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SCHEDULE 13D  
(RULE 13d-101)

Information to be Included in Statements Filed Pursuant to Rule 13d-1(a) and  
Amendments Thereto Filed Pursuant to Rule 13d-2(a)

SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, DC 20549

SCHEDULE 13D

Under the Securities Exchange Act of 1934  
(Amendment No. )\*

-----  
Omega Healthcare Investors, Inc.  
-----

(Name of Issuer)

-----  
Common Stock, par value \$1.00 per share  
-----

(Title of Class of Securities)

-----  
681936100  
-----

(CUSIP Number)

-----  
Thomas W. Bark, Esq.  
Jones, Day, Reavis &#38; Pogue  
599 Lexington Avenue  
New York, New York 10022  
(212) 326-7815  
-----

(Name, Address and Telephone Number of Person Authorized to  
Receive Notices and Communications)

-----  
May 11, 2000  
-----

(Date of Event which Requires Filing of this Statement)

If the filing person has previously filed a statement on Schedule 13G to  
report the acquisition which is the subject of this Schedule 13D, and is filing  
this schedule because of Rule 13d-1(e), 13d-1(f) or 13d-1(g), check the  
following box / /.

Note: Schedules filed in paper format shall include a signed original  
and five copies of the schedule, including all exhibits. See Rule  
13d-7(b) for other parties to whom copies are to be sent.

\*The remainder of this cover page shall be filled out for a reporting  
person's initial filing on this form with respect to the subject class of  
securities, and for any subsequent amendment containing information which  
would alter disclosures provided in a prior cover page.

The information required on the remainder of this cover page shall not be  
deemed to be "filed" for the purpose of Section 18 of the Securities Exchange  
Act of 1934 ("Act") or otherwise subject to the liabilities of that section of  
the Act but shall be subject to all other provisions of the Act (however, see  
the Notes).

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CUSIP NO. 681936100 13D PAGE 2 OF 13 PAGES

1 NAMES OF REPORTING PERSONS/I.R.S. IDENTIFICATION NOS. OF ABOVE PERSONS  
(ENTITIES ONLY)

Explorer Holdings, L.P.

2 CHECK THE APPROPRIATE BOX IF A MEMBER OF A GROUP  
(See Instructions)

(a)   
(b)

3 SEC USE ONLY

4 SOURCE OF FUNDS (See Instructions)

OO

5 CHECK IF DISCLOSURE OF LEGAL PROCEEDINGS IS REQUIRED PURSUANT  
TO ITEM 2(d) OR 2(e)

6 CITIZENSHIP OR PLACE OF ORGANIZATION

Delaware

7 SOLE VOTING POWER

NUMBER OF  
SHARES

None

8 SHARED VOTING POWER

1,000,000\*\*

9 SOLE DISPOSITIVE POWER

REPORTING  
PERSON

None

10 SHARED DISPOSITIVE POWER

WITH

1,000,000\*\*

11 AGGREGATE AMOUNT BENEFICIALLY OWNED BY EACH REPORTING PERSON

1,000,000\*\*

12 CHECK BOX IF THE AGGREGATE AMOUNT IN ROW (11) EXCLUDES  
CERTAIN SHARES (See Instructions)

O

13 PERCENT OF CLASS REPRESENTED BY AMOUNT IN ROW (11)

100%

14 TYPE OF REPORTING PERSON (See Instructions)

PN

SEE INSTRUCTIONS BEFORE FILLING OUT!

\*\*Represents shares of Series C Convertible Preferred Stock issuable to Purchaser pursuant to the Investment Agreement described herein. The Series C Convertible Preferred Stock are convertible into 16 million shares of Omega's common stock, which shares would represent 44.3% of Omega's outstanding shares of common stock as of March 31, 2000 after giving effect to such issuance. The actual percentage of shares of common stock into which the Series C Convertible Preferred Stock are convertible depends on the number of Omega's shares outstanding at the time of conversion.

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CUSIP NO. 681936100 13D PAGE 3 OF 13 PAGES

1 NAMES OF REPORTING PERSONS/I.R.S. IDENTIFICATION NOS. OF ABOVE PERSONS  
(ENTITIES ONLY)

Explorer Holdings GenPar, LLC

2 CHECK THE APPROPRIATE BOX IF A MEMBER OF A GROUP  
(See Instructions)

(a)   
(b)

3 SEC USE ONLY

4 SOURCE OF FUNDS (See Instructions)

00

5 CHECK IF DISCLOSURE OF LEGAL PROCEEDINGS IS REQUIRED PURSUANT  
TO ITEM 2(d) OR 2(e)

6 CITIZENSHIP OR PLACE OF ORGANIZATION

Delaware

7 SOLE VOTING POWER  
NUMBER OF  
SHARES

None

8 SHARED VOTING POWER  
BENEFICIALLY

1,000,000\*\*

9 SOLE DISPOSITIVE POWER  
OWNED BY EACH  
REPORTING

None

10 SHARED DISPOSITIVE POWER  
PERSON  
WITH

1,000,000\*\*

11 AGGREGATE AMOUNT BENEFICIALLY OWNED BY EACH REPORTING PERSON

1,000,000\*\*

12 CHECK BOX IF THE AGGREGATE AMOUNT IN ROW (11) EXCLUDES  
CERTAIN SHARES (See Instructions)

0

13 PERCENT OF CLASS REPRESENTED BY AMOUNT IN ROW (11)  
100%

14 TYPE OF REPORTING PERSON (See Instructions)

00

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CUSIP NO. 681936100

13D

PAGE 4 OF 13 PAGES

1 NAMES OF REPORTING PERSONS/I.R.S. IDENTIFICATION NOS. OF ABOVE PERSONS  
(ENTITIES ONLY)

Hampstead Investment Partners III, L.P.

2 CHECK THