Securities at their addresses as they shall appear on the Debt Security Register. If the Company fails to mail such notice within ten Business Days after the acceptance of appointment by the successor Trustee, the successor Trustee shall cause such notice to be mailed at the expense of the Company.

#### SECTION 6.11 *Succession by Merger, etc.*

Any corporation into which the Trustee may be merged or converted or with which it may be consolidated, or any corporation resulting from any merger, conversion or consolidation to which the Trustee shall be a party, or any corporation succeeding to all or substantially all of the corporate trust business of the Trustee, shall be the successor of the Trustee hereunder without the execution or filing of any paper or any further act on the part of any of the parties hereto, *provided*, that such corporation shall be otherwise eligible and qualified under this Article.

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In case at the time such successor to the Trustee shall succeed to the trusts created by this Indenture any of the Debt Securities shall have been authenticated but not delivered, any such successor to the Trustee may adopt the certificate of authentication of any predecessor Trustee, and deliver such Debt Securities so authenticated; and in case at that time any of the Debt Securities shall not have been authenticated, any successor to the Trustee may authenticate such Debt Securities either in the name of any predecessor hereunder or in the name of the successor Trustee; and in all such cases such certificates shall have the full force which it is anywhere in the Debt Securities or in this Indenture provided that the certificate of the Trustee shall have; *provided, however*, that the right to adopt the certificate of authentication of any predecessor Trustee or authenticate Debt Securities in the name of any predecessor Trustee shall apply only to its successor or successors by merger, conversion or consolidation.

SECTION 6.12 *Authenticating Agents.* There may be one or more Authenticating Agents appointed by the Trustee upon the request of the Company with power to act on its behalf and subject to its direction in the authentication and delivery of Debt Securities issued upon exchange or registration of transfer thereof as fully to all intents and purposes as though any such Authenticating Agent had been expressly authorized to authenticate and deliver Debt Securities; *provided, however*, that the Trustee shall not have any liability to the Company for any acts or omissions of the Authenticating Agent with respect to the authentication and delivery of Debt Securities. Any such Authenticating Agent shall at all times be a corporation organized and doing business under the laws of the United States or of any state thereof or of the District of Columbia authorized under such laws to act as Authenticating Agent, having a combined capital and surplus of at least \$50,000,000 and being subject to supervision or examination by federal, state or District of Columbia authority. If such corporation publishes reports of condition at least annually pursuant to law or the requirements of such authority, then for the purposes of this Section the combined capital and surplus of such corporation shall be deemed to be its combined capital and surplus as set forth in its most recent report of condition so published. If at any time an Authenticating Agent shall cease to be eligible in accordance with the provisions of this Section, it shall resign immediately in the manner and with the effect herein specified in this Section.

Any corporation into which any Authenticating Agent may be merged or converted or with which it may be consolidated, or any corporation resulting from any merger, consolidation or conversion to which any Authenticating Agent shall be a party, or any corporation succeeding to all or substantially all of the corporate trust business of any Authenticating Agent, shall be the successor of such Authenticating Agent hereunder, if such successor corporation is otherwise eligible under this Section without the execution or filing of any paper or any further act on the part of the parties hereto or such Authenticating Agent.

Any Authenticating Agent may at any time resign by giving written notice of resignation to the Trustee and to the Company. The Trustee may at any time terminate the agency of any Authenticating Agent with respect to the Debt Securities by giving written notice of termination to such Authenticating Agent and to the Company. Upon receiving such a notice of resignation or upon such a termination, or in case at any time any Authenticating Agent shall cease to be eligible under this Section, the Trustee may, and upon the request of the Company shall, promptly appoint a successor Authenticating Agent eligible under this Section, shall give written notice of such appointment to the Company and shall mail notice of such appointment to all holders of Debt Securities as the names and addresses of such holders appear on the Debt Security Register. Any successor Authenticating Agent, upon acceptance of its appointment hereunder, shall become vested with all rights, powers, duties and responsibilities of its predecessor hereunder, with like effect as if originally named as Authenticating Agent herein.

The Company agrees to pay to any Authenticating Agent from time to time reasonable compensation for its services. Any Authenticating Agent shall have no responsibility or liability for any action taken by it as such in accordance with the directions of the Trustee.

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#### SECTION 7.01 *Action by Securityholders.*

Whenever in this Indenture it is provided that the holders of a specified percentage in aggregate principal amount of the Debt Securities or aggregate liquidation amount of Capital Securities may take any action (including the making of any demand or request, the giving of any notice, consent or waiver or the taking of any other action), the fact that at the time of taking any such action the holders of such specified percentage have joined therein may be evidenced (a) by any instrument or any number of instruments of similar tenor executed by such Securityholders or holders of Capital Securities, as the case may be, in person or by agent or proxy appointed in writing, or (b) by the record of such holders of Debt Securities voting in favor thereof at any meeting of such Securityholders duly called and held in accordance with the provisions of Article VIII or of such holders of Capital Securities duly called and held in accordance with the provisions of the Declaration, or (c) by a combination of such instrument or instruments and any such record of such a meeting of such Securityholders or holders of Capital Securities, as the case may be, or (d) by any other method the Trustee deems satisfactory.

If the Company shall solicit from the Securityholders any request, demand, authorization, direction, notice, consent, waiver or other action or revocation of the same, the Company may, at its option, as evidenced by an Officers' Certificate, fix in advance a record date for such Debt Securities for the determination of Securityholders entitled to give such request, demand, authorization, direction, notice, consent, waiver or other action or revocation of the same, but the Company shall have no obligation to do so. If such a record date is fixed, such request, demand, authorization, direction, notice, consent, waiver or other action or revocation of the same may be given before or after the record date, but only the Securityholders of record at the close of business on the record date shall be deemed to be Securityholders for the purposes of determining whether Securityholders of the requisite proportion of outstanding Debt Securities have authorized or agreed or consented to such request, demand, authorization, direction, notice, consent, waiver or other action or revocation of the same, and for that purpose the outstanding Debt Securities shall be computed as of the record date; *provided, however*, that no such authorization, agreement or consent by such Securityholders on the record date shall be deemed effective unless it shall become effective pursuant to the provisions of this Indenture not later than six months after the record date.

#### SECTION 7.02 *Proof of Execution by Securityholders.*

Subject to the provisions of Sections 6.01, 6.02, and 8.05, proof of the execution of any instrument by a Securityholder or such Securityholder's agent or proxy shall be sufficient if made in accordance with such reasonable rules and regulations as may be prescribed by the Trustee or in such manner as shall be satisfactory to the Trustee. The ownership of Debt Securities shall be proved by the Debt Security Register or by a certificate of the Debt Security registrar. The Trustee may require such additional proof of any matter referred to in this Section as it shall deem necessary.

The record of any Securityholders' meeting shall be proved in the manner provided in Section 8.06.

#### SECTION 7.03 *Who Are Deemed Absolute Owners.*

Prior to due presentment for registration of transfer of any Debt Security, the Company, the Trustee, any Authenticating Agent, any Paying Agent, any transfer agent and any Debt Security registrar may deem the Person in whose name such Debt Security shall be registered upon the Debt Security Register to be, and may treat such Person as, the absolute owner of such Debt Security (whether or not such Debt Security shall be overdue) for the purpose of receiving payment of or on account of the principal of and premium, if any, and interest on such Debt Security and for all other purposes; and none of the Company, the Trustee, any Authenticating Agent, any Paying Agent, any

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transfer agent or any Debt Security registrar shall be affected by any notice to the contrary. All such payments so made to any holder for the time being or upon such holder's order shall be valid, and, to the extent of the sum or sums so paid, effectual to satisfy and discharge the liability for moneys payable upon any such Debt Security.

#### SECTION 7.04 *Debt Securities Owned by Company Deemed Not Outstanding.*

In determining whether the holders of the requisite aggregate principal amount of Debt Securities have concurred in any direction, consent or waiver under this Indenture, Debt Securities which are owned by the Company or any other obligor on the Debt Securities or by any Person directly or indirectly controlling or controlled by or under direct or indirect common control with the Company (other than the Trust) or any other obligor on the Debt Securities shall be disregarded and deemed not to be outstanding for the purpose of any such determination, *provided*, that for the purposes of determining whether the Trustee shall be protected in relying on any such direction, consent or waiver, only Debt Securities which a Responsible Officer of the Trustee actually knows are so owned shall be so disregarded. Debt Securities so owned which have been pledged in good faith may be regarded as outstanding for the purposes of this Section if the pledgee shall establish to the satisfaction of the Trustee the pledgee's right to vote such Debt Securities and that the pledgee is not the Company or any such other obligor or Person directly or indirectly controlling or controlled by or under direct or indirect common control with the Company or any such other obligor. In the case of a dispute as to such right, any decision by the Trustee taken upon the advice of counsel shall be full protection to the Trustee.

#### SECTION 7.05 *Revocation of Consents; Future Holders Bound.*

At any time prior to (but not after) the evidencing to the Trustee, as provided in Section 7.01, of the taking of any action by the holders of the percentage in aggregate principal amount of the Debt Securities specified in this Indenture in connection with such action, any holder (in cases where no record date has been set pursuant to Section 7.01) or any holder as of an applicable record date (in cases where a record date has been set pursuant to Section 7.01) of a Debt Security (or any Debt Security issued in whole or in part in exchange or substitution therefor) the serial number of which is shown by the evidence to be included in the Debt Securities the holders of which have consented to such action may, by filing written notice with the Trustee at the Principal Office of the Trustee and upon proof of holding as provided in Section 7.02, revoke such action so far as concerns such Debt Security (or so far as concerns the principal amount represented by any exchanged or substituted Debt Security). Except as aforesaid any such action taken by the holder of any Debt Security shall be conclusive and binding upon such holder and upon all future holders and owners of such Debt Security, and of any Debt Security issued in exchange or substitution therefor or on registration of transfer thereof, irrespective of whether or not any notation in regard thereto is made upon such Debt Security or any Debt Security issued in exchange or substitution therefor.

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**ARTICLE VIII  
SECURITYHOLDERS' MEETINGS**

**SECTION 8.01** *Purposes of Meetings.*

A meeting of Securityholders may be called at any time and from time to time pursuant to the provisions of this Article VIII for any of the following purposes:

- (a) to give any notice to the Company or to the Trustee, or to give any directions to the Trustee, or to consent to the waiving of any default hereunder and its consequences, or to take any other action authorized to be taken by Securityholders pursuant to any of the provisions of Article V;
- (b) to remove the Trustee and nominate a successor trustee pursuant to the provisions of Article VI;
- (c) to consent to the execution of an indenture or indentures supplemental hereto pursuant to the provisions of Section 9.02; or
- (d) to take any other action authorized to be taken by or on behalf of the holders of any specified aggregate principal amount of such Debt Securities under any other provision of this Indenture or under applicable law.

**SECTION 8.02** *Call of Meetings by Trustee.*

The Trustee may at any time call a meeting of Securityholders to take any action specified in Section 8.01, to be held at such time and at such place in The City of New York, the Borough of Manhattan, or Wilmington, Delaware, as the Trustee shall determine. Notice of every meeting of the Securityholders, setting forth the time and the place of such meeting and in general terms the action proposed to be taken at such meeting, shall be mailed to holders of Debt Securities affected at their addresses as they shall appear on the Debt Securities Register. Such notice shall be mailed not less than 20 nor more than 180 days prior to the date fixed for the meeting.

**SECTION 8.03** *Call of Meetings by Company or Securityholders.*

In case at any time the Company pursuant to a Board Resolution, or the holders of at least 10% in aggregate principal amount of the Debt Securities, as the case may be, then outstanding, shall have requested the Trustee to call a meeting of Securityholders, by written request setting forth in reasonable detail the action proposed to be taken at the meeting, and the Trustee shall not have mailed the notice of such meeting within 20 days after receipt of such request, then the Company or such Securityholders may determine the time and the place in Des Moines, Iowa for such meeting and may call such meeting to take any action authorized in Section 8.01, by mailing notice thereof as provided in Section 8.02.

**SECTION 8.04** *Qualifications for Voting.*

To be entitled to vote at any meeting of Securityholders a Person shall be (a) a holder of one or more Debt Securities or (b) a Person appointed by an instrument in writing as proxy by a holder of one or more Debt Securities. The only Persons who shall be entitled to be present or to speak at any meeting of Securityholders shall be the Persons entitled to vote at such meeting and their counsel and any representatives of the Trustee and its counsel and any representatives of the Company and its counsel.

**SECTION 8.05** *Regulations.*

Notwithstanding any other provisions of this Indenture, the Trustee may make such reasonable regulations as it may deem advisable for any meeting of Securityholders, in regard to proof of the holding of Debt Securities and of the appointment of proxies, and in regard to the appointment and duties of inspectors of votes, the submission and examination of proxies, certificates and other evidence of the right to vote, and such other matters concerning the conduct of the meeting as it shall deem appropriate.

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The Trustee shall, by an instrument in writing, appoint a temporary chairman of the meeting, unless the meeting shall have been called by the Company or by Securityholders as provided in Section 8.03, in which case the Company or the Securityholders calling the meeting, as the case may be, shall in like manner appoint a temporary chairman. A permanent chairman and a permanent secretary of the meeting shall be elected by majority vote at the meeting.

Subject to the provisions of Section 7.04, at any meeting each holder of Debt Securities with respect to which such meeting is being held or proxy therefor shall be entitled to one vote for each \$1,000 principal amount of Debt Securities held or represented by such holder; *provided, however*, that no vote shall be cast or counted at any meeting in respect of any Debt Security challenged as not outstanding and ruled by the chairman of the meeting to be not outstanding. The chairman of the meeting shall have no right to vote other than by virtue of Debt Securities held by such chairman or instruments in writing as aforesaid duly designating such chairman as the Person to vote on behalf of other Securityholders. Any meeting of Securityholders duly called pursuant to the provisions of Section 8.02 or 8.03 may be adjourned from time to time by a majority of those present, whether or not constituting a quorum, and the meeting may be held as so adjourned without further notice.

**SECTION 8.06** *Voting.*

The vote upon any resolution submitted to any meeting of holders of Debt Securities with respect to which such meeting is being held shall be by written ballots on which shall be subscribed the signatures of such holders or of their representatives by proxy and the serial number or numbers of the Debt Securities held or represented by them. The permanent chairman of the meeting shall appoint two inspectors of votes who shall count all votes cast at the meeting for or against any resolution and who shall make and file with the secretary of the meeting their verified written reports in triplicate of all votes cast at the meeting. A record in duplicate of the proceedings of each meeting of Securityholders shall be prepared by the secretary of the meeting and there shall be attached to said record the original reports of the inspectors of votes on any vote by ballot taken thereat and affidavits by one or more Persons having knowledge of the facts setting forth a copy of the notice of the meeting and showing that said notice was mailed as provided in Section 8.02. The record shall show the serial numbers of the Debt Securities voting in favor of or against any resolution. The record shall be signed and verified by the affidavits of the permanent chairman and secretary of the meeting and one of the duplicates shall be delivered to the Company and the other to the Trustee to be preserved by the Trustee, the latter to have attached thereto the ballots voted at the meeting.

Any record so signed and verified shall be conclusive evidence of the matters therein stated.

#### SECTION 8.07 *Quorum; Actions.*

The Persons entitled to vote a majority in aggregate principal amount of the Debt Securities then outstanding shall constitute a quorum for a meeting of Securityholders; *provided, however*, that if any action is to be taken at such meeting with respect to a consent, waiver, request, demand, notice, authorization, direction or other action which may be given by the holders of not less than a specified percentage in aggregate principal amount of the Debt Securities then outstanding, the Persons holding or representing such specified percentage in aggregate principal amount of the Debt Securities then outstanding will constitute a quorum. In the absence of a quorum within 30 minutes of the time appointed for any such meeting, the meeting shall, if convened at the request of Securityholders, be dissolved. In any other case, the meeting may be adjourned for a period of not less than 10 days as determined by the permanent chairman of the meeting prior to the adjournment of such meeting. In the absence of a quorum at any such adjourned meeting, such adjourned meeting may be further adjourned for a period of not less than 10 days as determined by the permanent chairman of the meeting prior to the adjournment of such adjourned meeting. Notice of the reconvening of any adjourned meeting shall be given as provided in Section 8.02, except that such notice need be given only once not less than five days prior to the date on which the meeting is scheduled to be reconvened.

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Notice of the reconvening of an adjourned meeting shall state expressly the percentage, as provided above, of the aggregate principal amount of the Debt Securities then outstanding which shall constitute a quorum.

Except as limited by the proviso in the first paragraph of Section 9.02, any resolution presented to a meeting or adjourned meeting duly reconvened at which a quorum is present as aforesaid may be adopted by the affirmative vote of the holders of a majority in aggregate principal amount of the Debt Securities then outstanding; *provided, however*, that, except as limited by the proviso in the first paragraph of Section 9.02, any resolution with respect to any consent, waiver, request, demand, notice, authorization, direction or other action that this Indenture expressly provides may be given by the holders of not less than a specified percentage in outstanding principal amount of the Debt Securities may be adopted at a meeting or an adjourned meeting duly reconvened and at which a quorum is present as aforesaid only by the affirmative vote of the holders of not less than such specified percentage in aggregate principal amount of the Debt Securities then outstanding.

Any resolution passed or decision taken at any meeting of holders of Debt Securities duly held in accordance with this Section shall be binding on all the Securityholders, whether or not present or represented at the meeting.

### ARTICLE IX SUPPLEMENTAL INDENTURES

#### SECTION 9.01 *Supplemental Indentures without Consent of Securityholders.*

The Company, when authorized by a Board Resolution, and the Trustee may from time to time and at any time enter into an indenture or indentures supplemental hereto, without the consent of the Securityholders, for one or more of the following purposes:

(a) to evidence the succession of another corporation to the Company, or successive successions, and the assumption by the successor corporation of the covenants, agreements and obligations of the Company, pursuant to Article XI hereof;

(b) to add to the covenants of the Company such further covenants, restrictions or conditions for the protection of the holders of Debt Securities as the Board of Directors shall consider to be for the protection of the holders of such Debt Securities, and to make the occurrence, or the occurrence and continuance, of a Default in any of such additional covenants, restrictions or conditions a Default or an Event of Default permitting the enforcement of all or any of the several remedies provided in this Indenture as herein set forth; *provided, however*, that in respect of any such additional covenant, restriction or condition such supplemental indenture may provide for a particular period of grace after Default (which period may be shorter or longer than that allowed in the case of other Defaults) or may provide for an immediate enforcement upon such Default or may limit the remedies available to the Trustee upon such default;

(c) to cure any ambiguity or to correct or supplement any provision contained herein or in any supplemental indenture which may be defective or inconsistent with any other provision contained herein or in any supplemental indenture, or to make such other provisions in regard to matters or questions arising under this Indenture, *provided*, that any such action shall not adversely affect the interests of the holders of the Debt Securities then outstanding;

(d) to add to, delete from, or revise the terms of Debt Securities, including, without limitation, any terms relating to the issuance, exchange, registration or transfer of Debt Securities, including to provide for transfer procedures and restrictions substantially similar to those applicable to the Capital Securities, as required by Section 2.05 (for purposes of assuring that no registration of Debt Securities is required under the Securities Act), *provided*, that any such action shall not adversely affect the interests of the holders of the Debt Securities then outstanding (it being understood, for purposes of

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this proviso, that transfer restrictions on Debt Securities substantially similar to those applicable to Capital Securities shall not be deemed to adversely affect the holders of the Debt Securities);

(e) to evidence and provide for the acceptance of appointment hereunder by a successor Trustee and to add to or change any of the provisions of this Indenture as shall be necessary to provide for or facilitate the administration of the trusts hereunder by more than one Trustee, pursuant to the requirements of Section 6.10;

(f) to make any change (other than as elsewhere provided in this Section) that does not adversely affect the rights of any Securityholder in any material respect; or

(g) to provide for the issuance of and establish the form and terms and conditions of the Debt Securities, to establish the form of any certifications required to be furnished pursuant to the terms of this Indenture or the Debt Securities, or to add to the rights of the holders of Debt Securities.

The Trustee is hereby authorized to join with the Company in the execution of any such supplemental indenture, to make any further appropriate agreements and stipulations which may be therein contained and to accept the conveyance, transfer and assignment of any property thereunder, but the Trustee shall not be obligated to, but may in its discretion, enter into any such supplemental indenture which affects the Trustee's own rights, duties or immunities under this Indenture or otherwise.

Any supplemental indenture authorized by the provisions of this Section may be executed by the Company and the Trustee without the consent of the holders of any of the Debt Securities at the time outstanding, notwithstanding any of the provisions of Section 9.02.

#### SECTION 9.02 *Supplemental Indentures with Consent of Securityholders.*

With the consent (evidenced as provided in Section 7.01) of the holders of a majority in aggregate principal amount of the Debt Securities at the time outstanding affected by such supplemental indenture, the Company, when authorized by a Board Resolution, and the Trustee may from time to time and at any time enter into an indenture or indentures supplemental hereto (which shall conform to the provisions of the Trust Indenture Act, then in effect, applicable to indentures qualified thereunder) for the purpose of adding any provisions to or changing in any manner or eliminating any of the provisions of this Indenture or of any supplemental indenture or of modifying in any manner the rights of the holders of the Debt Securities; *provided, however*, that no such supplemental indenture shall, without the consent of the holders of each Debt Security then outstanding and affected thereby, (i) change the Maturity Date of any Debt Security, or reduce the principal amount thereof or any premium thereon, or reduce the rate (or manner of calculation of the rate) or extend the time of payment of interest thereon, or reduce (other than as a result of the maturity or earlier redemption of any such Debt Security in accordance with the terms of this Indenture and such Debt Security) or increase the aggregate principal amount of Debt Securities then outstanding, or change any of the redemption provisions, or make the principal thereof or any interest or premium thereon payable in any coin or currency other than United States Dollars, or impair or affect the right of any Securityholder to institute suit for payment thereof, or (ii) reduce the aforesaid percentage of Debt Securities the holders of which are required to consent to any such supplemental indenture; and *provided, further*, that if the Debt Securities are held by the Trust or the trustee of the Trust, such supplemental indenture shall not be effective until the holders of a majority in aggregate liquidation amount of the outstanding Capital Securities shall have consented to such supplemental indenture; *provided, further*, that if the consent of the Securityholder of each outstanding Debt Security is required, such supplemental indenture shall not be effective until each holder of the outstanding Capital Securities shall have consented to such supplemental indenture.

Upon the request of the Company accompanied by a Board Resolution authorizing the execution of any such supplemental indenture, and upon the filing with the Trustee of evidence of the consent of

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Securityholders (and holders of Capital Securities, if required) as aforesaid, the Trustee shall join with the Company in the execution of such supplemental indenture unless such supplemental indenture affects the Trustee's own rights, duties or immunities under this Indenture or otherwise, in which case the Trustee may in its discretion, but shall not be obligated to, enter into such supplemental indenture.

Promptly after the execution by the Company and the Trustee of any supplemental indenture pursuant to the provisions of this Section, the Trustee shall transmit by mail, first class postage prepaid, a notice, prepared by the Company, setting forth in general terms the substance of such supplemental indenture, to the Securityholders as their names and addresses appear upon the Debt Security Register. Any failure of the Trustee to mail such notice, or any defect therein, shall not, however, in any way impair or affect the validity of any such supplemental indenture.

It shall not be necessary for the consent of the Securityholders under this Section to approve the particular form of any proposed supplemental indenture, but it shall be sufficient if such consent shall approve the substance thereof.

#### SECTION 9.03 *Effect of Supplemental Indentures.*

Upon the execution of any supplemental indenture pursuant to the provisions of this Article IX, this Indenture shall be, and shall be deemed to be, modified and amended in accordance therewith and the respective rights, limitations of rights, obligations, duties and immunities under this Indenture of the Trustee, the Company and the holders of Debt Securities shall thereafter be determined, exercised and enforced hereunder subject in all respects to such modifications and amendments and all the terms and conditions of any such supplemental indenture shall be and be deemed to be part of the terms and conditions of this Indenture for any and all purposes.

#### SECTION 9.04 *Notation on Debt Securities.*

Debt Securities authenticated and delivered after the execution of any supplemental indenture pursuant to the provisions of this Article IX may bear a notation as to any matter provided for in such supplemental indenture. If the Company or the Trustee shall so determine, new Debt Securities so modified as to conform, in the opinion of the Board of Directors of the Company, to any modification of this Indenture contained in any such supplemental indenture may be prepared and executed by the Company, authenticated by the Trustee or the Authenticating Agent and delivered in exchange for the Debt Securities then outstanding.

#### SECTION 9.05 *Evidence of Compliance of Supplemental Indenture to be Furnished to Trustee.*

The Trustee, subject to the provisions of Sections 6.01 and 6.02, shall, in addition to the documents required by Section 14.06, receive an Officers' Certificate as conclusive evidence that any supplemental indenture executed pursuant hereto complies with the requirements of this Article IX. The Trustee shall also receive an Opinion of Counsel as conclusive evidence that any supplemental indenture executed pursuant to this Article IX is authorized or permitted by, and conforms to, the terms of this Article IX and that it is proper for the Trustee under the provisions of this Article IX to join in the execution thereof.

### ARTICLE X REDEMPTION OF SECURITIES

#### SECTION 10.01 *Optional Redemption.*

The Company shall have the right to redeem the Debt Securities, in whole or (provided that all accrued and unpaid interest has been paid on all Debt Securities for all Interest Periods terminating on or prior to such date) from time to time in part, on any Interest Payment Date on or after January 8, 2009 (each,

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SECTION 10.02 *Special Event Redemption.*

If a Special Event shall occur and be continuing, the Company shall have the right to redeem the Debt Securities, in whole but not in part, at any time within 90 days following the occurrence of such Special Event (the "Special Redemption Date"), at the Special Redemption Price. In the event that the Special Redemption Date falls on a day prior to the LIBOR Determination Date for any Interest Period, then the Company shall be required to pay to Securityholders, on the Business Day following such LIBOR Determination Date, any additional amount of interest that would have been payable on the Special Redemption Date had the amount of interest determined on such LIBOR Determination Date been known on the first day of such Interest Period.

SECTION 10.03 *Notice of Redemption, Selection of Debt Securities.*

In case the Company shall desire to exercise the right to redeem all, or, as the case may be, any part of the Debt Securities, it shall fix a date for redemption and shall mail, or cause the Trustee to mail (at the expense of the Company), a notice of such redemption at least 30 and not more than 60 days prior to the date fixed for redemption to the holders of Debt Securities so to be redeemed as a whole or in part at their last addresses as the same appear on the Debt Security Register. Such mailing shall be by first class mail. The notice if mailed in the manner herein provided shall be conclusively presumed to have been duly given, whether or not the holder receives such notice. In any case, failure to give such notice by mail or any defect in the notice to the holder of any Debt Security designated for redemption as a whole or in part shall not affect the validity of the proceedings for the redemption of any other Debt Security.

Each such notice of redemption shall specify the CUSIP number, if any, of the Debt Securities to be redeemed, the date fixed for redemption, the price (or manner of calculation of the price) at which Debt Securities are to be redeemed, the place or places of payment, that payment will be made upon presentation and surrender of such Debt Securities, that interest accrued to the date fixed for redemption will be paid as specified in said notice, and that on and after said date interest thereon or on the portions thereof to be redeemed will cease to accrue. If less than all the Debt Securities are to be redeemed, the notice of redemption shall specify the numbers of the Debt Securities to be redeemed. In case the Debt Securities are to be redeemed in part only, the notice of redemption shall state the portion of the principal amount thereof to be redeemed and shall state that on and after the date fixed for redemption, upon surrender of such Debt Security, a new Debt Security or Debt Securities in principal amount equal to the unredeemed portion thereof will be issued.

Prior to 10:00 a.m., New York City time, on the Optional Redemption Date or the Special Redemption Date specified in the notice of redemption given as provided in this Section, the Company will deposit with the Trustee or with one or more Paying Agents an amount of money sufficient to redeem on such date all the Debt Securities so called for redemption at the applicable price therefor, together with unpaid interest accrued to such date.

The Company will give the Trustee notice not less than 45 nor more than 75 days prior to the date fixed for redemption as to the price at which the Debt Securities are to be redeemed and the aggregate principal amount of Debt Securities to be redeemed and the Trustee shall select, in such manner as in its sole discretion it shall deem appropriate and fair, the Debt Securities or portions thereof (in integral multiples of \$1,000) to be redeemed.

SECTION 10.04 *Payment of Debt Securities Called for Redemption.*

If notice of redemption has been given as provided in Section 10.03, the Debt Securities or portions of Debt Securities with respect to which such notice has been given shall become due and payable on the related Optional Redemption Date or Special Redemption Date (as the case may be) and at the place or places stated in such notice at the applicable price therefor, together with unpaid interest accrued thereon to said Optional Redemption Date or the Special Redemption Date (as the case may be), and on and after said Optional Redemption Date or the Special Redemption Date (as

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the case may be) (unless the Company shall default in the payment of such Debt Securities at the redemption price, together with unpaid interest accrued thereon to said date) interest on the Debt Securities or portions of Debt Securities so called for redemption shall cease to accrue. On presentation and surrender of such Debt Securities at a place of payment specified in said notice, such Debt Securities or the specified portions thereof shall be paid and redeemed by the Company at the applicable price therefor, together with unpaid interest accrued thereon to said Optional Redemption Date or the Special Redemption Date (as the case may be).

Upon presentation of any Debt Security redeemed in part only, the Company shall execute and the Trustee shall authenticate and make available for delivery to the holder thereof, at the expense of the Company, a new Debt Security or Debt Securities of authorized denominations in principal amount equal to the unredeemed portion of the Debt Security so presented.

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**ARTICLE XI**  
**CONSOLIDATION, MERGER, SALE, CONVEYANCE AND LEASE**

SECTION 11.01 *Company May Consolidate, etc., on Certain Terms.*

Nothing contained in this Indenture or in the Debt Securities shall prevent any consolidation or merger of the Company with or into any other corporation or corporations (whether or not affiliated with the Company) or successive consolidations or mergers in which the Company or its successor or successors shall be a party or parties, or shall prevent any sale, conveyance, transfer or other disposition of all or substantially all of the property or capital stock of the Company or its successor or successors to any other corporation (whether or not affiliated with the Company or its successor or successors) authorized to acquire and operate the same; *provided, however*, that the Company hereby covenants and agrees that (i) upon any such consolidation, merger (where the Company is not the surviving corporation), sale, conveyance, transfer or other disposition, the successor entity shall be a corporation organized and existing under the laws of the United States or any state thereof or the District of Columbia (unless such corporation has (1) agreed to make all payments due in respect of the Debt Securities or, if outstanding, the Trust Securities and the Capital Securities Guarantee without withholding or deduction for, or on account of, any taxes, duties, assessments or

other governmental charges under the laws or regulations of the jurisdiction of organization or residence (for tax purposes) of such corporation or any political subdivision or taxing authority thereof or therein unless required by applicable law, in which case such corporation shall have agreed to pay such additional amounts as shall be required so that the net amounts received and retained by the holders of such Debt Securities or Trust Securities, as the case may be, after payment of all taxes (including withholding taxes), duties, assessments or other governmental charges, will be equal to the amounts that such holders would have received and retained had no such taxes (including withholding taxes), duties, assessments or other governmental charges been imposed, (2) irrevocably and unconditionally consented and submitted to the jurisdiction of any United States federal court or New York state court, in each case located in the Borough of Manhattan, The City of New York, in respect of any action, suit or proceeding against it arising out of or in connection with this Indenture, the Debt Securities, the Capital Securities Guarantee or the Declaration and irrevocably and unconditionally waived, to the fullest extent permitted by law, any objection to the laying of venue in any such court or that any such action, suit or proceeding has been brought in an inconvenient forum and (3) irrevocably appointed an agent in The City of New York for service of process in any action, suit or proceeding referred to in clause (2) above) and such corporation expressly assumes all of the obligations of the Company under the Debt Securities, this Indenture, the Capital Securities Guarantee and the Declaration and (ii) after giving effect to any such consolidation, merger, sale, conveyance, transfer or other disposition, no Default or Event of Default shall have occurred and be continuing.

**SECTION 11.02** *Successor Entity to be Substituted.*

In case of any such consolidation, merger, sale, conveyance, transfer or other disposition contemplated in Section 11.01 and upon the assumption by the successor corporation, by supplemental indenture, executed and delivered to the Trustee and reasonably satisfactory in form to the Trustee, of the due and punctual payment of the principal of and premium, if any, and interest on all of the Debt Securities and the due and punctual performance and observance of all of the covenants and conditions of this Indenture to be performed or observed by the Company, such successor corporation shall succeed to and be substituted for the Company, with the same effect as if it had been named herein as the Company, and thereupon the predecessor entity shall be relieved of any further liability or obligation hereunder or upon the Debt Securities. Such successor corporation thereupon may cause to be signed, and may issue either in its own name or in the name of the Company, any or all of the Debt Securities issuable hereunder which theretofore shall not have been signed by the Company and delivered to the Trustee or the Authenticating Agent; and, upon the order of such successor corporation instead of the Company and subject to all the terms, conditions and limitations in this

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Indenture prescribed, the Trustee or the Authenticating Agent shall authenticate and deliver any Debt Securities which previously shall have been signed and delivered by the officers of the Company to the Trustee or the Authenticating Agent for authentication, and any Debt Securities which such successor corporation thereafter shall cause to be signed and delivered to the Trustee or the Authenticating Agent for that purpose. All the Debt Securities so issued shall in all respects have the same legal rank and benefit under this Indenture as the Debt Securities theretofore or thereafter issued in accordance with the terms of this Indenture as though all of such Debt Securities had been issued at the date of the execution hereof.

**SECTION 11.03** *Opinion of Counsel to be Given to Trustee.*

The Trustee, subject to the provisions of Sections 6.01 and 6.02, shall receive, in addition to the Opinion of Counsel required by Section 9.05, an Opinion of Counsel as conclusive evidence that any consolidation, merger, sale, conveyance, transfer or other disposition, and any assumption, permitted or required by the terms of this Article XI complies with the provisions of this Article XI.

**ARTICLE XII**  
**SATISFACTION AND DISCHARGE OF INDENTURE**

**SECTION 12.01** *Discharge of Indenture.*

When (a) the Company shall deliver to the Trustee for cancellation all Debt Securities theretofore authenticated (other than any Debt Securities which shall have been destroyed, lost or stolen and which shall have been replaced or paid as provided in Section 2.06) and not theretofore canceled, or (b) all the Debt Securities not theretofore canceled or delivered to the Trustee for cancellation shall have become due and payable, or are by their terms to become due and payable within one year or are to be called for redemption within one year under arrangements satisfactory to the Trustee for the giving of notice of redemption, and the Company shall deposit with the Trustee, in trust, funds, which shall be immediately due and payable, sufficient to pay at maturity or upon redemption, as the case may be, all of the Debt Securities (other than any Debt Securities which shall have been destroyed, lost or stolen and which shall have been replaced or paid as provided in Section 2.06) not theretofore canceled or delivered to the Trustee for cancellation, including principal and premium, if any, and interest due or to become due to the Maturity Date, any Optional Redemption Date or the Special Redemption Date, as the case may be, but excluding, however, the amount of any moneys for the payment of principal of and premium, if any, or interest on the Debt Securities (1) theretofore repaid to the Company in accordance with the provisions of Section 12.04, or (2) paid to any state or to the District of Columbia pursuant to its unclaimed property or similar laws, and if in the case of either clause (a) or (b) above the Company shall also pay or cause to be paid all other sums payable hereunder by the Company, then this Indenture shall cease to be of further effect except for the provisions of Sections 2.05, 2.06, 3.01, 3.02, 3.04, 6.06, 6.09 and 12.04 hereof, which shall survive until such Debt Securities shall mature or are redeemed, as the case may be, and are paid in full. Thereafter, Sections 6.06, 6.09 and 12.04 shall survive, and the Trustee, on demand of the Company accompanied by an Officers' Certificate and an Opinion of Counsel, each stating that all conditions precedent herein provided for relating to the satisfaction and discharge of this Indenture have been complied with, and at the cost and expense of the Company, shall execute proper instruments acknowledging satisfaction of and discharging this Indenture, *provided, however*, that the Company hereby agrees to reimburse the Trustee for any costs or expenses thereafter reasonably and properly incurred by the Trustee in connection with this Indenture or the Debt Securities.

**SECTION 12.02** *Deposited Moneys to be Held in Trust by Trustee.*

Subject to the provisions of Section 12.04, all moneys deposited with the Trustee pursuant to Section 12.01 shall be held in trust and applied by it to the payment, either directly or through any Paying Agent (including the Company if acting as its own Paying Agent), to the holders of the

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particular Debt Securities for the payment of which such moneys have been deposited with the Trustee, of all sums due and to become due thereon for principal, premium, if any, and interest.

**SECTION 12.03** *Paying Agent to Repay Moneys Held.*

Upon the satisfaction and discharge of this Indenture, all moneys then held by any Paying Agent of the Debt Securities (other than the Trustee) shall, upon demand of the Company, be repaid to the Company or paid to the Trustee, and thereupon such Paying Agent shall be released from all further liability with respect to such moneys.

**SECTION 12.04** *Return of Unclaimed Moneys.*

Any moneys deposited with or paid to the Trustee or any Paying Agent for payment of the principal of and premium, if any, or interest on Debt Securities and not applied but remaining unclaimed by the holders of Debt Securities for two years after the date upon which such principal, premium, if any, or interest, as the case may be, shall have become due and payable, shall be repaid to the Company by the Trustee or such Paying Agent on written demand; and the holder of any of the Debt Securities shall thereafter look only to the Company for any payment which such holder may be entitled to collect and all liability of the Trustee or such Paying Agent with respect to such moneys shall thereupon cease.

**ARTICLE XIII**  
**IMMUNITY OF INCORPORATORS, STOCKHOLDERS, OFFICERS AND DIRECTORS**

**SECTION 13.01** *Indenture and Debt Securities Solely Corporate Obligations.*

No recourse for the payment of the principal of or premium, if any, or interest on any Debt Security, or for any claim based thereon or otherwise in respect thereof, and, no recourse under or upon any obligation, covenant or agreement of the Company in this Indenture or in any supplemental indenture, or in any such Debt Security, or because of the creation of any indebtedness represented thereby, shall be had against any incorporator, stockholder, officer, director, employee or agent, as such, past, present or future, of the Company or of any predecessor or successor corporation of the Company, either directly or through the Company or any successor corporation of the Company, whether by virtue of any constitution, statute or rule of law, or by the enforcement of any assessment or penalty or otherwise; it being expressly understood that all such liability is hereby expressly waived and released as a condition of, and as a consideration for, the execution of this Indenture and the issuance of the Debt Securities.

**ARTICLE XIV**  
**MISCELLANEOUS PROVISIONS**

**SECTION 14.01** *Successors.*

All the covenants, stipulations, promises and agreements of the Company contained in this Indenture shall bind its successors and assigns, whether so expressed or not.

**SECTION 14.02** *Official Acts by Successor Entity.*

Any act or proceeding by any provision of this Indenture authorized or required to be done or performed by any board, committee or officer of the Company shall and may be done and performed with like force and effect by the like board, committee, officer or other authorized Person of any entity that shall at the time be the lawful successor of the Company.

**SECTION 14.03** *Surrender of Company Powers.*

The Company, by instrument in writing executed by authority of  $\frac{2}{3}$  (two thirds) of its Board of Directors and delivered to the Trustee, may surrender any of the powers reserved to the Company and thereupon such power so surrendered shall terminate both as to the Company and as to any permitted successor.

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**SECTION 14.04** *Addresses for Notices, etc.*

Any notice or demand which by any provision of this Indenture is required or permitted to be given or served by the Trustee or by the Securityholders on the Company may be given or served in writing by being deposited postage prepaid by registered or certified mail in a post office letter box addressed (until another address is filed by the Company with the Trustee for such purpose) to the Company at 5000 Westown Parkway, Suite 440, West Des Moines, Iowa 50266, Attention: Wendy Carlson. Any notice, direction, request or demand by any Securityholder or the Company to or upon the Trustee shall be deemed to have been sufficiently given or made, for all purposes, if given or made in writing at the office of Wilmington Trust Company at Rodney Square North, 1100 North Market Street, Wilmington, DE 19890-0001, Attention: Corporate Trust Administration.

**SECTION 14.05** *Governing Law.*

This Indenture and the Debt Securities shall each be governed by, and construed in accordance with, the laws of the State of New York, without regard to conflict of laws principles of said State other than Section 5-1401 of the New York General Obligations Law.

**SECTION 14.06** *Evidence of Compliance with Conditions Precedent.*

Upon any application or demand by the Company to the Trustee to take any action under any of the provisions of this Indenture, the Company shall furnish to the Trustee 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 an Opinion of Counsel stating that, in the opinion of such counsel, all such conditions precedent have been complied with (except that no such Opinion of Counsel is required to be furnished to the Trustee in connection with the authentication and issuance of Debt Securities).

Each certificate or opinion provided for in this Indenture and delivered to the Trustee with respect to compliance with a condition or covenant provided for in this Indenture (except certificates delivered pursuant to Section 3.05) shall include (a) a statement that the person making such certificate or opinion has read such covenant or condition and the definitions relating thereto; (b) 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; (c) a statement that, in the opinion of such person, he or she has made such examination or investigation as is necessary to enable him or her to express an informed opinion as to whether or not such covenant or condition has been complied with; and (d) a statement as to whether or not, in the opinion of such person, such condition or covenant has been complied with.

SECTION 14.07 *Business Day Convention.*

Notwithstanding anything to the contrary contained herein, if any Interest Payment Date, other than the Maturity Date, any Optional Redemption Date or the Special Redemption Date, falls on a day that is not a Business Day, then any interest payable will be paid on, and such Interest Payment Date will be moved to, the next succeeding Business Day, and additional interest will accrue for each day that such payment is delayed as a result thereof. If the Maturity Date, any Optional Redemption Date or the Special Redemption Date falls on a day that is not a Business Day, then the principal, premium, if any, and/or interest payable on such date will be paid on the next succeeding Business Day, and no additional interest will accrue in respect of such payment made on such next succeeding Business Day.

SECTION 14.08 *Table of Contents, Headings, etc.*

The table of contents and the titles and headings of the Articles and Sections of this Indenture have been inserted for convenience of reference only, are not to be considered a part hereof, and shall in no way modify or restrict any of the terms or provisions hereof.

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SECTION 14.09 *Execution in Counterparts.*

This Indenture may be executed in any number of counterparts, each of which shall be an original, but such counterparts shall together constitute but one and the same instrument.

SECTION 14.10 *Separability.*

In case any one or more of the provisions contained in this Indenture or in the Debt Securities shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provisions of this Indenture or of such Debt Securities, but this Indenture and such Debt Securities shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein or therein.

SECTION 14.11 *Assignment.*

Subject to Article XI, the Company will have the right at all times to assign any of its rights or obligations under this Indenture and the Debt Securities to a direct or indirect wholly owned Subsidiary of the Company; *provided, however,* that, in the event of any such assignment, the Company shall remain liable for all such obligations. Subject to the foregoing, this Indenture is binding upon and inures to the benefit of the parties hereto and their respective successors and assigns. This Indenture may not otherwise be assigned by the parties thereto.

SECTION 14.12 *Acknowledgment of Rights.*

The Company acknowledges that, with respect to any Debt Securities held by the Trust or a trustee of the Trust, if such trustee of the Trust fails to enforce its rights under this Indenture as the holder of Debt Securities held as the assets of the Trust after the holders of a majority in aggregate liquidation amount of the outstanding Capital Securities of the Trust have so directed in writing such trustee, a holder of record of such Capital Securities may, to the fullest extent permitted by law, institute legal proceedings directly against the Company to enforce such trustee's rights under this Indenture without first instituting any legal proceedings against such trustee or any other Person. Notwithstanding the foregoing, if an Event of Default has occurred and is continuing and such event is attributable to the failure of the Company to pay interest or premium, if any, on or principal of the Debt Securities on the date such interest, premium, if any, or principal is otherwise due and payable (or, in the case of redemption, on the related Optional Redemption Date or the Special Redemption Date (as the case may be)), the Company acknowledges that a holder of outstanding Capital Securities of the Trust may directly institute a proceeding against the Company for enforcement of payment to such holder directly of the principal of or premium, if any, or interest on the Debt Securities having an aggregate principal amount equal to the aggregate liquidation amount of the Capital Securities of such holder on or after the respective due date (or Optional Redemption Date or Special Redemption Date (as the case may be)) specified in the Debt Securities.

**ARTICLE XV**  
**SUBORDINATION OF DEBT SECURITIES**

SECTION 15.01 *Agreement to Subordinate.*

The Company covenants and agrees, and each holder of Debt Securities issued hereunder and under any supplemental indenture (the "Additional Provisions") by such holder's acceptance thereof likewise covenants and agrees, that all Debt Securities shall be issued subject to the provisions of this Article XV; and each holder of a Debt Security, whether upon original issue or upon transfer or assignment thereof, accepts and agrees to be bound by such provisions.

The payment by the Company of the payments due on all Debt Securities issued hereunder and under any Additional Provisions shall, to the extent and in the manner hereinafter set forth, be subordinated and junior in right of payment to the prior payment in full of all Senior Indebtedness of the Company, whether outstanding at the date of this Indenture or thereafter incurred.

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No provision of this Article XV shall prevent the occurrence of any default or Event of Default hereunder.

SECTION 15.02 *Default on Senior Indebtedness.*

In the event and during the continuation of any default by the Company in the payment of principal, premium, interest or any other payment due in respect of any Senior Indebtedness of the Company following any applicable grace period, or in the event that the maturity of any Senior Indebtedness of the Company has been accelerated because of a default, and such acceleration has not been rescinded or canceled and such Senior Indebtedness has not been paid in full, then, in either case, no payment shall be made by the Company with respect to the payments due on the Debt Securities.

In the event that, notwithstanding the foregoing, any payment shall be received by the Trustee when such payment is prohibited by the preceding paragraph of this Section, such payment shall, subject to Section 15.06, be held in trust for the benefit of, and shall be paid over or delivered to, the holders of Senior Indebtedness or their respective representatives, or to the trustee or trustees under any indenture pursuant to which any of such Senior Indebtedness may have been issued, as their respective interests may appear, but only to the extent that the holders of the Senior Indebtedness (or their representative or representatives or trustee) notify the Trustee in writing within 90 days of such payment of the amounts then due and owing on the Senior Indebtedness and only the amounts specified in such notice to the Trustee shall be paid to the holders of Senior Indebtedness.

#### SECTION 15.03 *Liquidation; Dissolution; Bankruptcy.*

Upon any payment by the Company or distribution of assets of the Company of any kind or character, whether in cash, property or securities, to creditors upon any dissolution, winding-up, liquidation or reorganization of the Company, whether voluntary or involuntary or in bankruptcy, insolvency, receivership or other proceedings, all amounts due upon all Senior Indebtedness of the Company shall first be paid in full, or payment thereof provided for in money in accordance with its terms, before any payment is made by the Company in respect of the Debt Securities; and upon any such dissolution, winding-up, liquidation or reorganization, any payment by the Company, or distribution of assets of the Company of any kind or character, whether in cash, property or securities, to which the Securityholders or the Trustee would be entitled to receive from the Company, except for the provisions of this Article XV, shall be paid by the Company, or by any receiver, trustee in bankruptcy, liquidating trustee, agent or other Person making such payment or distribution, or by the Securityholders or by the Trustee under this Indenture if received by them or it, directly to the holders of Senior Indebtedness of the Company (pro rata to such holders on the basis of the respective amounts of Senior Indebtedness held by such holders, as calculated by the Company) or their representative or representatives, or to the trustee or trustees under any indenture pursuant to which any instruments evidencing such Senior Indebtedness may have been issued, as their respective interests may appear, to the extent necessary to pay such Senior Indebtedness in full, in money or money's worth, after giving effect to any concurrent payment or distribution to or for the holders of such Senior Indebtedness, before any payment or distribution is made to the Securityholders.

In the event that, notwithstanding the foregoing, any payment or distribution of assets of the Company of any kind or character, whether in cash, property or securities, prohibited by the foregoing shall be received by the Trustee before all Senior Indebtedness of the Company is paid in full, or provision is made for such payment in money in accordance with its terms, such payment or distribution shall be held in trust for the benefit of, and shall be paid over or delivered, to the holders of such Senior Indebtedness or their representative or representatives, or to the trustee or trustees under any indenture pursuant to which any instruments evidencing such Senior Indebtedness may have been issued, as their respective interests may appear, as calculated by the Company, for application to the payment of all Senior Indebtedness of the Company remaining unpaid to the extent necessary to pay such Senior Indebtedness in full in money in accordance with its terms, after giving effect to any concurrent payment or distribution to or for the benefit of the holders of such Senior Indebtedness.

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For purposes of this Article XV, the words "cash, property or securities" shall not be deemed to include shares of stock of the Company as reorganized or readjusted, or securities of the Company or any other corporation provided for by a plan of reorganization or readjustment, the payment of which is subordinated at least to the extent provided in this Article XV with respect to the Debt Securities to the payment of all Senior Indebtedness of the Company, that may at the time be outstanding, *provided*, that (a) such Senior Indebtedness is assumed by the new corporation, if any, resulting from any such reorganization or readjustment, and (b) the rights of the holders of such Senior Indebtedness are not, without the consent of such holders, altered by such reorganization or readjustment. The consolidation of the Company with, or the merger of the Company into, another corporation or the liquidation or dissolution of the Company following the conveyance, transfer or other disposition of its property as an entirety, or substantially as an entirety, to another corporation upon the terms and conditions provided for in Article XI of this Indenture shall not be deemed a dissolution, winding-up, liquidation or reorganization for the purposes of this Section if such other corporation shall, as a part of such consolidation, merger, conveyance or transfer, comply with the conditions stated in Article XI of this Indenture. Nothing in Section 15.02 or in this Section shall apply to claims of, or payments to, the Trustee under or pursuant to Section 6.06 of this Indenture.

#### SECTION 15.04 *Subrogation.*

Subject to the payment in full of all Senior Indebtedness of the Company, the Securityholders shall be subrogated to the rights of the holders of such Senior Indebtedness to receive payments or distributions of cash, property or securities of the Company applicable to such Senior Indebtedness until all payments due in respect of the Debt Securities shall be paid in full; and, for the purposes of such subrogation, no payments or distributions to the holders of such Senior Indebtedness of any cash, property or securities to which the Securityholders or the Trustee would be entitled except for the provisions of this Article XV, and no payment over pursuant to the provisions of this Article XV to or for the benefit of the holders of such Senior Indebtedness by Securityholders or the Trustee, shall, as between the Company, its creditors other than holders of Senior Indebtedness of the Company, and the holders of the Debt Securities be deemed to be a payment or distribution by the Company to or on account of such Senior Indebtedness. It is understood that the provisions of this Article XV are, and are intended, solely for the purposes of defining the relative rights of the holders of the Debt Securities, on the one hand, and the holders of such Senior Indebtedness, on the other hand.

Nothing contained in this Article XV or elsewhere in this Indenture, any Additional Provisions or in the Debt Securities is intended to or shall impair, as between the Company, its creditors other than the holders of Senior Indebtedness of the Company, and the holders of the Debt Securities, the obligation of the Company, which is absolute and unconditional, to pay to the holders of the Debt Securities all payments due in respect of the Debt Securities as and when the same shall become due and payable in accordance with their terms, or is intended to or shall affect the relative rights of the holders of the Debt Securities and creditors of the Company other than the holders of Senior Indebtedness of the Company, nor shall anything herein or therein prevent the Trustee or the holder of any Debt Security from exercising all remedies otherwise permitted by applicable law upon default under this Indenture, subject to the rights, if any, under this Article XV of the holders of such Senior Indebtedness in respect of cash, property or securities of the Company received upon the exercise of any such remedy.

Upon any payment or distribution of assets of the Company referred to in this Article XV, the Trustee, subject to the provisions of Article VI of this Indenture, and the Securityholders shall be entitled to conclusively rely upon any order or decree made by any court of competent jurisdiction in which such dissolution, winding-up, liquidation or reorganization proceedings are pending, or a certificate of the receiver, trustee in bankruptcy, liquidation trustee, agent or other Person making such payment or distribution, delivered to the Trustee or to the Securityholders, for the purposes of ascertaining the Persons entitled to participate in such distribution, the holders of Senior Indebtedness

and other indebtedness of the Company, the amount thereof or payable thereon, the amount or amounts paid or distributed thereon and all other facts pertinent thereto or to this Article XV.

SECTION 15.05 *Trustee to Effectuate Subordination.*

Each Securityholder, by such Securityholder's acceptance thereof, authorizes and directs the Trustee on such Securityholder's behalf to take such action as may be necessary or appropriate to effectuate the subordination provided in this Article XV and appoints the Trustee such Securityholder's attorney-in-fact for any and all such purposes.

SECTION 15.06 *Notice by the Company.*

The Company shall give prompt written notice to a Responsible Officer of the Trustee at the Principal Office of the Trustee of any fact known to the Company that would prohibit the making of any payment of moneys to or by the Trustee in respect of the Debt Securities pursuant to the provisions of this Article XV. Notwithstanding the provisions of this Article XV or any other provision of this Indenture or any Additional Provisions to the contrary, the Trustee shall not be charged with knowledge of the existence of any facts that would prohibit the making of any payment of moneys to or by the Trustee in respect of the Debt Securities pursuant to the provisions of this Article XV unless and until a Responsible Officer of the Trustee at the Principal Office of the Trustee shall have received written notice thereof from the Company or a holder or holders of Senior Indebtedness or from any trustee therefor; and before the receipt of any such written notice, the Trustee, subject to the provisions of Article VI of this Indenture, shall be entitled in all respects to assume that no such facts exist; *provided, however,* that if the Trustee shall not have received the notice provided for in this Section at least two Business Days prior to the date upon which by the terms hereof any money may become payable for any purpose (including, without limitation, the payment of the principal of or premium, if any, or interest on any Debt Security), then, anything herein contained to the contrary notwithstanding, the Trustee shall have full power and authority to receive such money and to apply the same to the purposes for which they were received, and shall not be affected by any notice to the contrary that may be received by it within two Business Days prior to such date.

The Trustee, subject to the provisions of Article VI of this Indenture, shall be entitled to conclusively rely upon the delivery to it of a written notice by a Person representing himself or herself to be a holder of Senior Indebtedness of the Company (or a trustee or representative on behalf of such holder) to establish that such notice has been given by a holder of such Senior Indebtedness or a trustee or representative on behalf of any such holder or holders. 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 such Senior Indebtedness to participate in any payment or distribution pursuant to this Article XV, the Trustee may request such Person to furnish evidence to the reasonable satisfaction of the Trustee as to the amount of such Senior Indebtedness 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 XV, 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 15.07 *Rights of the Trustee; Holders of Senior Indebtedness.*

The Trustee, in its individual capacity, shall be entitled to all the rights set forth in this Article XV in respect of any Senior Indebtedness at any time held by it, to the same extent as any other holder of Senior Indebtedness, and nothing in this Indenture or any Additional Provisions shall deprive the Trustee of any of its rights as such holder.

With respect to the holders of Senior Indebtedness of the Company, the Trustee undertakes to perform or to observe only such of its covenants and obligations as are specifically set forth in this Article XV, and no implied covenants or obligations with respect to the holders of such Senior Indebtedness shall be read into this Indenture or any Additional Provisions against the Trustee. The

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Trustee shall not owe or be deemed to owe any fiduciary duty to the holders of such Senior Indebtedness and, subject to the provisions of Article VI of this Indenture, the Trustee shall not be liable to any holder of such Senior Indebtedness if it shall pay over or deliver to Securityholders, the Company or any other Person money or assets to which any holder of such Senior Indebtedness shall be entitled by virtue of this Article XV or otherwise.

Nothing in this Article XV shall apply to claims of, or payments to, the Trustee under or pursuant to Section 6.06.

SECTION 15.08 *Subordination May Not Be Impaired.*

No right of any present or future holder of any Senior Indebtedness of the Company to enforce the subordination of the Debt Securities provided in this Article XV shall at any time in any way be prejudiced or impaired by any act or failure to act on the part of the Company, or by any act or failure to act, in good faith, by any such holder, or by any noncompliance by the Company, with the terms, provisions and covenants of this Indenture, regardless of any knowledge thereof that any such holder may have or otherwise be charged with.

Without in any way limiting the generality of the foregoing paragraph, the holders of Senior Indebtedness of the Company may, at any time and from time to time, without the consent of or notice to the Trustee or the Securityholders, without incurring responsibility to the Securityholders and without impairing or releasing the subordination of the Debt Securities provided in this Article XV or the obligations hereunder of the holders of the Debt Securities to the holders of such Senior Indebtedness, do any one or more of the following: (a) change the manner, place or terms of payment or extend the time of payment of, or renew or alter, such Senior Indebtedness, or otherwise amend or supplement in any manner such Senior Indebtedness or any instrument evidencing the same or any agreement under which such Senior Indebtedness is outstanding; (b) sell, exchange, release or otherwise deal with any property pledged, mortgaged or otherwise securing such Senior Indebtedness; (c) release any Person liable in any manner for the collection of such Senior Indebtedness; and (d) exercise or refrain from exercising any rights against the Company or any other Person.

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Wilmington Trust Company, in its capacity as Trustee, hereby accepts the trusts in this Indenture declared and provided, upon the terms and conditions herein above set forth.

IN WITNESS WHEREOF, the parties hereto have caused this Indenture to be duly executed by their respective officers thereunto duly authorized, as of the day and year first above written.

AMERICAN EQUITY INVESTMENT LIFE HOLDING COMPANY

By: /s/ D.J. NOBLE

Name:  
Title:

WILMINGTON TRUST COMPANY, as Trustee

By:

Name:  
Title:

Wilmington Trust Company, in its capacity as Trustee, hereby accepts the trusts in this Indenture declared and provided, upon the terms and conditions herein above set forth.

IN WITNESS WHEREOF, the parties hereto have caused this Indenture to be duly executed by their respective officers thereunto duly authorized, as of the day and year first above written.

AMERICAN EQUITY INVESTMENT LIFE HOLDING COMPANY

By:

Name:  
Title:

WILMINGTON TRUST COMPANY, as Trustee

By: /s/ DENISE M. GERAN

Name: Denise M. Geran  
Title: Vice President

EXHIBIT A

**FORM OF DEBT SECURITY**

**[FORM OF FACE OF SECURITY]**

**THIS SECURITY HAS NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), OR ANY STATE SECURITIES LAWS OR ANY OTHER APPLICABLE SECURITIES LAWS. NEITHER THIS SECURITY NOR ANY INTEREST OR PARTICIPATION HEREIN MAY BE REOFFERED, SOLD, ASSIGNED, TRANSFERRED, PLEDGED, ENCUMBERED OR OTHERWISE DISPOSED OF IN THE ABSENCE OF SUCH REGISTRATION OR UNLESS SUCH TRANSACTION IS EXEMPT FROM, OR NOT SUBJECT TO, THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT. THE HOLDER OF THIS SECURITY OR ANY INTEREST OR PARTICIPATION HEREIN, BY ITS ACCEPTANCE HEREOF OR THEREOF, AS THE CASE MAY BE, AGREES TO OFFER, SELL OR OTHERWISE TRANSFER SUCH SECURITY OR ANY INTEREST OR PARTICIPATION HEREIN PRIOR TO THE DATE WHICH IS THE LATER OF (i) TWO YEARS (OR SUCH SHORTER PERIOD OF TIME AS PERMITTED BY RULE 144(k) UNDER THE SECURITIES ACT) AFTER THE LATER OF (Y) THE DATE OF ORIGINAL ISSUANCE HEREOF AND (Z) THE LAST DATE ON WHICH THE COMPANY OR ANY AFFILIATE (AS DEFINED IN RULE 405 UNDER THE SECURITIES ACT) OF THE COMPANY WAS THE HOLDER OF THIS SECURITY OR SUCH INTEREST OR PARTICIPATION (OR ANY PREDECESSOR THERETO) AND (ii) SUCH LATER DATE, IF ANY, AS MAY BE REQUIRED BY ANY SUBSEQUENT CHANGE IN APPLICABLE LAW, ONLY (A) TO THE COMPANY, (B) PURSUANT TO RULE 144A UNDER THE SECURITIES ACT ("RULE 144A"), TO A PERSON THE HOLDER REASONABLY BELIEVES IS A "QUALIFIED INSTITUTIONAL BUYER", AS DEFINED IN RULE 144A, THAT PURCHASES FOR ITS OWN ACCOUNT OR FOR THE ACCOUNT OF A QUALIFIED INSTITUTIONAL BUYER TO WHOM NOTICE IS GIVEN THAT THE TRANSFER IS BEING MADE IN RELIANCE ON RULE 144A, (C) PURSUANT TO AN EXEMPTION FROM THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT TO AN "ACCREDITED INVESTOR" WITHIN THE MEANING OF SUBPARAGRAPH (a) (1), (2), (3), (7) OR (8) OF RULE 501 UNDER THE SECURITIES ACT THAT IS ACQUIRING THIS SECURITY OR SUCH INTEREST OR PARTICIPATION FOR ITS OWN ACCOUNT, OR FOR THE ACCOUNT OF SUCH AN ACCREDITED INVESTOR, FOR INVESTMENT PURPOSES AND NOT WITH A VIEW TO, OR FOR OFFER OR SALE IN CONNECTION WITH, ANY DISTRIBUTION IN VIOLATION OF THE SECURITIES ACT, (D) PURSUANT TO OFFERS AND SALES TO NON-US PERSONS THAT OCCUR OUTSIDE THE UNITED STATES PURSUANT TO REGULATIONS UNDER THE SECURITIES ACT OR (E) PURSUANT TO ANOTHER AVAILABLE EXEMPTION FROM THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT, SUBJECT TO THE COMPANY'S RIGHT PRIOR TO ANY SUCH OFFER, SALE OR TRANSFER PURSUANT TO CLAUSE (C) OR (E) ABOVE TO REQUIRE THE DELIVERY OF AN OPINION OF COUNSEL, CERTIFICATION AND/OR OTHER INFORMATION SATISFACTORY TO IT IN ACCORDANCE WITH THE INDENTURE, A COPY OF WHICH MAY BE OBTAINED FROM THE COMPANY. THE HOLDER OF THIS SECURITY OR ANY INTEREST OR PARTICIPATION HEREIN, BY ITS ACCEPTANCE HEREOF OR THEREOF, AS THE CASE MAY BE, AGREES THAT IT WILL COMPLY WITH THE FOREGOING RESTRICTIONS.**

**THE HOLDER OF THIS SECURITY OR ANY INTEREST OR PARTICIPATION HEREIN, BY ITS ACCEPTANCE HEREOF OR THEREOF, AS THE CASE MAY BE, ALSO AGREES, REPRESENTS AND WARRANTS THAT IT IS NOT AN EMPLOYEE BENEFIT, INDIVIDUAL**

SECTION 4975 OF THE INTERNAL REVENUE CODE OF 1986, AS AMENDED (THE "CODE") (EACH A "PLAN"), OR AN ENTITY WHOSE UNDERLYING ASSETS INCLUDE "PLAN ASSETS" BY REASON OF ANY PLAN'S INVESTMENT IN THE ENTITY AND NO PERSON INVESTING "PLAN ASSETS" OF ANY PLAN MAY ACQUIRE OR HOLD THIS SECURITY OR ANY INTEREST OR PARTICIPATION HEREIN, UNLESS SUCH PURCHASER OR HOLDER IS ELIGIBLE FOR THE EXEMPTIVE RELIEF AVAILABLE UNDER U.S. DEPARTMENT OF LABOR PROHIBITED TRANSACTION CLASS EXEMPTION 96-23, 95-60, 91-38, 90-1 OR 84-14 OR ANOTHER APPLICABLE EXEMPTION OR ITS PURCHASE AND HOLDING OF THIS SECURITY OR SUCH INTEREST OR PARTICIPATION IS NOT PROHIBITED BY SECTION 406 OF ERISA OR SECTION 4975 OF THE CODE WITH RESPECT TO SUCH PURCHASE OR HOLDING. ANY PURCHASER OR HOLDER OF THIS SECURITY OR ANY INTEREST OR PARTICIPATION HEREIN WILL BE DEEMED TO HAVE REPRESENTED BY ITS PURCHASE AND HOLDING HEREOF OR THEREOF, AS THE CASE MAY BE, THAT EITHER (i) IT IS NOT AN EMPLOYEE BENEFIT PLAN WITHIN THE MEANING OF SECTION 3(3) OF ERISA, OR A PLAN TO WHICH SECTION 4975 OF THE CODE IS APPLICABLE, A TRUSTEE OR OTHER PERSON ACTING ON BEHALF OF AN EMPLOYEE BENEFIT PLAN OR PLAN, OR ANY OTHER PERSON OR ENTITY USING THE ASSETS OF ANY EMPLOYEE BENEFIT PLAN OR PLAN TO FINANCE SUCH PURCHASE, OR (ii) SUCH PURCHASE AND HOLDING WILL NOT RESULT IN A PROHIBITED TRANSACTION UNDER SECTION 406 OF ERISA OR SECTION 4975 OF THE CODE FOR WHICH THERE IS NO APPLICABLE STATUTORY OR ADMINISTRATIVE EXEMPTION.

IN CONNECTION WITH ANY TRANSFER, THE HOLDER OF THIS SECURITY WILL DELIVER TO THE REGISTRAR AND TRANSFER AGENT SUCH CERTIFICATES AND OTHER INFORMATION AS MAY BE REQUIRED BY THE INDENTURE TO CONFIRM THAT THE TRANSFER COMPLIES WITH THE FOREGOING RESTRICTIONS.

THIS SECURITY WILL BE ISSUED AND MAY BE TRANSFERRED ONLY IN MINIMUM DENOMINATIONS OF \$100,000 AND MULTIPLES OF \$1,000 IN EXCESS THEREOF. ANY ATTEMPTED TRANSFER OF THIS SECURITY IN DENOMINATIONS OF LESS THAN \$100,000 SHALL BE DEEMED TO BE VOID AND OF NO LEGAL EFFECT WHATSOEVER. ANY SUCH PURPORTED TRANSFEREE SHALL BE DEEMED NOT TO BE THE HOLDER OF THIS SECURITY OR ANY INTEREST OR PARTICIPATION HEREIN FOR ANY PURPOSE, INCLUDING, BUT NOT LIMITED TO, THE RECEIPT OF DISTRIBUTIONS ON THIS SECURITY OR SUCH INTEREST OR PARTICIPATION, AND SUCH PURPORTED TRANSFEREE SHALL BE DEEMED TO HAVE NO INTEREST WHATSOEVER IN THIS SECURITY OR ANY INTEREST OR PARTICIPATION HEREIN.

Floating Rate Junior Subordinated Debt Security due 2034  
of  
American Equity Investment Life Holding Company

American Equity Investment Life Holding Company, an insurance holding company incorporated in the State of Iowa (the "Company", which term includes any successor permitted under the Indenture (as defined herein)), for value received, promises to pay to Wilmington Trust Company, not in its individual capacity but solely as Institutional Trustee for American Equity Capital Trust IV, a Delaware statutory trust, or registered assigns, the principal amount of TWELVE MILLION THREE HUNDRED AND SEVENTY-TWO THOUSAND Dollars (\$12,372,000) on January 8, 2034 (the "Maturity Date") (or any Optional Redemption Date or the Special Redemption Date, each as defined herein, or any earlier date of acceleration of the maturity of this Debt Security), and to pay interest on the outstanding principal amount of this Debt Security from December 16, 2003, or from the most recent Interest Payment Date (as defined below) to which interest has been paid or duly provided for, quarterly (subject to deferral as set forth herein) in arrears on January 8, April 8, July 8 and October 8

of each year, commencing on April 8, 2004 (each, an "Interest Payment Date"), at a floating rate per annum, which, with respect to any Interest Period (as defined in the Indenture), will be equal to LIBOR (as defined in the Indenture), as determined on the LIBOR Determination Date (as defined in the Indenture) for such Interest Period, plus 4.00% (the "Interest Rate") (provided that the Interest Rate for any Interest Period prior to the Interest Period commencing on the Interest Payment Date in January 2009 may not exceed 12.5% per annum; and provided, further, that the Interest Rate for any Interest Period may not exceed the highest rate permitted by New York law, as the same may be modified by United States law of general application) until the principal hereof shall have been paid or duly provided for, and on any overdue principal and (without duplication and to the extent that payment of such interest is enforceable under applicable law) on any overdue installment of interest at an annual rate equal to the then applicable Interest Rate, compounded quarterly. The amount of interest payable for any Interest Period shall be computed on the basis of a 360-day year and the actual number of days elapsed in such Interest Period.

The interest installment so payable, and punctually paid or duly provided for, on any Interest Payment Date will, as provided in the Indenture, be paid to the Person in whose name this Debt Security (or one or more Predecessor Securities, as defined in the Indenture) is registered at the close of business on the "regular record date" for such interest installment, which shall be the fifteenth day prior to such Interest Payment Date, whether or not such day is a Business Day (as defined herein). Any such interest installment (other than Deferred Interest (as defined herein)) not punctually paid or duly provided for shall forthwith cease to be payable to the holders on such regular record date and may be paid to the Person in whose name this Debt Security (or one or more Predecessor Securities) is registered at the close of business on a special record date to be fixed by the Trustee for the payment of such defaulted interest, notice whereof shall be given to the holders of the Debt Securities not less than 10 days prior to such special record date, all as more fully provided in the Indenture.

Payment of the principal of and premium, if any, and interest on this Debt Security due on the Maturity Date, any Optional Redemption Date or the Special Redemption Date, as the case may be, shall be made in immediately available funds against presentation and surrender of this Debt Security at the office or agency of the Trustee maintained for that purpose in Wilmington, Delaware, or at the office or agency of any other Paying Agent appointed by the Company maintained for that purpose in Wilmington, Delaware or Des Moines, Iowa. Payment of interest on this Debt Security due on any Interest Payment Date other than the Maturity Date, any Optional Redemption Date or the Special Redemption Date, as the case may be, shall be made at the option of the Company by check mailed to the holder thereof at such address as shall appear in the Debt Security Register or by wire transfer of immediately available funds to an account appropriately designated by the holder hereof. Notwithstanding the foregoing, so long as the holder of this Debt Security is the Institutional Trustee, payment of the principal of and premium, if any, and interest on this Debt Security shall be made in immediately available funds when due at such place and to such account

as may be designated by the Institutional Trustee. All payments in respect of this Debt Security shall be payable in any coin or currency of the United States of America that at the time of payment is legal tender for payment of public and private debts.

Notwithstanding anything to the contrary contained herein, if any Interest Payment Date, other than the Maturity Date, any Optional Redemption Date or the Special Redemption Date, falls on a day that is not a Business Day, then any interest payable will be paid on, and such Interest Payment Date will be moved to, the next succeeding Business Day, and additional interest will accrue for each day that such payment is delayed as a result thereof. If the Maturity Date, any Optional Redemption Date or the Special Redemption Date falls on a day that is not a Business Day, then the principal, premium, if any, and/or interest payable on such date will be paid on the next succeeding Business Day, and no additional interest will accrue in respect of such payment made on such next succeeding Business Day.

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So long as no Event of Default has occurred and is continuing, the Company shall have the right, from time to time and without causing an Event of Default, to defer payments of interest on the Debt Securities by extending the interest payment period on the Debt Securities at any time and from time to time during the term of the Debt Securities, for up to 20 consecutive quarterly periods (each such extended interest payment period, together with all previous and further consecutive extensions thereof, is referred to herein as an "Extension Period"). No Extension Period may end on a date other than an Interest Payment Date or extend beyond the Maturity Date, any Optional Redemption Date or the Special Redemption Date, as the case may be. During any Extension Period, interest will continue to accrue on the Debt Securities, and interest on such accrued interest (such accrued interest and interest thereon referred to herein as "Deferred Interest") will accrue, at an annual rate equal to the Interest Rate applicable during such Extension Period, compounded quarterly from the date such Deferred Interest would have been payable were it not for the Extension Period, to the extent permitted by applicable law. No interest or Deferred Interest (except any Additional Interest (as defined in the Indenture) that may be due and payable) shall be due and payable during an Extension Period, except at the end thereof. At the end of any Extension Period, the Company shall pay all Deferred Interest then accrued and unpaid on the Debt Securities; *provided, however*, that during any Extension Period, the Company may not (i) declare or pay any dividends or distributions on, or redeem, purchase, acquire, or make a liquidation payment with respect to, any of the Company's capital stock, (ii) make any payment of principal of or premium or interest on or repay, repurchase or redeem any debt securities of the Company that rank in all respects *pari passu* with or junior in interest to the Debt Securities or (iii) make any payment under any guarantees of the Company that rank in all respects *pari passu* with or junior in respect to the Capital Securities Guarantee (other than (a) repurchases, redemptions or other acquisitions of shares of capital stock of the Company (A) in connection with any employment contract, benefit plan or other similar arrangement with or for the benefit of one or more employees, officers, directors or consultants, (B) in connection with a dividend reinvestment or stockholder stock purchase plan or (C) in connection with the issuance of capital stock of the Company (or securities convertible into or exercisable for such capital stock), as consideration in an acquisition transaction entered into prior to such Extension Period, (b) as a result of any exchange or conversion of any class or series of the Company's capital stock (or any capital stock of a subsidiary of the Company) for any class or series of the Company's capital stock or of any class or series of the Company's indebtedness for any class or series of the Company's capital stock, (c) the purchase of fractional interests in shares of the Company's capital stock pursuant to the conversion or exchange provisions of such capital stock or the security being converted or exchanged, (d) any declaration of a dividend in connection with any stockholder's rights plan, or the issuance of rights, stock or other property under any stockholder's rights plan, or the redemption or repurchase of rights pursuant thereto or (e) any dividend in the form of stock, warrants, options or other rights where the dividend stock or the stock issuable upon exercise of such warrants, options or other rights is the same stock as that on which the dividend is being paid or ranks *pari passu* with or junior to such stock). Prior to the termination of any Extension Period, the Company may further extend such Extension Period, *provided*, that no Extension Period (including all previous and further consecutive extensions that are part of such Extension Period) shall exceed 20 consecutive quarterly periods. Upon the termination of any Extension Period and upon the payment of all Deferred Interest, the Company may commence a new Extension Period, subject to the foregoing requirements. The Company must give the Trustee notice of its election to begin or extend an Extension Period at least one Business Day prior to the regular record date applicable to the next succeeding Interest Payment Date.

The indebtedness evidenced by this Debt Security is, to the extent provided in the Indenture, subordinate and junior in right of payment to the prior payment in full of all Senior Indebtedness (as defined in the Indenture), and this Debt Security is issued subject to the provisions of the Indenture with respect thereto. Each holder of this Debt Security, by accepting the same, (a) agrees to and shall be bound by such provisions, (b) authorizes and directs the Trustee on such holder's behalf to take such

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action as may be necessary or appropriate to acknowledge or effectuate the subordination of this Debt Security so provided and (c) appoints the Trustee such holder's attorney-in-fact for any and all such purposes. Each holder of this Debt Security, by such holder's acceptance hereof, hereby waives all notice of the acceptance of the subordination provisions contained herein and in the Indenture by each holder of Senior Indebtedness, whether now outstanding or hereafter incurred, and waives reliance by each such holder upon said provisions.

The Company waives diligence, presentment, demand for payment, notice of nonpayment, notice of protest, and all other demands and notices.

This Debt Security shall not be entitled to any benefit under the Indenture and shall not be valid or become obligatory for any purpose until the certificate of authentication hereon shall have been signed by or on behalf of the Trustee.

The provisions of this Debt Security are continued on the reverse side hereof and such continued provisions shall for all purposes have the same effect as though fully set forth at this place.

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IN WITNESS WHEREOF, the Company has duly executed this certificate.

AMERICAN EQUITY INVESTMENT LIFE HOLDING COMPANY

By: /s/ DJ NOBLE

Name:  
Title:

Dated: December 16, 2003

CERTIFICATE OF AUTHENTICATION

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

WILMINGTON TRUST COMPANY,  
not in its individual capacity but solely as the Trustee

By: /s/ DENISE M. GERAN

Authorized Officer

Dated: December 16, 2003

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[FORM OF REVERSE OF SECURITY]

This Debt Security is one of a duly authorized series of debt securities of the Company (collectively, the "Debt Securities"), all issued or to be issued pursuant to an Indenture (the "Indenture"), dated as of December 16, 2003, duly executed and delivered between the Company and Wilmington Trust Company, as Trustee (the "Trustee"), to which Indenture and all indentures supplemental thereto reference is hereby made for a description of the rights, limitations of rights, obligations, duties and immunities thereunder of the Trustee, the Company and the holders of the Debt Securities of which this Debt Security is a part.

Upon the occurrence and continuation of a Tax Event or an Investment Company Event (each, a "Special Event"), the Company shall have the right to redeem this Debt Security, at its option, in whole with all other Debt Securities but not in part, at any time, within 90 days following the occurrence of such Special Event (the "Special Redemption Date"), at the Special Redemption Price (as defined herein). In the event that the Special Redemption Date falls on a day prior to the LIBOR Determination Date for any Interest Period, then the Company shall be required to pay to Securityholders, on the Business Day following such LIBOR Determination Date, any additional amount of interest that would have been payable on the Special Redemption Date had the amount of interest determined on such LIBOR Determination Date been known on the first day of such Interest Period.

The Company shall also have the right to redeem this Debt Security at its option, in whole or (provided that all accrued and unpaid interest has been paid on all Debt Securities for all Interest Periods terminating on or prior to such date) from time to time in part, on any Interest Payment Date on or after January 8, 2009 (each, an "Optional Redemption Date"), at the Optional Redemption Price (as defined herein).

Any redemption pursuant to the preceding two paragraphs will be made upon not less than 30 days' nor more than 60 days' prior written notice. If the Debt Securities are only partially redeemed by the Company, the Debt Securities will be redeemed pro rata or by any other method utilized by the Trustee. In the event of redemption of this Debt Security in part only, a new Debt Security or Debt Securities for the unredeemed portion hereof will be issued in the name of the holder hereof upon the cancellation hereof.

"Optional Redemption Price" means an amount in cash equal to 100% of the principal amount of this Debt Security being redeemed plus unpaid interest accrued thereon to the related Optional Redemption Date.

"Special Redemption Price" means an amount in cash equal to 104.75% of the principal amount of this Debt Security to be redeemed prior to January 8, 2005 and thereafter equal to the percentage of the principal amount of this Debt Security that is specified below for the Special Redemption Date plus, in each case, unpaid interest accrued thereon to the Special Redemption Date:

| Special Redemption During the<br>12-Month Period Beginning January 8, | Percentage of Principal Amount |
|---|--------------------------------|
| 2005  | 103.80%                        |
| 2006  | 102.85%                        |
| 2007  | 101.90%                        |
| 2008  | 100.95%                        |
| 2009 and thereafter   | 100.00%                        |

In case an Event of Default, as defined in the Indenture, shall have occurred and be continuing, the principal of all of the Debt Securities may be declared, and, in certain cases, shall *ipso facto*

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become, due and payable, and upon any such declaration of acceleration shall become due and payable, in each case, in the manner, with the effect and subject to the conditions provided in the Indenture.

The Indenture contains provisions permitting the Company and the Trustee, with the consent of the holders of a majority in aggregate principal amount of the Debt Securities at the time outstanding affected thereby, as specified in the Indenture, to execute supplemental indentures for the purpose of adding any provisions to or changing in any manner or eliminating any of the provisions of the Indenture or of any supplemental indenture or of modifying in any manner the rights of the holders of the Debt Securities; *provided, however*, that no such supplemental indenture shall, among other things, without the consent of the holders of each Debt Security then outstanding and affected thereby (i) change the Maturity Date of any Debt Security, or reduce the principal amount thereof or any premium thereon, or reduce the rate (or manner of calculation of the rate) or extend the time of payment of interest thereon, or reduce (other than as a result of the maturity or earlier redemption of any such Debt Security in accordance with the terms of the Indenture and such Debt Security) or increase the aggregate principal amount of Debt Securities then outstanding, or change any of the redemption provisions, or make the principal thereof or any interest or premium thereon payable in any coin or currency other than United States Dollars, or impair or affect the right of any holder to institute suit for payment thereof, or (ii) reduce the aforesaid percentage of Debt Securities the holders of which are required to consent to any such supplemental indenture. The Indenture also contains provisions permitting the holders of a majority in aggregate principal amount of the Debt Securities at the time outstanding, on behalf of the holders of all the Debt Securities, to waive any past default in the performance of any of the covenants contained in the Indenture, or established pursuant to the Indenture, and its consequences, except (a) a default in payments due in respect of any of the Debt Securities, (b) in respect of covenants or provisions of the Indenture which cannot be modified or amended without the consent of the holder of each Debt Security affected, or (c) in respect of the covenants of the Company relating to its ownership of Common Securities of the Trust. Any such consent or waiver by the holder of this Debt Security (unless revoked as provided in the Indenture) shall be conclusive and binding upon such holder and upon all future holders and owners of this Debt Security and of any Debt Security issued in exchange herefor or in place hereof (whether by registration of transfer or otherwise), irrespective of whether or not any notation of such consent or waiver is made upon this Debt Security.

No reference herein to the Indenture and no provision of this Debt Security or of the Indenture shall alter or impair the obligation of the Company, which is absolute and unconditional, to make all payments due in respect of this Debt Security at the time and place and at the rate and in the money herein prescribed.

As provided in the Indenture and subject to certain limitations herein and therein set forth, this Debt Security is transferable by the holder hereof on the Debt Security Register (as defined in the Indenture) of the Company, upon surrender of this Debt Security for registration of transfer at the office or agency of the Trustee in Wilmington, Delaware, or at any other office or agency of the Company in Wilmington, Delaware or Des Moines, Iowa, accompanied by a written instrument or instruments of transfer in form satisfactory to the Company or the Trustee duly executed by the holder hereof or such holder's attorney duly authorized in writing, and thereupon one or more new Debt Securities of authorized denominations and for the same aggregate principal amount will be issued to the designated transferee or transferees. No service charge will be made for any such registration of transfer, but the Company or the Trustee may require payment of a sum sufficient to cover any tax, fee or other governmental charge payable in relation thereto as specified in the Indenture.

Prior to due presentment for registration of transfer of this Debt Security, the Company, the Trustee, any Authenticating Agent, any Paying Agent, any transfer agent and the Debt Security registrar may deem and treat the holder hereof as the absolute owner hereof (whether or not this Debt Security shall be overdue and notwithstanding any notice of ownership or writing hereon) for the purpose of

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receiving payment of the principal of and premium, if any, and interest on this Debt Security and for all other purposes, and none of the Company, the Trustee, any Authenticating Agent, any Paying Agent, any transfer agent or any Debt Security registrar shall be affected by any notice to the contrary.

As provided in the Indenture and subject to certain limitations herein and therein set forth, Debt Securities are exchangeable for a like aggregate principal amount of Debt Securities of different authorized denominations, as requested by the holder surrendering the same.

The Debt Securities are issuable only in registered certificated form without coupons.

No recourse shall be had for the payment of the principal of or premium, if any, or interest on this Debt Security, or for any claim based hereon, or otherwise in respect hereof, or based on or in respect of the Indenture, against any incorporator, stockholder, officer, director, employee or agent, past, present or future, as such, of the Company or of any predecessor or successor corporation of the Company, whether by virtue of any constitution, statute or rule of law, or by the enforcement of any assessment or penalty or otherwise, all such liability being, by the acceptance hereof and as part of the consideration for the issuance hereof, expressly waived and released.

All terms used but not defined in this Debt Security shall have the meanings assigned to them in the Indenture.

THIS DEBT SECURITY SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK, WITHOUT REGARD TO CONFLICT OF LAWS PRINCIPLES OF SAID STATE OTHER THAN SECTION 5-1401 OF THE NEW YORK GENERAL OBLIGATIONS LAW.

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**EXHIBIT B**

**FORM OF OFFICERS' CERTIFICATE**

**QUARTERLY FINANCIAL REPORT**

TO: Wilmington Trust Company  
Rodney Square North  
1100 North Market Street  
Wilmington, Delaware 19890-0001  
Attention: Corporate Trust Administration

**PLEASE COMPLETE FOR EACH INSURANCE SUBSIDIARY**

Name of Insurance Company: \_\_\_\_\_

Date of Report: \_\_\_\_\_

Current A.M. Best Insurer's Financial Strength Rating: \_\_\_\_\_

Please provide the following information for the most recent quarterly period ended  
Quarter: o March 31 o June 30 o September 30 o December 31 Year: 20\_\_

Most Recently Reported NAIC Risk Based Capital Ratio \_\_\_\_\_ %

Total Policyholders' Surplus \$ \_\_\_\_\_

Ratio of Consolidated Debt and Preferred Stock to Total Policyholders' Surplus \_\_\_\_\_ %

Total Admitted Assets \$ \_\_\_\_\_

Ratio of NAIC Class 1 & 2 Rated Investments to Total Fixed Income Investments \_\_\_\_\_ %

Ratio of NAIC Class 1 & 2 Rated Investments to Total Investments \_\_\_\_\_ %

Return on Policyholders' Surplus for the Trailing Twelve Month Period \_\_\_\_\_ %

For Property & Casualty Companies:

Expense Ratio \_\_\_\_\_ %

Loss and LAE Ratio \_\_\_\_\_ %

Combined Ratio \_\_\_\_\_ %

Net Premiums Written (trailing twelve month period) to Policyholders' Surplus \_\_\_\_\_ %

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### CERTIFICATION

The undersigned hereby certifies that he/she has duly executed the attached Quarterly Financial Report, dated \_\_\_\_\_, \_\_\_\_\_, for and on behalf of \_\_\_\_\_, that he/she is the \_\_\_\_\_ of such Company, and that he/she has authority to execute and file such instrument. The undersigned further certifies that he/she is familiar with such instrument and that the facts therein set forth are true to the best of his/her knowledge, information and belief.

Name: \_\_\_\_\_

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### LEGEND

*NAIC Risk Based Capital Ratio-P&C* (Total Adjusted Capital (as defined in the NAIC RBC Instructions for P&C Insurers) /Authorized Control Level Risk-Based Capital)

*NAIC Risk Based Capital Ratio Life* (Total Adjusted Capital (as defined in the NAIC RBC Instructions for Life Insurers) /Authorized Control Level Risk Based Capital)

*Total Capital and Surplus-Life* Common Capital Stock + Preferred Capital Stock + Aggregate Write-Ins for

|  |  |
|--|--|
|  | <i>other than special surplus funds + Surplus Notes + Gross Paid-In and Contributed Surplus + Aggregate Write Ins for Special Surplus Funds + Unassigned Funds (Surplus) + Asset Valuation Reserve—Treasury Stock</i>  |
| <i>Total Capital and Surplus P&amp;C</i>   | <i>Aggregate Write-Ins for Special Surplus Funds + Common Capital Stock + Preferred Capital Stock + Aggregate Write Ins for other than special surplus funds + Surplus Notes +Gross Paid-In and Contributed Surplus + Unassigned Funds (Surplus) —Treasury Stock</i> |
| <i>Total Admitted Assets</i>   | <i>Total admitted assets as determined in accordance with statutory accounting principles</i>  |
| <i>Return on Policyholders' Surplus for the Trailing Twelve Month Period</i>         | <i>Net Income/Policyholders' Surplus for the Trailing Twelve Month Period</i>  |
| <i>Expense Ratio</i>   | <i>Other Underwriting Expenses Incurred/Net premiums Earned</i>  |
| <i>Loss and LAE Ratio</i>  | <i>(Losses Incurred + Loss Expenses Incurred) /Net Premiums Earned</i>   |
| <i>Combined Ratio</i>  | <i>Expense Ratio + Loss and LAE Ratio</i>  |
| <i>Net Premiums Written (trailing twelve month period) to Policyholders' Surplus</i> | <i>Net Premiums Written of the trailing twelve month period/Policyholders' Surplus</i>   |

QuickLinks

[Exhibit 4.11](#)

[INDENTURE](#)

**GUARANTEE AGREEMENT**

**American Equity Investment Life Holding Company**

**Dated as of December 16, 2003**

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## GUARANTEE AGREEMENT

This GUARANTEE AGREEMENT (the "Guarantee"), dated as of [CLOSING DATE], 2003, is executed and delivered by American Equity Investment Life Holding Company, an insurance holding company incorporated in the State of Iowa (the "Guarantor"), and Wilmington Trust Company, a Delaware banking corporation, as trustee (the "Guarantee Trustee"), for the benefit of the Holders (as defined herein) from time to time of the Capital Securities (as defined herein) of American Equity Capital Trust IV, a Delaware statutory trust (the "Issuer").

WHEREAS, pursuant to an Amended and Restated Declaration of Trust (the "Declaration"), dated as of December 16, 2003, among the trustees named therein of the Issuer, American Equity Investment Life Holding Company, as sponsor, and the Holders from time to time of undivided beneficial interests in the assets of the Issuer, the Issuer is issuing on the date hereof securities, having an aggregate liquidation amount of \$12,000,000, designated in the Declaration as TRUPS® (the "Capital Securities"); and

WHEREAS, as incentive for the Holders to purchase the Capital Securities, the Guarantor desires irrevocably and unconditionally to agree, to the extent set forth in this Guarantee, to pay to the Holders of Capital Securities the Guarantee Payments (as defined herein) and to make certain other payments on the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the purchase by each Holder of the Capital Securities, which purchase the Guarantor hereby agrees shall benefit the Guarantor, the Guarantor executes and delivers this Guarantee for the benefit of the Holders.

## ARTICLE I

### DEFINITIONS AND INTERPRETATION

#### SECTION 1.1 *Definitions and Interpretation.*

In this Guarantee, unless the context otherwise requires:

- (a) capitalized terms used in this Guarantee but not defined in the preamble above have the respective meanings assigned to them in this Section 1.1;
- (b) a term defined anywhere in this Guarantee has the same meaning throughout;
- (c) all references to "the Guarantee" or "this Guarantee" are to this Guarantee as modified, supplemented or amended from time to time;
- (d) all references in this Guarantee to Articles and Sections are to Articles and Sections of this Guarantee, unless otherwise specified;
- (e) terms defined in the Declaration as of the date of execution of this Guarantee have the same meanings when used in this Guarantee, unless otherwise defined in this Guarantee or unless the context otherwise requires; and
- (f) a reference to the singular includes the plural and vice versa.

"Beneficiaries" means any Person to whom the Issuer is or hereafter becomes indebted or liable.

"Common Securities" has the meaning specified in the Declaration.

"Corporate Trust Office" means the office of the Guarantee Trustee at which at any particular time its corporate trust business shall be principally administered, which at all times shall be located within the United States and at the time of the execution of this Guarantee shall be Rodney Square North, 1100 North Market Street, Wilmington, DE 19890-0001.

"Covered Person" means any Holder of Capital Securities.

"Debenture Issuer" means American Equity Investment Life Holding Company or any successor entity resulting from any consolidation, amalgamation, merger or other business combination, in its capacity as issuer of the Debentures.

"Debentures" means the junior subordinated debentures of the Debenture Issuer that are designated in the Indenture as the "Floating Rate Junior Subordinated Debt Securities due 2034" and held by the Institutional Trustee (as defined in the Declaration) of the Issuer.

"Event of Default" has the meaning set forth in Section 2.4.

"Guarantee Payments" means the following payments or distributions, without duplication, with respect to the Capital Securities, to the extent not paid or made by the Issuer: (i) any accrued and unpaid Distributions (as defined in the Declaration) which are required to be paid on such Capital Securities to the extent the Issuer has funds available in the Property Account (as defined in the Declaration) therefor at such time, (ii) the price payable upon the redemption of any Capital Securities to the extent the Issuer has funds available in the Property Account therefor at such time, with respect to any Capital Securities that are (1) called for redemption by the Issuer or (2) mandatorily redeemed by the Issuer, in each case, in accordance with the terms of such Capital Securities, and (iii) upon a voluntary or involuntary liquidation, dissolution, winding-up or termination of the Issuer (other than in connection with the distribution of Debentures to the Holders of the Capital Securities in exchange therefor as provided in the Declaration), the lesser of (a) the aggregate of the liquidation amount of the Capital Securities and all accrued and unpaid Distributions on the Capital Securities to the date of payment, to the extent the Issuer has funds available in the Property Account therefor at such time, and (b) the amount of assets of the Issuer remaining available for distribution to Holders in liquidation of the Issuer after satisfaction of liabilities to creditors of the Issuer as required by applicable law (in either case, the "Liquidation Distribution").

"Guarantee Trustee" means Wilmington Trust Company, until a Successor Guarantee Trustee has been appointed and has accepted such appointment pursuant to the terms of this Guarantee and thereafter means each such Successor Guarantee Trustee.

"Holder" means any Person in whose name any Capital Securities are registered on the books and records of the Issuer; provided, however, that, in determining whether the holders of the requisite percentage of Capital Securities have given any request, notice, consent or waiver hereunder, "Holder" shall not include the Guarantor or any Affiliate of the Guarantor.

"Indemnified Person" means the Guarantee Trustee (including in its individual capacity), any Affiliate of the Guarantee Trustee, or any officers, directors, shareholders, members, partners, employees, representatives, nominees, custodians or agents of the Guarantee Trustee.

"Indenture" means the Indenture, dated as of December 16, 2003, between the Debenture Issuer and Wilmington Trust Company, not in its individual capacity but solely as trustee, and any indenture supplemental thereto pursuant to which the Debentures are to be issued to the Institutional Trustee of the Issuer.

"Liquidation Distribution" has the meaning set forth in the definition of "Guarantee Payments" herein.

"Majority in liquidation amount of the Capital Securities" means Holder(s) of outstanding Capital Securities, voting together as a class, but separately from the holders of Common Securities, of more than 50% of the aggregate liquidation amount (including the amount that would be paid upon the redemption, liquidation or otherwise on the date upon which the voting percentages are determined, plus unpaid Distributions accrued thereon to such date) of all Capital Securities then outstanding.

"Obligations" means any costs, expenses or liabilities (but not including liabilities related to taxes) of the Issuer, other than obligations of the Issuer to pay to holders of any Trust Securities the amounts due such holders pursuant to the terms of the Trust Securities.

"Officer's Certificate" means, with respect to any Person, a certificate signed by one Authorized Officer of such Person. Any Officer's Certificate delivered with respect to compliance with a condition or covenant provided for in this Guarantee shall include:

- (a) a statement that such officer signing the Officer's Certificate has read the covenant or condition and the definitions relating thereto;
- (b) a brief statement of the nature and scope of the examination or investigation undertaken by such officer in rendering the Officer's Certificate;
- (c) a statement that such officer has made such examination or investigation as, in such officer's opinion, is necessary to enable such officer to express an informed opinion as to whether or not such covenant or condition has been complied with; and
- (d) a statement as to whether, in the opinion of such officer, such condition or covenant has been complied with.

"Person" means a legal person, including any individual, corporation, estate, partnership, joint venture, association, joint stock company, limited liability company, trust, unincorporated association, or government or any agency or political subdivision thereof, or any other entity of whatever nature.

"Responsible Officer" means, with respect to the Guarantee Trustee, any officer within the Corporate Trust Office of the Guarantee Trustee with direct responsibility for the administration of any matters relating to this Guarantee, including any vice president, any assistant vice president, any secretary, any assistant secretary, the treasurer, any assistant treasurer, any trust officer or other officer of the Corporate Trust Office of the Guarantee Trustee customarily performing functions similar to those performed by any of the above designated officers and also means, with respect to a particular corporate trust matter, any other officer to whom such matter is referred because of that officer's knowledge of and familiarity with the particular subject.

"Successor Guarantee Trustee" means a successor Guarantee Trustee possessing the qualifications to act as Guarantee Trustee under Section 3.1.

"Trust Securities" means the Common Securities and the Capital Securities.

## ARTICLE II

### POWERS, DUTIES AND RIGHTS OF THE GUARANTEE TRUSTEE

SECTION 2.1 *Powers and Duties of the Guarantee Trustee.*

(a) This Guarantee shall be held by the Guarantee Trustee for the benefit of the Holders of the Capital Securities, and the Guarantee Trustee shall not transfer this Guarantee to any Person except a Holder of Capital Securities exercising his or her rights pursuant to Section 4.4 (b) or to a Successor Guarantee Trustee on acceptance by such Successor Guarantee Trustee of its appointment to act as Successor Guarantee Trustee. The right, title and interest of the Guarantee Trustee shall automatically vest in any Successor Guarantee Trustee, and such vesting and cessation of title shall be effective whether or not conveyancing documents have been executed and delivered pursuant to the appointment of such Successor Guarantee Trustee.

(b) If an Event of Default actually known to a Responsible Officer of the Guarantee Trustee has occurred and is continuing, the Guarantee Trustee shall enforce this Guarantee for the benefit of the Holders of the Capital Securities.

(c) The Guarantee Trustee, before the occurrence of any Event of Default and after the curing or waiving of all Events of Default that may have occurred, shall undertake to perform only such duties as are specifically set forth in this Guarantee, and no implied covenants shall be read into this Guarantee against the Guarantee Trustee. In case an Event of Default has occurred (that has not been cured or

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waived pursuant to Section 2.4(b)) and is actually known to a Responsible Officer of the Guarantee Trustee, the Guarantee Trustee shall exercise such of the rights and powers vested in it by this Guarantee, and use the same degree of care and skill in its exercise thereof, as a prudent person would exercise or use under the circumstances in the conduct of his or her own affairs.

(d) No provision of this Guarantee shall be construed to relieve the Guarantee Trustee from liability for its own negligent action, its own negligent failure to act, or its own willful misconduct or bad faith, except that:

(i) prior to the occurrence of any Event of Default and after the curing or waiving of all Events of Default that may have occurred:

(A) the duties and obligations of the Guarantee Trustee shall be determined solely by the express provisions of this Guarantee, and the Guarantee Trustee shall not be liable except for the performance of such duties and obligations as are specifically set forth in this Guarantee, and no implied covenants or obligations shall be read into this Guarantee against the Guarantee Trustee; and

(B) in the absence of bad faith on the part of the Guarantee Trustee, the Guarantee Trustee may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon any certificates or opinions furnished to the Guarantee Trustee and conforming to the requirements of this Guarantee; but in the case of any such certificates or opinions furnished to the Guarantee Trustee, the Guarantee Trustee shall be under a duty to examine the same to determine whether or not on their face they conform to the requirements of this Guarantee;

(ii) the Guarantee Trustee shall not be liable for any error of judgment made in good faith by a Responsible Officer of the Guarantee Trustee, unless it shall be proved that such Responsible Officer of the Guarantee Trustee or the Guarantee Trustee was negligent in ascertaining the pertinent facts upon which such judgment was made;

(iii) the Guarantee Trustee shall not be liable with respect to any action taken or omitted to be taken by it in good faith in accordance with the written direction of the Holders of a Majority in liquidation amount of the Capital Securities relating to the time, method and place of conducting any proceeding for any remedy available to the Guarantee Trustee, or exercising any trust or power conferred upon the Guarantee Trustee under this Guarantee; and

(iv) no provision of this Guarantee shall require the Guarantee Trustee to expend or risk its own funds or otherwise incur personal financial liability in the performance of any of its duties or in the exercise of any of its rights or powers, if the Guarantee Trustee shall have reasonable grounds for believing that the repayment of such funds is not reasonably assured to it under the terms of this Guarantee, or security and indemnity, reasonably satisfactory to the Guarantee Trustee, against such risk or liability is not reasonably assured to it.

SECTION 2.2 *Certain Rights of the Guarantee Trustee.*

(a) Subject to the provisions of Section 2.1:

(i) The Guarantee Trustee may conclusively rely, and shall be fully protected in acting or refraining from acting upon, any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond, debenture, note, other evidence of indebtedness or other paper or document believed by it to be genuine and to have been signed, sent or presented by the proper party or parties.

(ii) Any direction or act of the Guarantor contemplated by this Guarantee shall be sufficiently evidenced by an Officer's Certificate.

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(iii) Whenever, in the administration of this Guarantee, the Guarantee Trustee shall deem it desirable that a matter be proved or established before taking, suffering or omitting any action hereunder, the Guarantee Trustee (unless other evidence is herein specifically prescribed) may, in the absence of bad faith on its part, request and conclusively rely upon an Officer's Certificate of the Guarantor which, upon receipt of such request, shall be promptly delivered by the Guarantor.

(iv) The Guarantee Trustee shall have no duty to see to any recording, filing or registration of any instrument or other writing (or any rerecording, refiling or reregistration thereof).

(v) The Guarantee Trustee may consult with counsel of its selection, and the advice or opinion of such counsel with respect to legal matters shall be full and complete authorization and protection in respect of any action taken, suffered or omitted by it hereunder in good faith and in accordance with such advice or opinion. Such counsel may be counsel to the Guarantor or any of its Affiliates and may include any of its employees. The Guarantee Trustee shall have the right at any time to seek instructions concerning the administration of this Guarantee from any court of competent jurisdiction.

(vi) The Guarantee Trustee shall be under no obligation to exercise any of the rights or powers vested in it by this Guarantee at the request or direction of any Holder, unless such Holder shall have provided to the Guarantee Trustee such security and indemnity, reasonably satisfactory to the Guarantee Trustee, against the costs, expenses (including attorneys' fees and expenses and the expenses of the Guarantee Trustee's agents, nominees or custodians) and liabilities that might be incurred by it in complying with such request or direction, including such reasonable advances as may be requested by the Guarantee Trustee; provided, however, that nothing contained in this Section 2.2(a)(vi) shall be taken to relieve the Guarantee Trustee, upon the occurrence of an Event of Default, of its obligation to exercise the rights and powers vested in it by this Guarantee.

(vii) The Guarantee Trustee shall not be bound to make any investigation into the facts or matters stated in any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond, debenture, note, other evidence of indebtedness or other paper or document, but the Guarantee Trustee, in its discretion, may make such further inquiry or investigation into such facts or matters as it may see fit.

(viii) The Guarantee Trustee may execute any of the trusts or powers hereunder or perform any duties hereunder either directly or by or through agents, nominees, custodians or attorneys, and the Guarantee Trustee shall not be responsible for any misconduct or negligence on the part of any agent or attorney appointed with due care by it hereunder.

(ix) Any action taken by the Guarantee Trustee or its agents hereunder shall bind the Holders of the Capital Securities, and the signature of the Guarantee Trustee or its agents alone shall be sufficient and effective to perform any such action. No third party shall be required to inquire as to the authority of the Guarantee Trustee to so act or as to its compliance with any of the terms and provisions of this Guarantee, both of which shall be conclusively evidenced by the Guarantee Trustee's or its agent's taking such action.

(x) Whenever in the administration of this Guarantee the Guarantee Trustee shall deem it desirable to receive instructions with respect to enforcing any remedy or right or taking any other action hereunder, the Guarantee Trustee (A) may request instructions from the Holders of a Majority in liquidation amount of the Capital Securities, (B) may refrain from enforcing such remedy or right or taking such other action until such instructions are received and (C) shall be protected in conclusively relying on or acting in accordance with such instructions.

(xi) The Guarantee Trustee shall not be liable for any action taken, suffered, or omitted to be taken by it in good faith and reasonably believed by it to be authorized or within the discretion or rights or powers conferred upon it by this Guarantee.

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(b) No provision of this Guarantee shall be deemed to impose any duty or obligation on the Guarantee Trustee to perform any act or acts or exercise any right, power, duty or obligation conferred or imposed on it, in any jurisdiction in which it shall be illegal or in which the Guarantee Trustee shall be unqualified or incompetent in accordance with applicable law to perform any such act or acts or to exercise any such right, power, duty or obligation. No permissive power or authority available to the Guarantee Trustee shall be construed to be a duty.

#### SECTION 2.3 *Not Responsible for Recitals or Issuance of Guarantee.*

The recitals contained in this Guarantee shall be taken as the statements of the Guarantor, and the Guarantee Trustee does not assume any responsibility for their correctness. The Guarantee Trustee makes no representation as to the validity or sufficiency of this Guarantee.

#### SECTION 2.4 *Events of Default; Waiver.*

(a) An "Event of Default" under this Guarantee will occur upon the failure of the Guarantor to perform any of its payment or other obligations hereunder.

(b) The Holders of a Majority in liquidation amount of the Capital Securities may, voting or consenting as a class, on behalf of the Holders of all of the Capital Securities, waive any past Event of Default and its consequences. Upon such waiver, any such Event of Default shall cease to exist, and shall be deemed to have been cured, for every purpose of this Guarantee, but no such waiver shall extend to any subsequent or other default or Event of Default or impair any right consequent thereon.

#### SECTION 2.5 *Events of Default; Notice.*

(a) The Guarantee Trustee shall, within 90 days after the occurrence of an Event of Default, transmit by mail, first class postage prepaid, to the Holders of the Capital Securities, notices of all Events of Default actually known to a Responsible Officer of the Guarantee Trustee, unless such defaults have been cured before the giving of such notice, provided, however, that the Guarantee Trustee shall be protected in withholding such notice if and so long as a Responsible Officer of the Guarantee Trustee in good faith determines that the withholding of such notice is in the interests of the Holders of the Capital Securities.

(b) The Guarantee Trustee shall not be charged with knowledge of any Event of Default unless the Guarantee Trustee shall have received written notice thereof from the Guarantor or a Holder of the Capital Securities, or a Responsible Officer of the Guarantee Trustee charged with the administration of this Guarantee shall have actual knowledge thereof.

### ARTICLE III

#### THE GUARANTEE TRUSTEE

##### SECTION 3.1 *The Guarantee Trustee; Eligibility.*

(a) There shall at all times be a Guarantee Trustee which shall:

(i) not be an Affiliate of the Guarantor; and

(ii) be a corporation or national association organized and doing business under the laws of the United States of America or any state thereof or of the District of Columbia, or Person authorized under such laws to exercise corporate trust powers, having a combined capital and surplus of at least 50 million U.S. dollars (\$50,000,000), and subject to supervision or examination by federal, state or District of Columbia authority. If such corporation or national association publishes reports of condition at least annually, pursuant to law or to the requirements of the supervising or examining authority referred to above, then, for the purposes of this Section 3.1(a)(ii), the combined capital and surplus of such corporation or national association shall be deemed to be its combined capital and surplus as set forth in its most recent report of condition so published.

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(b) If at any time the Guarantee Trustee shall cease to be eligible to so act under Section 3.1(a), the Guarantee Trustee shall immediately resign in the manner and with the effect set forth in Section 3.2(c).

(c) If the Guarantee Trustee has or shall acquire any "conflicting interest" within the meaning of Section 310(b) of the Trust Indenture Act, the Guarantee Trustee shall either eliminate such interest or resign to the extent and in the manner provided by, and subject to, this Guarantee.

#### SECTION 3.2 *Appointment, Removal and Resignation of the Guarantee Trustee.*

(a) Subject to Section 3.2(b), the Guarantee Trustee may be appointed or removed without cause at any time by the Guarantor except during an Event of Default.

(b) The Guarantee Trustee shall not be removed in accordance with Section 3.2(a) until a Successor Guarantee Trustee has been appointed and has accepted such appointment by written instrument executed by such Successor Guarantee Trustee and delivered to the Guarantor.

(c) The Guarantee Trustee appointed to office shall hold office until a Successor Guarantee Trustee shall have been appointed or until its removal or resignation. The Guarantee Trustee may resign from office (without need for prior or subsequent accounting) by an instrument in writing executed by the Guarantee Trustee and delivered to the Guarantor, which resignation shall not take effect until a Successor Guarantee Trustee has been appointed and has accepted such appointment by an instrument in writing executed by such Successor Guarantee Trustee and delivered to the Guarantor and the resigning Guarantee Trustee.

(d) If no Successor Guarantee Trustee shall have been appointed and accepted appointment as provided in this Section 3.2 within 60 days after delivery of an instrument of removal or resignation, the Guarantee Trustee resigning or being removed may petition any court of competent jurisdiction for appointment of a Successor Guarantee Trustee. Such court may thereupon, after prescribing such notice, if any, as it may deem proper, appoint a Successor Guarantee Trustee.

(e) No Guarantee Trustee shall be liable for the acts or omissions to act of any Successor Guarantee Trustee.

(f) Upon termination of this Guarantee or removal or resignation of the Guarantee Trustee pursuant to this Section 3.2, the Guarantor shall pay to the Guarantee Trustee all amounts owing to the Guarantee Trustee under Sections 7.2 and 7.3 accrued to the date of such termination, removal or resignation.

### ARTICLE IV

#### GUARANTEE

##### SECTION 4.1 *Guarantee.*

(a) The Guarantor irrevocably and unconditionally agrees to pay in full to the Holders the Guarantee Payments (without duplication of amounts theretofore paid by the Issuer), as and when due, regardless of any defense (except defense of payment by the Issuer), right of set-off or counterclaim that the Issuer may have or assert. The Guarantor's obligation to make a Guarantee Payment may be satisfied by direct payment of the required amounts by the Guarantor to the Holders or by causing the Issuer to pay such amounts to the Holders.

(b) The Guarantor hereby also agrees to assume any and all Obligations of the Issuer and in the event any such Obligation is not so assumed, subject to the terms and conditions hereof, the Guarantor hereby irrevocably and unconditionally guarantees to each Beneficiary the full payment, when and as due, of any and all Obligations to such Beneficiaries. This Guarantee is intended to be for the Beneficiaries who have received notice hereof.

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##### SECTION 4.2 *Waiver of Notice and Demand.*

The Guarantor hereby waives notice of acceptance of this Guarantee and of any liability to which it applies or may apply, presentment, demand for payment, any right to require a proceeding first against the Issuer or any other Person before proceeding against the Guarantor, protest, notice of nonpayment, notice of dishonor, notice of redemption and all other notices and demands.

##### SECTION 4.3 *Obligations Not Affected.*

The obligations, covenants, agreements and duties of the Guarantor under this Guarantee shall in no way be affected or impaired by reason of the happening from time to time of any of the following:

(a) the release or waiver, by operation of law or otherwise, of the performance or observance by the Issuer of any express or implied agreement, covenant, term or condition relating to the Capital Securities to be performed or observed by the Issuer;

(b) the extension of time for the payment by the Issuer of all or any portion of the Distributions, the price payable upon the redemption of the Capital Securities, the Liquidation Distribution or any other sums payable under the terms of the Capital Securities or the extension of time for the

performance of any other obligation under, arising out of, or in connection with, the Capital Securities (other than an extension of time for the payment of the Distributions, the price payable upon the redemption of the Capital Securities, the Liquidation Distribution or other sums payable that results from the extension of any interest payment period on the Debentures);

(c) any failure, omission, delay or lack of diligence on the part of the Holders to enforce, assert or exercise any right, privilege, power or remedy conferred on the Holders pursuant to the terms of the Capital Securities, or any action on the part of the Issuer granting indulgence or extension of any kind;

(d) the voluntary or involuntary liquidation, dissolution, sale of any collateral, receivership, insolvency, bankruptcy, assignment for the benefit of creditors, reorganization, arrangement, composition or readjustment of debt of, or other similar proceedings affecting, the Issuer or any of the assets of the Issuer;

(e) any invalidity of, or defect or deficiency in, the Capital Securities;

(f) the settlement or compromise of any obligation guaranteed hereby or hereby incurred, or

(g) any other circumstance whatsoever that might otherwise constitute a legal or equitable discharge or defense of a guarantor, it being the intent of this Section 4.3 that the obligations of the Guarantor hereunder shall be absolute and unconditional under any and all circumstances.

There shall be no obligation of the Holders to give notice to, or obtain consent of, the Guarantor with respect to the happening of any of the foregoing.

#### SECTION 4.4 *Rights of Holders.*

(a) The Holders of a Majority in liquidation amount of the Capital Securities have the right to direct the time, method and place of conducting any proceeding for any remedy available to the Guarantee Trustee in respect of this Guarantee or to direct the exercise of any trust or power conferred upon the Guarantee Trustee under this Guarantee; provided, however, that (subject to Sections 2.1 and 2.2) the Guarantee Trustee shall have the right to decline to follow any such direction if the Guarantee Trustee shall determine that the actions so directed would be unjustly prejudicial to the Holders not taking part in such direction or if the Guarantee Trustee being advised by legal counsel determines that the action or proceeding so directed may not lawfully be taken or if the Guarantee Trustee in good faith by its board of directors or trustees, executive committee or a trust committee of directors or trustees and/or Responsible Officers shall determine that the action or proceeding so directed would involve the Guarantee Trustee in personal liability.

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(b) Any Holder of Capital Securities may institute a legal proceeding directly against the Guarantor to enforce the Guarantee Trustee's rights under this Guarantee, without first instituting a legal proceeding against the Issuer, the Guarantee Trustee or any other Person. The Guarantor waives any right or remedy to require that any such action be brought first against the Issuer, the Guarantee Trustee or any other Person before so proceeding directly against the Guarantor.

#### SECTION 4.5 *Guarantee of Payment.*

This Guarantee creates a guarantee of payment and not of collection.

#### SECTION 4.6 *Subrogation.*

The Guarantor shall be subrogated to all (if any) rights of the Holders of Capital Securities against the Issuer in respect of any amounts paid to such Holders by the Guarantor under this Guarantee; provided, however, that the Guarantor shall not (except to the extent required by applicable provisions of law) be entitled to enforce or exercise any right that it may acquire by way of subrogation or any indemnity, reimbursement or other agreement, in all cases as a result of payment under this Guarantee, if, after giving effect to any such payment, any amounts are due and unpaid under this Guarantee. If any amount shall be paid to the Guarantor in violation of the preceding sentence, the Guarantor agrees to hold such amount in trust for the Holders and to pay over such amount to the Holders.

#### SECTION 4.7 *Independent Obligations.*

The Guarantor acknowledges that its obligations hereunder are independent of the obligations of the Issuer with respect to the Capital Securities and that the Guarantor shall be liable as principal and as debtor hereunder to make Guarantee Payments pursuant to the terms of this Guarantee notwithstanding the occurrence of any event referred to in subsections (a) through (g), inclusive, of Section 4.3 hereof.

#### SECTION 4.8 *Enforcement.*

A Beneficiary may enforce the Obligations of the Guarantor contained in Section 4.1(b) directly against the Guarantor, and the Guarantor waives any right or remedy to require that any action be brought against the Issuer or any other person or entity before proceeding against the Guarantor.

The Guarantor shall be subrogated to all rights (if any) of any Beneficiary against the Issuer in respect of any amounts paid to the Beneficiaries by the Guarantor under this Guarantee; provided, however, that the Guarantor shall not (except to the extent required by applicable provisions of law) be entitled to enforce or exercise any rights that it may acquire by way of subrogation or any indemnity, reimbursement or other agreement, in all cases as a result of payment under this Guarantee, if, after giving effect to such payment, any amounts are due and unpaid under this Guarantee. If any amount shall be paid to the Guarantor in violation of the preceding sentence, the Guarantor agrees to hold such amount in trust for the Beneficiaries and to pay over such amount to the Beneficiaries.

### ARTICLE V

#### LIMITATION OF TRANSACTIONS; SUBORDINATION

##### SECTION 5.1 *Limitation of Transactions.*

So long as any Capital Securities remain outstanding, if (a) there shall have occurred and be continuing an Event of Default or (b) Debenture Issuer shall have selected an Extension Period as provided in the Indenture and such period, or any extension thereof, shall have commenced and be continuing, then the

Guarantor may not (x) declare or pay any dividends or distributions on, or redeem, purchase, acquire, or make a liquidation payment with respect to, any of the Guarantor's capital stock, (y) make any payment of principal of or interest or premium, if any, on or repay, repurchase or redeem any debt securities of the Guarantor that rank in all respects *pari passu* with or

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junior in interest to the Debentures or (z) make any payment under any guarantees of the Guarantor that rank in all respects *pari passu* with or junior in interest to this Guarantee (other than (i) repurchases, redemptions or other acquisitions of shares of capital stock of the Guarantor (A) in connection with any employment contract, benefit plan or other similar arrangement with or for the benefit of one or more employees, officers, directors, or consultants, (B) in connection with a dividend reinvestment or stockholder stock purchase plan or (C) in connection with the issuance of capital stock of the Guarantor (or securities convertible into or exercisable for such capital stock), as consideration in an acquisition transaction entered into prior to the occurrence of the Event of Default or the applicable Extension Period, (ii) as a result of any exchange or conversion of any class or series of the Guarantor's capital stock (or any capital stock of a subsidiary of the Guarantor) for any class or series of the Guarantor's capital stock or of any class or series of the Guarantor's indebtedness for any class or series of the Guarantor's capital stock, (iii) the purchase of fractional interests in shares of the Guarantor's capital stock pursuant to the conversion or exchange provisions of such capital stock or the security being converted or exchanged, (iv) any declaration of a dividend in connection with any stockholder's rights plan, or the issuance of rights, stock or other property under any stockholder's rights plan, or the redemption or repurchase of rights pursuant thereto, or (v) any dividend in the form of stock, warrants, options or other rights where the dividend stock or the stock issuable upon exercise of such warrants, options or other rights is the same stock as that on which the dividend is being paid or ranks *pari passu* with or junior in interest to such stock).

**SECTION 5.2** *Ranking.*

This Guarantee will constitute an unsecured obligation of the Guarantor and will rank subordinate and junior in right of payment to all present and future Senior Indebtedness (as defined in the Indenture) of the Guarantor. By their acceptance thereof, each Holder of Capital Securities agrees to the foregoing provisions of this Guarantee and the other terms set forth herein.

**ARTICLE VI**

**TERMINATION**

**SECTION 6.1** *Termination.*

This Guarantee shall terminate as to the Capital Securities (i) upon full payment of the price payable upon redemption of all Capital Securities then outstanding, (ii) upon the distribution of all of the Debentures to the Holders of all of the Capital Securities or (iii) upon full payment of the amounts payable in accordance with the Declaration upon dissolution of the Issuer. This Guarantee will continue to be effective or will be reinstated, as the case may be, if at any time any Holder of Capital Securities must restore payment of any sums paid under the Capital Securities or under this Guarantee.

**ARTICLE VII**

**INDEMNIFICATION**

**SECTION 7.1** *Exculpation.*

(a) No Indemnified Person shall be liable, responsible or accountable in damages or otherwise to the Guarantor or any Covered Person for any loss, damage or claim incurred by reason of any act or omission of such Indemnified Person in good faith in accordance with this Guarantee and in a manner that such Indemnified Person reasonably believed to be within the scope of the authority conferred on such Indemnified Person by this Guarantee or by law, except that an Indemnified Person shall be liable for any such loss, damage or claim incurred by reason of such Indemnified Person's negligence, willful misconduct or bad faith with respect to such acts or omissions.

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(b) An Indemnified Person shall be fully protected in relying in good faith upon the records of the Issuer or the Guarantor and upon such information, opinions, reports or statements presented to the Issuer or the Guarantor by any Person as to matters the Indemnified Person reasonably believes are within such other Person's professional or expert competence and who, if selected by such Indemnified Person, has been selected with reasonable care by such Indemnified Person, including information, opinions, reports or statements as to the value and amount of the assets, liabilities, profits, losses, or any other facts pertinent to the existence and amount of assets from which Distributions to Holders of Capital Securities might properly be paid.

**SECTION 7.2** *Indemnification.*

(a) The Guarantor agrees to indemnify each Indemnified Person for, and to hold each Indemnified Person harmless against, any and all loss, liability, damage, claim or expense incurred without negligence, willful misconduct or bad faith on the part of the Indemnified Person, arising out of or in connection with the acceptance or administration of the trust or trusts hereunder, including but not limited to the costs and expenses (including reasonable legal fees and expenses) of the Indemnified Person defending itself against, or investigating, any claim or liability in connection with the exercise or performance of any of the Indemnified Person's powers or duties hereunder. The obligation to indemnify as set forth in this Section 7.2 shall survive the resignation or removal of the Guarantee Trustee and the termination of this Guarantee.

(b) Promptly after receipt by an Indemnified Person under this Section 7.2 of notice of the commencement of any action, such Indemnified Person will, if a claim in respect thereof is to be made against the Guarantor under this Section 7.2, notify the Guarantor in writing of the commencement thereof; but the failure so to notify the Guarantor (i) will not relieve the Guarantor from liability under paragraph (a) above unless and to the extent that the Guarantor did not otherwise learn of such action and such failure results in the forfeiture by the Guarantor of substantial rights and defenses and (ii) will not, in any event, relieve the

Guarantor from any obligations to any Indemnified Person other than the indemnification obligation provided in paragraph (a) above. The Guarantor shall be entitled to appoint counsel of the Guarantor's choice at the Guarantor's expense to represent the Indemnified Person in any action for which indemnification is sought (in which case the Guarantor shall not thereafter be responsible for the fees and expenses of any separate counsel retained by the Indemnified Person or Persons except as set forth below); provided, however, that such counsel shall be satisfactory to the Indemnified Person. Notwithstanding the Guarantor's election to appoint counsel to represent the Indemnified Person in any action, the Indemnified Person shall have the right to employ separate counsel (including local counsel), and the Guarantor shall bear the reasonable fees, costs and expenses of such separate counsel, if (i) the use of counsel chosen by the Guarantor to represent the Indemnified Person would present such counsel with a conflict of interest, (ii) the actual or potential defendants in, or targets of, any such action include both the Indemnified Person and the Guarantor and the Indemnified Person shall have reasonably concluded that there may be legal defenses available to it and/or other Indemnified Persons which are different from or additional to those available to the Guarantor, (iii) the Guarantor shall not have employed counsel satisfactory to the Indemnified Person to represent the Indemnified Person within a reasonable time after notice of the institution of such action or (iv) the Guarantor shall authorize the Indemnified Person to employ separate counsel at the expense of the Guarantor. The Guarantor will not, without the prior written consent of the Indemnified Persons, settle or compromise or consent to the entry of any judgment with respect to any pending or threatened claim, action, suit or proceeding in respect of which indemnification or contribution may be sought hereunder (whether or not the Indemnified Persons are actual or potential parties to such claim or action) unless such settlement, compromise or consent includes an unconditional release of each Indemnified Person from all liability arising out of such claim, action, suit or proceeding.

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SECTION 7.3 *Compensation; Reimbursement of Expenses.*

The Guarantor agrees:

(a) to pay to the Guarantee Trustee from time to time such compensation for all services rendered by it hereunder as the parties shall agree to from time to time (which compensation shall not be limited by any provision of law in regard to the compensation of a trustee of an express trust); and

(b) except as otherwise expressly provided herein, to reimburse the Guarantee Trustee upon request for all reasonable expenses, disbursements and advances incurred or made by it in accordance with any provision of this Guarantee (including the reasonable compensation and the expenses and disbursements of its agents and counsel), except any such expense, disbursement or advance as may be attributable to the negligence, willful misconduct or bad faith of the Guarantee Trustee.

The provisions of this Section 7.3 shall survive the resignation or removal of the Guarantee Trustee and the termination of this Guarantee.

**ARTICLE VIII**

**MISCELLANEOUS**

SECTION 8.1 *Successors and Assigns.*

All guarantees and agreements contained in this Guarantee shall bind the successors, assigns, receivers, trustees and representatives of the Guarantor and shall inure to the benefit of the Holders of the Capital Securities then outstanding. Except in connection with any merger or consolidation of the Guarantor with or into another entity or any sale, transfer or lease of the Guarantor's assets to another entity, in each case to the extent permitted under the Indenture, the Guarantor may not assign its rights or delegate its obligations under this Guarantee without the prior approval of the Holders of a Majority in liquidation amount of the Capital Securities.

SECTION 8.2 *Amendments.*

Except with respect to any changes that do not adversely affect the powers, preferences, rights or interests of Holders of the Capital Securities in any material respect (in which case no approval of Holders will be required), this Guarantee may be amended only with the prior approval of the Holders of a Majority in liquidation amount of the Capital Securities. The provisions of the Declaration with respect to amendments thereof shall apply equally with respect to amendments of the Guarantee.

SECTION 8.3 *Notices.*

All notices provided for in this Guarantee shall be in writing, duly signed by the party giving such notice, and shall be delivered, telecopied or mailed by first class mail, as follows:

(a) If given to the Guarantee Trustee, at the Guarantee Trustee's mailing address set forth below (or such other address as the Guarantee Trustee may give notice of to the Holders of the Capital Securities):

Wilmington Trust Company  
Rodney Square North  
1100 North Market Street  
Wilmington, Delaware 19890-0001  
Attention: Corporate Trust Administration  
Telecopy: 302-651-8882  
Telephone: 302-651-1000

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(b) If given to the Guarantor, at the Guarantor's mailing address set forth below (or such other address as the Guarantor may give notice of to the Holders of the Capital Securities and to the Guarantee Trustee):

American Equity Investment Life Holding Company  
5000 Westown Parkway, Suite 440,  
West Des Moines, Iowa 50266  
Attention: Wendy Carlson  
Telecopy: (515) 221-0724  
Telephone: (515) 457-1824

(c) If given to any Holder of the Capital Securities, at the address set forth on the books and records of the Issuer.

All such notices shall be deemed to have been given when received in person, telecopied with receipt confirmed, or mailed by first class mail, postage prepaid, except that if a notice or other document is refused delivery or cannot be delivered because of a changed address of which no notice was given, such notice or other document shall be deemed to have been delivered on the date of such refusal or inability to deliver.

SECTION 8.4 *Benefit.*

This Guarantee is solely for the benefit of the Holders of the Capital Securities and, subject to Section 2.l(a), is not separately transferable from the Capital Securities.

SECTION 8.5 *Governing Law.*

THIS GUARANTEE SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK, WITHOUT REGARD TO CONFLICT OF LAW PRINCIPLES OF SAID STATE OTHER THAN SECTION 5-1401 OF THE NEW YORK GENERAL OBLIGATIONS LAW.

SECTION 8.6 *Counterparts.*

This Guarantee may contain more than one counterpart of the signature page and this Guarantee may be executed by the affixing of the signature of the Guarantor and the Guarantee Trustee to any of such counterpart signature pages. All of such counterpart signature pages shall be read as though one, and they shall have the same force and effect as though all of the signers had signed a single signature page.

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THIS GUARANTEE is executed as of the day and year first above written.

AMERICAN EQUITY INVESTMENT LIFE  
HOLDING COMPANY,  
as Guarantor

By: /s/ D J NOBLE

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

WILMINGTON TRUST COMPANY,  
as Guarantee Trustee

By:

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

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THIS GUARANTEE is executed as of the day and year first above written.

AMERICAN EQUITY INVESTMENT LIFE  
HOLDING COMPANY,  
as Guarantor

By:

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

WILMINGTON TRUST COMPANY,  
as Guarantee Trustee

By: /s/ DENISE M. GERAN

## QuickLinks

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This **FIRST AMENDMENT TO 1999 GENERAL AGENCY COMMISSION AND SERVICING AGREEMENT** (the "**First Amendment**"), by and between AMERICAN EQUITY INVESTMENT LIFE INSURANCE COMPANY ("**American Equity**") and AMERICAN EQUITY INVESTMENT SERVICE COMPANY ("**Service Company**"), is entered into this 23<sup>rd</sup> day of December, 2003, and shall be deemed effective as of the 1<sup>st</sup> day of July, 2003.

WHEREAS, the parties have previously entered into the 1999 General Agency Commission and Servicing Agreement (the "**1999 Agreement**"), and have now agreed to modify such 1999 Agreement in certain respects;

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, each of the parties hereto agrees as follows:

1. **Amendment of AEISC Amount.** The definition of "AEISC Amount" as set forth in Section 1 of the 1999 Agreement shall be amended by deleting such definition in its entirety and inserting the following in lieu thereof:

"AEISC Amount" shall mean, with respect to any Eligible Contract: (i) 50% of the Sales Agent Commission payable with respect to all such Eligible Contracts issued during the period from July 1, 1999 through and including August 31, 1999; (ii) 30% of the Sales Agent Commission payable with respect to all such Eligible Contracts issued from September 1, 1999 through and including December 31, 2000; and (iii) 25% of the Sales Agent Commission payable with respect to all such Eligible Contracts issued from July 1, 2003 until such time as this Agreement is terminated or modified by mutual agreement of the parties.

2. **Amendment of General Agency Current Commissions.** Section 3.01 of the Agreement shall be modified by deleting such section in its entirety and inserting in lieu thereof the following:

**3.01 General Agency Current Commissions.** American Equity shall pay to AEISC general agency current commissions ("*Current Commissions*") no later than 10:00 a.m., Central Standard Time, on each Commission Payment Date in an amount equal to (i) 0.325% of the Commission Accumulated Value of all Eligible Contracts produced on or before August 31, 1999; and 0.25% of the Commission Accumulated Value of all Eligible Contracts produced from September 1, 1999 through and including December 31, 2002; and (iii) 0.375% of the Commission Accumulated Value of all Eligible Contracts produced on or after January 1, 2003. The determination of Commission Accumulated Value for purposes of the preceding sentence shall made in each case as of the preceding Commission Payment Date.

3. **Amendment of Termination Date.** Section 10 of the 1999 Agreement shall be modified by deleting the date "June 5, 2005", and inserting in lieu thereof the date "December 31, 2008."

4. **Ratification.** Except as expressly modified by this First Amendment, the parties hereby ratify and confirm all other terms and conditions of the 1999 Agreement, all of which shall remain in full force and effect.

**IN WITNESS WHEREOF**, the parties hereto have caused this Agreement to be duly executed as of the day and year first above written.

AMERICAN EQUITY INVESTMENT LIFE INSURANCE COMPANY

AMERICAN EQUITY INVESTMENT SERVICE COMPANY

By: /s/ David J. Noble, CEO

By: /s/ David J. Noble, President

## COINSURANCE AGREEMENT

This Coinsurance Agreement (this "Agreement") is by and between EquiTrust Life Insurance Company, a corporation organized under the laws of the State of Iowa (hereinafter referred to as the "Reinsurer"), and American Equity Investment Life Insurance Company, a company organized under the laws of the State of Iowa (hereinafter referred to as the "Company").

The Company and the Reinsurer mutually agree to enter into a reinsurance transaction under the terms and conditions stated herein. This Agreement is an indemnity reinsurance agreement solely between the Company and the Reinsurer, and the performance of the obligations of each party under this Agreement shall be rendered solely to the other party. In no instance, except as set forth in the insolvency provisions of this Agreement, shall anyone other than the Company or the Reinsurer have any rights under this Agreement, and the Company shall be and shall remain the only party hereunder that is liable to any insured or beneficiary under the policy reinsured hereunder.

### ARTICLE I Definitions

As used in this Agreement, the following terms shall have the following meanings (definitions are applicable to both the singular and the plural forms of each term defined in this Article):

- 1.1 *"Account Value"* means the amount payable on a Policy upon full surrender excluding the surrender charge, determined in a manner consistent with the amounts reported quarterly in Part II of Schedule B.
- 1.2 *"Accrual Rate"* means the current prime rate as published in the Wall Street Journal applicable to the period that a payment is due plus 1.00%.
- 1.3 *"Business Day"* means any day that is not a Saturday, Sunday or other day on which national banking institutions are required or permitted by law or executive order to be closed.
- 1.4 *"Commission Allowance"* shall have the meaning set forth in Schedule C.
- 1.5 *"Effective Date"* shall have the meaning set forth in Section 2.1.
- 1.6 *"Expense Allowances"* shall have the meaning set forth in Schedule C.
- 1.7 *"GAAP Accounting Report"* means the report required to be prepared in accordance with Section 10.2 and Schedule D.
- 1.8 *"Insurance Taxes and Charges"* means all insurance taxes (not including any federal, state or local tax measured by net income) and Guaranty Fund assessments related to the Reinsured Policies.
- 1.9 *"Policy"* means any individual insurance policy described in Schedule A and all endorsements, riders, benefits, and amendments thereto.
- 1.10 *"Policy Benefits"* shall mean partial surrenders, full surrenders, death claims, and all other contractual benefits.
- 1.11 *"Premiums"* means the gross considerations for the Policies reinsured hereunder.
- 1.12 *"Monthly Accounting Report"* means the report required to be prepared in accordance with Section 10.2 and Schedule B.
- 1.13 *"Monthly Accounting Period"* means monthly with the period ending on the last day of each calendar month.

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- 1.14 *"Quota Share"* means the percentage of risk assumed by the Reinsurer with respect to the Reinsured Policies, as set forth in Schedule A.
  - 1.15 *"Reinsurance Premium"* shall mean the Quota Share of Premiums on Reinsured Policies as set forth in Schedule A.
  - 1.16 *"Reinsured Policies"* shall mean all Policies reinsured under this Agreement, as set forth in Schedule A.
  - 1.17 *"Reserves"* means Exhibit 5, part B policy reserves as defined under statutory accounting principles.
  - 1.18 *"Settlement Amount"* means the net amount due and payable to either party with respect to any Monthly Accounting Period as set forth in Section 10.3.
  - 1.19 *"Terminal Accounting and Settlement"* as described in Section 12.1 means the final accounting and payment of any amount due either party upon the termination of this Agreement.

### ARTICLE II

## Coverage

1.1 *Coverage.* For Policies issued on or after January 1, 2004, (the "Effective Date"), the Company agrees to cede to the Reinsurer, and the Reinsurer agrees to indemnify the Company for the Quota Share of the risks under the Policies as of the Effective Date. The liability of the Reinsurer with respect to its share of the risks under the Reinsured Policies including liability for Policy Benefits under the Reinsured Policies shall begin simultaneously with that of the Company, but not prior to the Effective Date.

1.2 *Conditions.* The reinsurance hereunder is subject to the same limitations, terms and conditions as the applicable Reinsured Policies hereunder, except as otherwise provided in this Agreement.

1.3 *Exclusions.* This Agreement does not apply to any risks except those risks under the applicable Reinsured Policy hereunder.

## ARTICLE III General Provisions

3.1 *Confidentiality.* In performing the obligations arising under this Agreement, Reinsurer may have access to and receive disclosure of certain information from Company which is confidential or proprietary (hereinafter "Confidential Information"). Confidential Information includes all information provided by Company to Reinsurer except (a) information which Reinsurer has confirmed is publicly known, so long as it is not publicly known through the acts or omissions of Reinsurer; or (b) information which is legally required to be disclosed by Reinsurer under a requirement of a governmental agency or a court of law having jurisdiction, but only if Reinsurer discloses only that information which, in the reasonable opinion of its counsel, is required to be disclosed. Reinsurer agrees that it will not disclose the Confidential Information to a third party other than to carry out the Reinsurer's obligations under this Agreement. Reinsurer further agrees not to appropriate any Confidential Information for its own use either during the course of or subsequent to termination of this Agreement. If Reinsurer discloses the Confidential Information to a third party in order to perform the obligations under this Agreement, the Reinsurer will disclose to the Company and will require the third party to agree to the confidentiality standards set forth in this paragraph. Company has the right, but not the obligation, to audit the Confidential Information in the possession of Reinsurer to detect use of the Confidential Information which is in violation of this Coinsurance Agreement. Reinsurer's obligations with respect to the confidentiality and security of the Confidential

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Information shall survive termination of this Agreement. All Confidential Information in any medium and any copies thereof, shall be promptly returned to Company or destroyed at Company's option upon request of Company or upon termination of this Agreement.

Notwithstanding anything in this Section 3.1 to the contrary, Company agrees that Reinsurer may disclose to analysts, rating agencies and/or any other parties approved in advance by Company, information limited to (i) the existence this Agreement; (ii) the quota share amount and total dollar amount of reinsurance hereunder (premiums, benefits, and expenses); and (iii) the terms of the Policies, but specifically excluding contract specific data from the pricing models for the Policies and/or the identities of any of Company's sales agents.

3.2 *Inspection.* Either party or its designated representative may upon advance notice of at least ten (10) Business Days inspect, at the offices of the Company or the Reinsurer, as the case may be, where such records are located, and conduct reasonable audits of, the papers and any and all other books or documents of the Company or the Reinsurer reasonably relating to the Reinsured Policies and the administrative responsibilities hereunder, during normal business hours for such period as this Agreement is in effect or for as long thereafter as the Company or the Reinsurer, as the case may be, seeks performance by the other party pursuant to the terms of this Agreement. The information obtained shall be used only for purposes relating to the reinsurance provided under this Agreement and shall not be disclosed to any person without the express permission of the other party, except to the extent that disclosure is required by law. Each party will bear its own out of pocket costs in conducting investigations under this Section. Each party's rights under this Section 3.2 shall survive termination of this Agreement until all reinsured policies have expired by their terms.

3.3 *Misunderstandings and Oversights.* If any delay, omission, error or failure to pay amounts due or to perform any other act required by this Agreement is unintentional and caused by misunderstanding, accident, or oversight, the Company and the Reinsurer shall adjust the situation to what it would have been had the misunderstanding, accident or oversight not occurred. The party first discovering such misunderstanding, accident or oversight, or act resulting from the misunderstanding or oversight, shall notify the other party in writing promptly upon discovery thereof and the parties shall act to correct such misunderstanding or oversight promptly upon receipt of such notice. However, this Section 3.3 shall not be construed as a waiver by either party of its right to enforce strictly the terms of this Agreement.

3.4 *Misstatement.* In the event that the liability provided by a Reinsured Policy is increased or decreased because of a misstatement of fact, the reinsurance hereunder shall increase or decrease proportionate to the Quota Share thereunder.

3.5 *Policy Changes.* The Company and the Reinsurer shall share, based upon the applicable Quota Share, in any increase or decrease in the Company's liability that results from any change in the terms or conditions of any Reinsured Policy arising from the insured's addition or deletion of riders.

3.6 *Compliance with Applicable Laws and Regulations.*

(a) *Agreements to be Construed in Accordance with Existing Law.* It is the intention of the parties that this Agreement and related documents shall comply with all applicable federal and state laws and regulations in such a way that a Reinsured Policy remains reinsured on the quota share reinsurance plan.

(b) *Amendment Upon Failure to Comply.* In the event that it is determined by a regulatory authority, or by either party upon the advice of regulatory authorities that this Agreement or related documents fail to conform to the requirements of existing applicable laws and regulations, the parties shall exercise reasonable efforts to reach an agreement to amend the Agreement or related documents so as to return the parties to the economic position that they would have been in had no such change occurred, or so that both parties share proportionately in the economic

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detriment of such change. If the parties are unable to reach an agreement to amend the Agreement or related documents, then the party adversely affected by the change shall have the right to bring its dispute to arbitration in accordance with the provisions of Article XIV, but in no event will this Agreement terminate prior to resolution of the dispute in arbitration.

(c) *Standard of Care.* The Reinsurer agrees to perform the duties set forth herein in a manner consistent with general life insurance and with a standard of care equal to the standards it uses on similar policies that it directly writes and in accordance with applicable laws and regulations. The Reinsurer shall maintain all licenses, obtain all regulatory approvals and comply with all regulatory requirements necessary to perform its obligations contemplated under this Agreement.

3.7 *Setoff and Recoupment.* Any debts or credits, matured or unmatured, regardless of when they arose or were incurred, in favor of or against either the Company or the Reinsurer with respect to this Agreement, are deemed mutual debts or credits, as the case may be, and shall be set off, and only the net balance shall be allowed or paid.

2.8 *Payments.* All payments made pursuant to this Agreement shall be made in immediately available U.S. funds.

#### **ARTICLE IV Payments to the Reinsurer**

4.1 *Premiums.* The Company will pay the Quota Share of Premiums on Reinsured Policies as shown in Schedule A.

3.2 *Derivative Settlements.* The Company will pay the Quota Share of the net derivative settlements related to the index-linked Reinsured Policies. Net derivative settlements include the proceeds at expiration or early termination of purchased derivatives less payments due at the expiration or early termination of written derivatives, if applicable.

#### **ARTICLE V Payments to the Company**

4.1 *Policy Benefits.* The Reinsurer shall pay its Quota Share of all Policy Benefits including death benefits, withdrawals, surrenders, and annuitizations.

4.2 *Commission and Expense Allowances.* The Reinsurer shall pay its Quota Share of all Commission and Expense Allowances as shown in Schedule C.

4.3 *Derivative Cost.* The Reinsurer shall pay its Quota Share of the actual direct net cost of derivatives related to the index-linked Reinsured Policies. The net direct cost of derivatives includes the cost of purchased derivatives less the premium received from written derivatives, if applicable.

4.4 *Insurance Taxes and Charges.* The Reinsurer shall pay its Quota Share of all Insurance Taxes and Charges.

4.5 *Risk Based Capital (RBC) Charge.* The Reinsurer shall pay a RBC Charge equal to 0.30% of Reinsurance Premiums. The RBC Charge shall be adjusted proportionately at any time there is an adjustment by the National Association of Insurance Commissioners (NAIC) to the existing C-4 RBC requirement with respect to the Reinsured Policies. The adjustment to the RBC Charge shall become effective as of the beginning of the calendar year the adjustment to the C-4 RBC requirement becomes effective.

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#### **ARTICLE VI Reserves**

6.1 *Reserves.* The Reinsurer shall establish and maintain appropriate Reserves with respect to the Reinsured Policies and shall hold its quota share of Reserves with respect to the Reinsured Policies hereunder.

#### **ARTICLE VII Account Payable/Receivable**

7.1 *Account Receivable/Payable.* The Reinsurer will set up an account receivable equal to its Quota Share of the intrinsic value of the derivative assets backing the index-linked Reinsured Policies. The Company will set up an account payable in the same amount. Intrinsic value is the greater of the market value or the amortized value.

#### **ARTICLE VIII Credited Rates/Non-Guaranteed Elements**

8.1 *Credited Rates/Non-Guaranteed Elements.* The Company shall be responsible for determining credited rates and non-guaranteed elements for the Reinsured Policies and will only vary such items in a manner consistent with its documented procedures in effect on the Effective Date. If the weighted average yield on the Company's invested assets does not exceed the weighted average crediting rate on the Reinsured Policies by at least 1.5%, and such condition is not cured within sixty (60) days, the Company will notify Reinsurer of such fact within three (3) days following the end of the sixty (60) day period.

#### **ARTICLE IX Administration**

8.1 *Policy Administration.* The Company shall perform all administration of the Reinsured Policies. This includes selecting and purchasing those derivatives that match the risk of the index-linked Reinsured Policies.

8.2 *Record Keeping.* Company shall maintain all records and correspondence for services performed by Company hereunder relating to the Reinsured Policies in accordance with industry standards of insurance record keeping. In addition, the records shall be made available for examination, audit, and inspection by any State Insurance Department within whose jurisdiction the Company or the Reinsurer operates. The Company and Reinsurer further agree that in the event of the termination of this Agreement, any such records in the possession of the Reinsurer shall promptly be duplicated and forwarded to the Company unless otherwise instructed.

The Company shall establish and maintain an adequate system of internal controls and procedures for financial reporting relating to the Reinsured Policies including associated documentation and shall make such documentation available for examination and inspection by the Reinsurer.

8.3 *Indemnification and Control of Defense.*

- (a) The Reinsurer shall have no duty or obligation to defend against any legal action or proceeding brought against the Company. The Reinsurer shall fully cooperate with the Company's efforts to defend such legal action or proceedings and will make available to the Company and its counsel such evidence relevant to such actions or proceedings as the Reinsurer may have as a result of performing its obligations under this Agreement.
- (b) The Reinsurer shall not be liable to the Company for actions within the scope of the Reinsurer's actual authority in performing its obligations to the Company under this

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Agreement when such performance is in accordance with the standard expressed in Section 3.6(c) "Standard of Care."

- (c) The Company shall indemnify and hold harmless and defend the Reinsurer against any costs (including reasonable attorney's fees) or expenses, damages or judgments whatsoever which the Reinsurer may suffer as a result of the Reinsurer being named as a party defendant in any suit instituted by any persons to whom a Reinsured Policy has been issued, or by any beneficiary, heir, legatee, or personal representative of such policyholder, where the Reinsurer's actions relevant to the suit are within the scope of the Reinsurer's actual authority in performing its obligations to the Company under this Agreement and were performed in accordance with the standard expressed in Section 3.6(c) "Standard of Care."
- (d) The Reinsurer shall indemnify and hold harmless and defend the Company against any costs (including reasonable attorney's fees) or expenses, damages or judgments whatsoever which the Company may suffer as a result of the Company being named as a party defendant in any suit instituted by any persons to whom a Reinsured Policy has been issued, or by any beneficiary, heir, legatee, or personal representative of such policyholder, where the Reinsurer's actions relevant to the suit are within its obligations to the Company under this Agreement and were not performed in accordance with the standard expressed in Section 3.6(c) "Standard of Care."
- (e) Any party entitled to indemnification under this Agreement shall (1) give prompt notice to the party from whom indemnification is sought of any claim with respect to which it seeks indemnification; (2) permit such indemnifying party to assume and control defense of such claim with counsel reasonably satisfactory to the indemnified party; provided, however, that any party entitled to indemnification hereunder shall have the right to employ separate counsel and to participate in the defense of such claim, but the fees and expenses of such separate counsel shall be paid by the person employing separate counsel unless (a) the indemnifying party has agreed to pay such fees and expenses or (b) the indemnifying party shall have failed to assume the defense of such claim and to employ counsel reasonably satisfactory to such party. No indemnifying party shall be subject to any liability for any settlement made without its consent except where the indemnifying party has failed to assume the defense of such claim and to employ counsel reasonably satisfactory to the indemnified party. An indemnifying party who elects not to assume the defense of a claim will not be obligated to pay the fees and expenses of more than one counsel at any one time for all parties indemnified by such indemnifying party with respect to such claim, which counsel shall be designated in writing by the indemnified party and shall be reasonably acceptable to the indemnifying party.

## **ARTICLE X**

### **Accounting and Settlement**

9.1 *Insurance Accounting.* The Company shall maintain separate books of account with respect to any Reinsured Policy, setting forth the data required in Schedules B and D.

9.2 *Monthly Accounting Reports.* Within ten (10) Business Days following the end of each Monthly Accounting Period, the Company shall supply the Reinsurer with a Monthly Accounting Report with the information as shown in Part I of Schedule B. Within fifteen (15) calendar days following the end of each calendar quarter, the Company shall supply the Reinsurer with the information shown in Part II of Schedule B. Within twenty one (21) calendar days after the end of the calendar quarter, the Company shall supply the Reinsurer with a GAAP Accounting Report with the information shown in Schedule D.

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The Company will supply additional financial information, as reasonably needed, for the Reinsurer to comply with changes in Statutory, GAAP, and SEC reporting and disclosure requirements that may occur subsequent to the inception of this Agreement.

9.3 *Settlements.* The Company will determine an estimated Settlement Amount each month in accordance with Schedule B. If the estimated Settlement Amount is positive, the Company will pay that amount to the Reinsurer. If the estimated Settlement Amount is negative, the Reinsurer will pay that amount to the Company. Payments of the estimated Settlement Amount shall be due by the tenth (10<sup>th</sup>) Business Day of each month.

Within ten (10) Business Days following the end of each Monthly Accounting Period, the Company or Reinsurer, as the case may be, shall pay the difference between the final Settlement Amount as reported on the Monthly Accounting Report and the estimated Settlement Amount previously paid for the applicable Monthly Accounting Period.

If any estimated or final monthly Settlement Amount payment is not paid by the due date, interest shall accumulate at the Accrual Rate from the due date of the payment until such time that the Settlement Amount is paid. If the estimated Settlement Amount payment for any month is not within 25% of the final Settlement Amount payment, interest shall accrue on the difference between the final Settlement Amount payment and the estimated Settlement Amount payment at the Accrual Rate from the due date of the estimated Settlement Amount payment until such time that the final Settlement Amount is paid.

9.4 *Reconciliation.* Each party shall have the right to review all individual components of transactions reflected in the Monthly Accounting Reports, and to request adjustments, as appropriate. Any amount due either party in connection with such adjustment shall be paid within ten (10) Business Days of the receipt of notice that additional amounts are due.

9.5 *Interest Payments.* Payment due to either the Reinsurer or the Company shall accrue interest at the Accrual Rate if unpaid by the due date.

## **ARTICLE XI Term and Termination**

10.1 *Term and Duration.* This Agreement shall be for an initial term of two (2) years and, except as otherwise provided herein, will be effective for so long as any Reinsured Policy is in effect. This Agreement will automatically renew every two (2) years for an additional two (2) year term starting on January 1, unless written notice of termination is given by either party under Sections 11.6 or 11.7.

10.2 *Reinsurer's Liability.* The liability of the Reinsurer with respect to the Reinsured Policy shall terminate on the date the liability of the Company on such Reinsured Policy is terminated.

10.3 *Termination.* Should Reinsurer at any time:

- (a) become insolvent;
- (b) file a petition in bankruptcy;
- (c) go into liquidation or rehabilitation;
- (d) have a receiver appointed; or
- (e) have its Company Action Level Risk Based Capital ratio as defined by the NAIC drop below 150%,

the Company shall have the right to terminate this Agreement immediately upon notice to the Reinsurer.

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10.4 *Termination Due to Nonpayment.* Either party may terminate this Agreement if the other party fails to pay, when due, any amounts due under this Agreement provided that the delinquent party has been given at least twenty (20) Business Days advance written notice of its intent to terminate for that reason. Either party may avoid termination pursuant to this Section 11.4 by paying all amounts that are delinquent and then due on or before the date upon which the Agreement would have terminated in accordance with the notice from the other party. The other party shall provide written notice to the curing party that the default has been adequately cured.

10.5 *Termination for Material Breach.* In addition to all other rights and remedies, either party may terminate this Agreement by providing the other party with a minimum of thirty (30) days prior written notice in the event the other party commits a material breach of any provision of the Agreement. Said notice must specify the nature of said material breach. The breaching party shall have twenty (20) Business Days from the date of the breaching party's receipt of the foregoing notice to cure said material breach to the reasonable satisfaction of the non-breaching party. If the breach is cured, the other party shall provide written notice to the curing party that the breach has been adequately cured. In the event the breaching party fails to cure the material breach within said twenty (20) Business Day period, then at the option of the non-breaching party and upon notice, this Agreement will terminate upon expiration of the thirty (30) day notice period. Notwithstanding the foregoing, the parties shall cooperate with each other to effect a cure of any breach of the terms of this Agreement.

10.6 *Termination by Reinsurer.* The Reinsurer has the right to terminate this agreement with respect to new business at any time by giving forty-five (45) days written notice to the Company.

10.7 *Termination by the Company.* The Company has the right to terminate this agreement with respect to new business at any time by giving forty-five (45) days written notice to the Reinsurer. The Company has the right to recapture this business after a period of 10 years. If the Company exercises its right to recapture the business, the Reinsurer shall pay to the company its Quota Share of the Account Values of the Reinsured Policies and the Company will pay a recapture fee to the Reinsurer equal to the Reinsurer's Quota Share of the unamortized Commission and Expense Allowances with the amortization period of the Commission and Expense Allowances corresponding to the surrender charge period of each policy form.

## **ARTICLE XII Payments Upon Termination of Agreement**

12.1 *Payments on Termination.*

- (a) In the event that this Agreement shall be terminated under Sections 11.3, 11.4 or 11.5 a net accounting and settlement as to any balance due under this Agreement shall be undertaken by the parties to this Agreement (the "Terminal Accounting and Settlement"), which calculations shall be performed as of the day that is 30 days from the date that the liability of the Reinsurer shall have finally terminated (the "Terminal Accounting Date").

- (b) The Company shall supply the Reinsurer with a final Schedule B as of the Terminal Accounting Date and the Settlement Amount will be paid as due pursuant to Section 10.3.
- (c) In addition to the final Settlement Amount payment, the Reinsurer shall pay to the Company its Quota Share of the Account Values of the Reinsured Policies.
- (d) Any payment required under the Terminal Accounting and Settlement by the Company shall be paid by the Company no later than thirty (30) days after the Terminal Accounting Date. Payments made after such time shall accrue interest in accordance with Section 10.5. In the event that the calculation for the payment required under the

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Terminal Accounting and Settlement cannot be accurately calculated by such date, then an estimate shall be paid, with a supplemental accounting being made when the accurate information shall become available.

12.2 *Supplemental Accounting.* In the event that, subsequent to the Terminal Accounting and Settlement an adjustment is made with respect to any amount taken into account in the Terminal Accounting and Settlement, a supplemental accounting shall be made. Any net amount owed to the Reinsurer or the Company by reason of such supplemental accounting, plus any interest due accumulated at the Accrual Rate to the date of payment, shall be paid promptly upon the completion of such supplemental accounting.

### **ARTICLE XIII Insolvency**

12.1 *Payments.* In the event of the insolvency of the Company, payments due the Company on all reinsurance made, ceded, renewed or otherwise becoming effective under this Agreement shall be payable by the Reinsurer directly to the Company or to its liquidator, receiver, or statutory successor on the basis of the liability of the Company under Reinsured Policies without diminution because of the insolvency of the Company, or because the conservator, liquidator, or statutory successor has failed to pay all or a portion of any claims.

12.2 *Executory Contract.* It is expressly understood that this Agreement is an executory contract as long as both parties are required to perform under this Agreement. On the insolvency of the Reinsurer, if this Agreement is not confirmed by the Reinsurer and given status as an "Administrative Expense", then the Company may terminate for nonperformance without additional payment other than those required under Section 12.1.

### **ARTICLE XIV Dispute Resolution**

14.1 *Dispute Resolution.* If a dispute, controversy, or claim arises out of or relates to this Agreement, its termination or non-renewal, or the alleged breach thereof, and if said dispute cannot be settled through direct discussions, the parties agree to first endeavor to settle the dispute in an amicable manner by mediation administered by the American Arbitration Association ("AAA") under its Commercial Mediation Rules, before resorting to arbitration. If the matter has not been resolved pursuant to mediation within thirty (30) days of the commencement of such mediation (which period may be extended by mutual agreement in writing), then any unresolved dispute, controversy, or claim arising out of or relating to this Agreement, its termination or non-renewal, or the breach thereof, shall be settled by arbitration in accordance with the Commercial Arbitration Rules of the AAA, and judgment upon the award rendered by the arbitrator may be entered in any court having jurisdiction thereof. The arbitration shall be conducted by a sole arbitrator or, at the election of either party, before a panel of three arbitrators. Selection of the arbitrator(s) shall be in accordance with the Commercial Arbitration Rules of the AAA. The arbitrator(s) shall allow each party to conduct limited relevant discovery. The arbitrator(s) shall have no authority to award punitive damages or any damages not measured by the prevailing party's actual damages, and may not, in any event, make any ruling, finding or award that does not conform to the terms and conditions of this Agreement and applicable state and federal laws. All fees and expenses of arbitration shall be borne by the parties equally. However, each party shall bear the expense of its own counsel, experts, witnesses, and preparation and presentation of the arbitration matter. Any such arbitration shall be conducted in West Des Moines, Iowa.

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### **ARTICLE XV DAC Tax**

The parties hereto agree to the following pursuant to Section 1.848-2(g)(8) of the Income Tax Regulations issued December 1992, under Section 848 of the Internal Revenue Code of 1986, as amended. This election shall be effective for 2004 and for all subsequent taxable years for which this Agreement remains in effect.

14.1 The term "party" will refer to either contracting company as appropriate.

14.2 The terms used in this Article are defined by reference to Regulation Section 1.848-2 in effect December 1992.

14.3 The party with the net positive consideration for the Coinsurance Agreement for each taxable year will capitalize specified policy acquisition expenses with respect to the Coinsurance Agreement without regard to the general deductions limitation of Section 848(c)(1).

14.4 Both parties agree to exchange information pertaining to the amount of net consideration under the Coinsurance Agreement each year to ensure consistency or as otherwise required by the Internal Revenue Service.

14.5 The Company will submit a schedule to the Reinsurer by May 1 of each year of the calculation of the net consideration for the preceding calendar year. This schedule of calculations will be accompanied by a statement signed by one of the Company's officers stating that the Company will report such net consideration in its tax return for the preceding calendar year.



Title: Chief Executive Officer

Title: Chief Executive Officer

Date: December 29, 2003

Date: December 29, 2003

SCHEDULE A

CONTRACTS AND RISKS REINSURED

Company agrees to cede to the Reinsurer, and the Reinsurer agrees to accept from the Company the Quota Share reinsurance participation for the risks as scheduled below that are not currently reinsured under another agreement:

The Quota Share will equal 20%. However, for each calendar year, the Quota Share will reduce to 0% in any month where the year-to-date Reinsurance Premium as of the end of the prior month exceeds \$500 million.

Reinsured Contracts

|            |          |          |
|------------|----------|----------|
| BRAVO      | INDEX    | INDEX-26 |
| FPDA-1(3%) |          | INDEX-27 |
|            | INDEX-1  | INDEX-28 |
| FPDA-3     | INDEX-10 | INDEX-29 |
|            | INDEX-12 | INDEX-30 |
| FPDA-4     | INDEX-13 | INDEX-5  |
|            | INDEX-15 | INDEX-6  |
| FPDA-6     | INDEX-16 | INDEX-8  |
| FPDA-7     | INDEX-17 | INDEXP3  |
| FPDA-8     | INDEX-18 | SUPER-7  |
|            | INDEX-19 | SPDA-1   |
| I-2000     | INDEX-22 | SPDA-2   |
|            | INDEX-23 | SPDA-5   |
| I-2001     | INDEX-24 |          |
| I-2002     | INDEX-25 |          |

State variations of the listed products are included under this agreement

Effective date of this Schedule: Policies issued on or after January 1, 2004

SCHEDULE B

MONTHLY ACCOUNTING REPORT

Part I

(For qualified and non-qualified business, separately)  
(All amounts are net of reinsurance to other reinsurers)

|      |                                      |       |
|------|--------------------------------------|-------|
| I.   | <i>Premiums</i>                      | _____ |
| II.  | <i>Policy Benefits</i>               | _____ |
| III. | <i>Commission Allowance</i>          | _____ |
| IV.  | <i>Acquisition Expense Allowance</i> | _____ |
| V.   | <i>Maintenance Expense Allowance</i> | _____ |
| VI.  | <i>Marketing Expense Allowance</i>   | _____ |

|       |   |       |
|-------|---|-------|
| VII.  | <i>Insurance Taxes and Charges</i>                                  | _____ |
| VIII. | Net (I - II - III - IV - V - VI - VII)                              | _____ |
| IX.   | Reinsured %   | _____ |
| X.    | <i>Settlement Amount Before Derivatives and RBC (VIII times IX)</i> | _____ |
| XI.   | <i>Quota Share of Derivative Settlements</i>                        | _____ |
| XII.  | <i>Quota Share of Derivative Costs</i>                              | _____ |
| XIII. | <i>Risk Based Capital (RBC) Charge</i>                              | _____ |
| XIV.  | <i>Settlement Amount (X + XI - XII - XIII)</i>                      | _____ |

Part II

Quarterly Accounting Information

|  |       |
|--|-------|
| <i>Account Value—end of period</i>         | _____ |
| Reserves—end of period                     | _____ |
| Account Receivable (Payable)—end of period | _____ |
| Amortization of Derivative Costs           | _____ |

SCHEDULE C

*COMMISSION AND EXPENSE ALLOWANCES FOR REINSURED POLICIES*

The Reinsurer will grant to the Company the Quota Share of the following commission and expense allowances on the business reinsured:

**Expense Allowances**

1. Per policy Expense Allowances

|                                     |        |
|-------------------------------------|--------|
| Acquisition Expense                 | \$ 125 |
| Maintenance Expense (Annual Amount) | \$ 50  |

The Maintenance Expense Allowance will be calculated on a monthly basis as follows:

$(C/12) * (A + B)/2$  where

- A is the number of policies inforce as of the beginning of each month, and
- B is the number of policies inforce as of the end of the each month, and
- C is the annual per policy expense allowance.

2. Marketing Expense Allowance

The Marketing Expense Allowance shall be equal to one percent (1.00%) of Premiums.

The Expense Allowances shall be adjusted from time to time to reflect changes made in the Company's product pricing assumptions.

**Commission Allowances**

The commission allowance shall be the lesser of the actual commissions paid or the following percentages of Premiums:

|          |        |
|----------|--------|
| INDEX-26 | 9.00%  |
| INDEX-27 | 8.50%  |
| INDEX-28 | 10.50% |
| INDEX-29 | 8.00%  |
| INDEX-30 | 6.75%  |
| FPDA-7   | 10.50% |
| FPDA-8   | 6.50%  |

The commission allowance for all other Reinsured Policies not included in the foregoing list shall be an amount as determined by the Company based upon their published commission schedules, and shall be based on the commissions actually paid.

SCHEDULE D

GAAP ACCOUNTING REPORT

(All amounts are net of reinsurance to other reinsurers)

|  | EIA | Traditional |
|--|-----|-------------|
| I. <i>Beginning Account Value</i>  |     |             |
| II. <i>Premiums</i>  |     |             |
| III. <i>Interest Credited</i>  |     |             |
| IV. <i>Bonus Credited (Premium &amp; Interest)</i>                             |     |             |
| V. <i>Benefits</i>   |     |             |
| VI. <i>Surrender Charges</i>   |     |             |
| VII. <i>Index Credits</i>  |     |             |
| VIII. <i>Ending Account Value</i><br><i>(I + II + III + IV B V B VI + VII)</i> |     |             |
| IX. <i>Market Value of Embedded Derivative</i>                                 |     |             |
| X. <i>Host</i>   |     |             |
| XI. <i>Fixed Interest Account Value</i>  |     |             |
| XII. <i>Ending FAS 133 Value (IX + X + XI)</i>                                 |     |             |
| XIII. <i>Liability Difference YTD (XII - VIII)</i>                             |     |             |
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Name: Steven B. Najjar

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Name: Joseph A. Sikora

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Title: SVP & General Counsel

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Title: SVP & Chief Actuary

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[Exhibit 10.13-A](#)

THIRD AMENDMENT TO  
AMENDED AND RESTATED CREDIT AGREEMENT

THIS THIRD AMENDMENT (this "Amendment"), dated as of December 31, 2003, amends and modifies a certain Amended and Restated Credit Agreement, dated as of December 30, 2002, as amended by Amendments dated as of August 14, 2003, and October 24, 2003 (as so amended, the "Credit Agreement"), among AMERICAN EQUITY INVESTMENT LIFE HOLDING COMPANY, an Iowa corporation (the "Borrower"), the banks named therein (the "Banks"), the Banks named therein, WEST BANK, an Iowa state bank (formerly known as West Des Moines State Bank), as Co-Agent (in such capacity, the "Co-Agent"), FLEET NATIONAL BANK, a national banking association, as Documentation Agent (in such capacity, the "Documentation Agent") and U.S. BANK NATIONAL ASSOCIATION, a national banking association, as agent for the Banks (in such capacity, the "Agent"). Terms not otherwise expressly defined herein shall have the meanings set forth in the Credit Agreement.

FOR VALUE RECEIVED, the Borrower, the Banks and the Agent agree that the Credit Agreement is amended as follows:

ARTICLE I—AMENDMENTS TO THE CREDIT AGREEMENT

1.1 *New Definition.* The following new definitions are added to Section 1.1 in alphabetical order:

*"AEISC Acquisition":* Acquisition by the Borrower of all of the stock of AEISC from David J. Noble for consideration not to exceed the lesser of (a) \$5,000,000, or (b) the value of such stock determined by the Board of Directors of the Borrower in good faith and agreed to by Mr. Noble. Such consideration shall be paid in annual installments of not more than \$500,000 each, commencing on April 1, 2004, and on each anniversary date thereof until April 1, 2008, on which date the balance of such consideration shall be paid. Such consideration shall be payable only out of cash released from the AEISC Noble Collateral Account, and Mr. Noble shall not have recourse to the Borrower for payment from any other source. The stock of AEISC shall remain subject to the Lien in favor of U.S. Bank National Association, as provided in the definition of 'AEISC Pledge Agreement' below."

*"AEISC Noble Collateral Account":* A deposit or securities account in which proceeds of payment to AEISC under the 2002 General Agency Commission Agreement are deposited. The AEISC Noble Collateral Account is subject to the security interests and pledges provided in the Noble Security Agreement and the AEISC Noble Security Agreement, and is maintained at U.S. Bank National Association in the name of Mr. Noble and under the control of U.S. Bank National Association."

*"AEISC Noble Notes":* The following promissory notes, payable by AEISC to David J. Noble:

- (a) Noble Term Note, dated as of April 30, 1999, in the principal amount of \$45,000,000; and
- (b) Noble Term Note, dated as of December 30, 2002, in the principal amount of \$10,000,000.

*"AEISC Noble Security Agreement":* That certain Amended and Restated Security Agreement, dated as of June 30, 1997 (as thereafter amended, modified, or replaced from time to time), between AEISC and U.S. Bank National Association (formerly known as First Bank National Association), pursuant to which certain collateral is pledged by AEISC to secure indebtedness and liabilities of David J. Noble to U.S. Bank National Association. Such collateral includes rights of AEISC under the 2002 General Agency Commission Agreement, the AEISC Noble Collateral Account and the AEISC Noble Notes."

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*"AEISC Notes":* Promissory Notes payable to the Borrower issued from time to time to evidence obligations of AEISC arising in connection with loans to AEISC by the Borrower, including the loans permitted by Section 9.6(l)."

*"AEISC Pledge Agreement":* A Pledge Agreement by the Borrower in favor of U.S. Bank National Association, as a creditor of David J. Noble, pledging the stock of AEISC to such bank to secure indebtedness of Mr. Noble to such bank (not in its capacity as a Bank or Agent hereunder); such Pledge Agreement being a restatement and continuation of the prior pledge agreement by Mr. Noble to such bank and confirming that the purchase of such stock by the Borrower is subject to the prior Lien in favor of the Bank."

*"Noble Security Agreement":* That certain Noble Security Agreement, dated as of June 30, 1997 (as thereafter amended, modified, or replaced from time to time), between AEISC and David J. Noble, pursuant to which certain collateral is pledged by AEISC to secure indebtedness and liabilities of AEISC to David J. Noble under the AEISC Noble Notes. Such collateral includes rights of AEISC under the 2002 General Agency Commission Agreement and the AEISC Noble Collateral Account."

*"2002 General Agency Commission Agreement":* That certain Second Amended and Restated General Agency Commission and Servicing Agreement, dated as of October 1, 2002, between AEISC and AEILIC, as the same shall be modified and supplemented and in effect from time to time."

*"2003 Subordinated Debentures":* The Subordinated Debentures to be issued by the Borrower in a nominal amount not to exceed \$12,400,000 in exchange for the proceeds received by Trust IV upon issuance of the 2003 Trust Securities."

*"2003 Trust Securities":* The preferred securities and the common securities to be issued by Trust IV."

*"Trust IV":* American Equity Capital Trust IV, a statutory trust created or to be created under the laws of the State of Delaware, of which 100% of the common securities issued by Trust IV are, or shall be, owned by the Borrower."

1.2 *Dividends.* Section 8.11 is amended to read as follows:

"Section 8.11 *Dividends*. Cause AEILIC to make dividends and/or principal and interest payments to the Borrower (a) in an amount sufficient to satisfy AEILIC's debt obligations under the Surplus Note (subject to regulatory approval), the 8% Subordinated Debentures, the 5% Subordinated Debentures and the 2003 Subordinated Debentures, and (b) to permit the Borrower to satisfy its payment obligations hereunder with respect to the Loans, if necessary."

1.3 *Proceeds of Initial Public Offering*. New Section 8.12 is added after Section 8.11, and shall read as follows:

Section 8.12 *Investment of Proceeds*. Promptly invest the proceeds of the Initial Public Offering as contributions to the equity of AEILIC, provided, that an amount of \$30,000,000 of such proceeds may be retained by the Borrower, invested in Investments permitted to be made by the Borrower hereunder, and subsequently contributed to the equity of AEILIC not later than April 1, 2004."

1.4 *Indebtedness*. Section 9.1 is amended by deleting the period at the end of (g), and adding new Sections 9.1(h) and (i), to read as follows:

"(h) Indebtedness in respect of the 2003 Subordinated Debentures in a principal amount not to exceed \$12,400,000; and

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(i) Indebtedness of AEISC in respect of the AEISC Noble Notes and the AEISC Notes."

1.5 *Liens*. Section 9.2 is amended by deleting the period at the end of (h) and adding new Sections 9.2(i) and (j), to read as follows:

"(i) Liens on the assets of AEISC created by the AEISC Security Agreement, the AEISC Noble Security Agreement and the Noble Security Agreement; and

(j) Pledge of the stock of AEISC by the Borrower pursuant to the AEISC Pledge Agreement."

1.6 *Restricted Payments*. Section 9.5 is amended as follows:

(a) Section 9.5(d) is amended to read as follows:

"(d) Make payments of (i) principal of the 8% Subordinated Debentures, the 5% Subordinated Debentures or the 2003 Subordinated Debentures, or (ii) interest of the 8% Subordinated Debentures, the 5% Subordinated Debentures or the 2003 Subordinated Debentures at any time that the subordination terms of the documents pertaining thereto shall prevent or defer such payment or shall provide that the recipient of such payments may not retain such payment (it being expressly acknowledged that the Borrower may pay accrued interest at the stated rates of the 8% Subordinated Debentures, the 5% Subordinated Debentures and the 2003 Subordinated Debentures at any time that the foregoing clause shall not apply)"

(b) The last sentence of Section 9.5 is amended to read as follows:

"Notwithstanding the foregoing: (1) Trust I may pay interest or interest-equivalent dividends on the 8% Trust Securities at a rate not to exceed 8% per annum; (2) Trust II may pay interest or interest-equivalent dividends on the 5% Trust Securities at a rate not to exceed 5% per annum; (3) Trust IV may pay interest or interest-equivalent dividends on the 2003 Trust Securities at the rates applicable thereto; (4) the Borrower or any Subsidiary may acquire shares of the Borrower's common stock to be held in trust to fund the obligations of AEILIC under its NMO Deferred Stock Compensation Plans; and (5) the Borrower may redeem shares of its capital stock of any class, provided that (aa) the number of shares of voting capital stock redeemed in any one fiscal year shall not exceed 1% of the total number of such shares outstanding at January 1 of such year, and (bb) the aggregate redemption price paid for all such shares redeemed in any fiscal year of the Borrower shall not exceed \$750,000."

1.7 *Investments*. Section 9.6 is amended as follows:

(a) Section 9.6(f)(ii) is amended to read as follows:

"(ii) Investments in mortgage loans and real estate shall not exceed 15.00% of the Invested Assets of AEILIC as reported on and after December 31, 2001;"

(b) Section 9.6(h) is amended to read as follow:

"(h) Investment in the 8% Trust Securities, the 5% Trust Securities and the 2003 Trust Securities, to be held by the Borrower, not to exceed 3% of the total amount of the 8% Trust Securities, the 5% Trust Securities or the 2003 Trust Securities;"

(c) The period is deleted at the end of (j) and the following new Sections 9.6(k), (l) and (m) are added:

"(k) Investment of the proceeds of the Net Issuance Proceeds of the Initial Public Offering as contributions to the equity of AEILIC as provided in Section 8.12;

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"(l) Investment in the AEISC Acquisition in accordance with the terms of the definition thereof; and

"(m) Investment consisting of loans to AEISC to finance commissions paid to Persons acting as agents of AEILIC for sale of annuity contracts, in amounts not to exceed \$15,000,000, which shall be evidenced by the AEISC Notes."

1.8 *Subsidiaries*. Section 9.9(a) is amended by adding the following phrase at the end of such Section:

"; for purposes of the foregoing, acquisition of AEISC pursuant to the AEISC Acquisition shall be deemed approved, without pledge of the stock of AEISC."

1.9 *Transactions with Affiliates.* Section 9.11 is amended by adding the following sentence at the end of such Section:

"Consummation of the AEISC Acquisition in accordance with the terms of the definition thereof shall not be deemed to violate this Section."

1.10 *Liquidity.* Section 9.20 (added by the Second Amendment hereto) is deleted.

1.11 *Construction.* All references in the Credit Agreement to "this Agreement", "herein" and similar references shall be deemed to refer to the Credit Agreement as amended by this Amendment.

## ARTICLE II—REPRESENTATIONS AND WARRANTIES

To induce the Agent and the Banks to enter into this Amendment and to make and maintain the Loans under the Credit Agreement as amended hereby, the Borrower hereby warrants and represents to the Agent and the Banks that it is duly authorized to execute and deliver this Amendment, and to perform its obligations under the Credit Agreement as amended hereby, and that this Amendment constitutes the legal, valid and binding obligation of the Borrower, enforceable in accordance with its terms.

## ARTICLE III WAIVERS AND CONSENT

3.1 *Initial Public Offering.* Section 3.2 of the Second Amendment, dated October 24, 2003, to the Credit Agreement provided that effectiveness of such Second Amendment was subject to the condition that the Borrower shall have received Net Issuance Proceeds from the Initial Public Offering of not less than \$200,000,000. The Borrower received Net Issuance Proceeds of approximately \$170,000,000. The Borrower has requested that the Agent and the Banks waive such requirement.

3.2 *Trust Preferred Issuance.* The Borrower have entered into and consummated the transactions that are permitted by the amendment, in this Amendment, of Sections 8.11, 9.1(h), 9.5 and 9.6(h) of the Credit Agreement. The Borrower has requested that the Agent and the Banks waive the application of such Sections of the Credit Agreement, as in effect prior to this Amendment, to such transactions.

3.3 *Waiver.* The Agent and the Banks hereby agree to the waivers described in Section 3.1 and 3.2 hereof. Except as expressly provided herein, all provisions of the Credit Agreement remain in full force and effect and this waiver shall not apply to any other or subsequent failure to comply with any provision of the Credit Agreement.

3.4 *General Agency Commission Agreement.* The Agent and the Banks hereby consent, as required by Section 9.18 of the Credit Agreement, to amendment of the General Agency Commission Agreement by a First Amendment in the form attached as *Exhibit AA* to this Amendment.

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## ARTICLE IV—CONDITIONS

This Amendment shall become effective on the date first set forth above, provided, however, that the effectiveness of this Amendment is subject to the satisfaction of each of the following conditions precedent:

4.1 *Warranties.* After giving effect to this Amendment, the representations and warranties in *Article VII* of the Credit Agreement shall be true and correct as though made on the date hereof, except for changes that are permitted by the terms of the Credit Agreement. The execution by the Borrower of this Amendment shall be deemed a representation that the Borrower has complied with the foregoing condition.

4.2 *Defaults.* After giving effect to this Amendment, no Default and no Event of Default shall have occurred and be continuing under the Credit Agreement. The execution by the Borrower of this Amendment shall be deemed a representation that the Borrower has complied with the foregoing condition.

4.4 *Documents.*

- (a) The Borrower, the Agent and the Banks shall have executed and delivered this Amendment;
- (b) AEISC and AEILIC shall have executed and delivered the Acknowledgements attached hereto;
- (c) The Borrower shall have entered into an amendment to the Pledge Agreement to include the AEISC Notes, and shall have delivered the AEISC Notes and bond powers for the AEISC notes to the Collateral Agent to hold as Collateral thereunder; and
- (d) The Borrower shall have delivered to the Agent a copy of the executed First Amendment to the General Agency Commission Agreement.

## ARTICLE V—GENERAL

5.1 *Expenses.* The Borrower agrees to reimburse the Agent upon demand for all reasonable expenses (including reasonable attorneys' fees and legal expenses) incurred by this Agent in the preparation, negotiation and execution of this Amendment and any other document required to be furnished herewith, and in enforcing the obligations of the Borrower hereunder, and to pay and save the Agent harmless from all liability for, any stamp or other taxes which may be

payable with respect to the execution or delivery of this Amendment and the Notes hereunder, which obligations of the Borrower shall survive any termination of the Credit Agreement.

5.2 *Counterparts.* This Amendment may be executed in as many counterparts as may be deemed necessary or convenient, and by the different parties hereto on separate counterparts, each of which, when so executed, shall be deemed an original but all such counterparts shall constitute but one and the same instrument.

5.3 *Severability.* Any provision of this Amendment which is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining portions hereof or affecting the validity or enforceability of such provisions in any other jurisdiction.

5.4 *Law.* This Amendment shall be a contract made under the laws of the State of Minnesota, which laws shall govern all the rights and duties hereunder.

5.5 *Successors; Enforceability.* This Amendment shall be binding upon the Borrower, the Banks, the Agents and their respective successors and assigns, and shall inure to the benefit of the Borrower, the Agents, the Banks and the successors and assigns of the Banks and the Agents. Except as hereby amended, the Credit Agreement shall remain in full force and effect and is hereby ratified and confirmed in all respects.

(signature page follows)

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IN WITNESS WHEREOF, the parties hereto have caused this Amendment to be executed at Minneapolis, Minnesota by their respective officers thereunto duly authorized as of the date first written above.

AMERICAN EQUITY INVESTMENT LIFE  
HOLDING COMPANY

By: /s/ WENDY L. CARLSON

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Title: Chief Financial Officer and General Counsel

U.S. BANK NATIONAL ASSOCIATION, as  
Agent and as a Bank

By: /s/ SAM S. PEPPER

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Title: Vice President

WEST BANK, as  
Co-Agent and as a Bank

By: /s/ BRAD WINTERBOTTOM

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Title: President

FLEET NATIONAL BANK,  
as Documentation Agent and as a Bank

By: /s/ DAVID A. BOSSELAIT

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Title: Director

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#### ACKNOWLEDGMENT

The undersigned has entered into a Third Amended and Restated Security Agreement, dated as of April 6, 2000 (the "Security Agreement") in favor of U.S. Bank National Association, as Agent for the Banks securing the "Obligations" as defined in the Credit Agreement (defined in the foregoing Amendment). The undersigned hereby acknowledges that the "Obligations" include the obligations of the Borrower under the Credit Agreement as amended by the foregoing Amendment and under the Notes issued under the foregoing Amendment. The undersigned hereby confirms that the Security Agreement remains in full force and effect, enforceable against the undersigned in accordance with its terms.

By: /s/ DAVID J. NOBLE

Title: President

ACKNOWLEDGMENT

The undersigned has entered into a Consent and Agreement to Security Agreement, dated as of April 6, 2000 (the "Consent") in favor of U.S. Bank National Association, as Agent for the Banks. The undersigned hereby acknowledges that the "Obligations" specified in the Consent include the obligations of the Borrower under the Credit Agreement as amended by the foregoing Amendment and under the Notes issued under the foregoing Amendment. The undersigned hereby confirms that the Consent remains in full force and effect, enforceable against the undersigned in accordance with its terms.

AMERICAN EQUITY INVESTMENT LIFE  
INSURANCE COMPANY

By: /s/ WENDY L. CARLSON

Title: General Counsel and Assistant Secretary

Exhibit AA

The **FIRST AMENDMENT TO 1999 GENERAL AGENCY COMMISSION AND SERVICING AGREEMENT** (the "**First Amendment**"), by and between AMERICAN EQUITY INVESTMENT LIFE INSURANCE COMPANY ("**American Equity**") and AMERICAN EQUITY INVESTMENT SERVICE COMPANY ("**Service Company**"), is entered into this 23<sup>rd</sup> day of December, 2003, and shall be deemed effective as of the 1<sup>st</sup> day of July, 2003.

WHEREAS, the parties have previously entered into the 1999 General Agency Commission and Servicing Agreement (the "**1999 Agreement**"), and have now agreed to modify such 1999 Agreement in certain respects;

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, each of the parties hereto agrees as follows:

1. **Amendment of AEISC Amount.** The definition of "AEISC Amount" as set forth in Section 1 of the 1999 Agreement shall be amended by deleting such definition in its entirety and inserting the following in lieu thereof:

"AEISC Amount" shall mean, with respect to any Eligible Contract: (i) 50% of the Sales Agent Commission payable with respect to all such Eligible Contracts issued during the period from July 1, 1999 through and including August 31, 1999; (ii) 30% of Sales Agent Commission payable with respect to all such Eligible Contracts issued from September 1, 1999 through and including December 31, 2000; and (iii) 25% of the Sales Agency Commission payable with respect to all such Eligible Contracts issued from July 1, 2003 until such time as this Agreement is terminated or modified by mutual agreement of the parties.

2. **Amendment of Termination Date.** Section 10 of the 1999 Agreement shall be modified by deleting the date "June 5, 2005", and inserting in lieu thereof the date "December 31, 2008."

3. **Ratification.** Except as expressly modified by this First Amendment, the parties hereby ratify and confirm all other terms and conditions of the 1999 Agreement, all of which shall remain in full force and effect.

**IN WITNESS WHEREOF**, the parties hereto have caused this Agreement to be duly executed as of the day and year first above written.

AMERICAN EQUITY INVESTMENT  
LIFE INSURANCE COMPANY

AMERICAN EQUITY INVESTMENT  
SERVICE COMPANY

By: /s/ WENDY L. CARLSON

By: /s/ DJ NOBLE

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[THIRD AMENDMENT TO AMENDED AND RESTATED CREDIT AGREEMENT](#)  
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[ARTICLE IV—CONDITIONS](#)

[ARTICLE V—GENERAL](#)

[Exhibit AA](#)

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**Exhibit 21.1**

SUBSIDIARIES OF AMERICAN EQUITY INVESTMENT LIFE HOLDING COMPANY

American Equity Investment Life Insurance Company

American Equity Capital Trust I

American Equity Capital Trust II

American Equity Capital Trust IV

American Equity Investment Properties, L.C.

American Equity Investment Capital, Inc.

American Equity Investment Life Insurance Company of New York

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[Exhibit 21.1](#)

**CERTIFICATION PURSUANT TO  
18 U.S.C. SECTION 1350,  
AS ADOPTED PURSUANT TO  
SECTION 302 OF THE SARBANES-OXLEY ACT OF 2002**

I, David J. Noble, certify that:

1. I have reviewed this annual report on Form 10-K of American Equity Investment Life Holding Company;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) for the registrant and have:
  - (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
  - (b) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
  - (c) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting.
5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of registrant's board of directors (or persons performing the equivalent functions):
  - (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
  - (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal controls over financial reporting.

Date: March 1, 2004

By: /s/ DAVID J. NOBLE

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David J. Noble, *Chief Executive Officer (Principal Executive Officer)*

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[CERTIFICATION PURSUANT TO 18 U.S.C. SECTION 1350, AS ADOPTED PURSUANT TO SECTION 302 OF THE SARBANES-OXLEY ACT OF 2002](#)

**CERTIFICATION PURSUANT TO  
18 U.S.C. SECTION 1350,  
AS ADOPTED PURSUANT TO  
SECTION 302 OF THE SARBANES-OXLEY ACT OF 2002**

I, Wendy L. Carlson, certify that:

1. I have reviewed this annual report on Form 10-K of American Equity Investment Life Holding Company;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) for the registrant and have:
  - (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
  - (b) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
  - (c) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting.
5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of registrant's board of directors (or persons performing the equivalent functions):
  - (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
  - (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal controls over financial reporting.

Date: March 1, 2004

By: /s/ WENDY L. CARLSON

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Wendy L. Carlson, *Chief Financial Officer (Principal Financial Officer)*

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[CERTIFICATION PURSUANT TO 18 U.S.C. SECTION 1350, AS ADOPTED PURSUANT TO SECTION 302 OF THE SARBANES-OXLEY ACT OF 2002](#)

**CERTIFICATION PURSUANT TO  
18 U.S.C. SECTION 1350,  
AS ADOPTED PURSUANT TO  
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002**

In connection with the Annual Report of American Equity Investment Life Holding Company (the "Company") on Form 10-K for the fiscal year ended December 31, 2003 as filed with the Securities and Exchange Commission on the date hereof (the "Report"), I, David J. Noble, Chief Executive Officer of the Company, certify, pursuant to 18 U.S.C. § 1350, as adopted pursuant to § 906 of the Sarbanes-Oxley Act of 2002, that:

1. The Report fully complies with the requirements of section 13(a) or 15(d) of the Securities Exchange Act of 1934;

and

2. The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

Date: March 1, 2004

By: /s/ DAVID J. NOBLE

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D.J. Noble, *Chief Executive Officer (Principal Executive Officer)*

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[CERTIFICATION PURSUANT TO 18 U.S.C. SECTION 1350, AS ADOPTED PURSUANT TO SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002](#)

**CERTIFICATION PURSUANT TO  
18 U.S.C. SECTION 1350,  
AS ADOPTED PURSUANT TO  
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002**

In connection with the Annual Report of American Equity Investment Life Holding Company (the "Company") on Form 10-K for the fiscal year ended December 31, 2003 as filed with the Securities and Exchange Commission on the date hereof (the "Report"), I, Wendy L. Carlson, Chief Financial Officer of the Company, certify, pursuant to 18 U.S.C. § 1350, as adopted pursuant to § 906 of the Sarbanes-Oxley Act of 2002, that:

1. The Report fully complies with the requirements of section 13(a) or 15(d) of the Securities Exchange Act of 1934;

and

2. The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

Date: March 1, 2004

By: /s/ WENDY L. CARLSON

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Wendy L. Carlson, *Chief Financial Officer (Principal Financial Officer)*

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[CERTIFICATION PURSUANT TO 18 U.S.C. SECTION 1350, AS ADOPTED PURSUANT TO SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002](#)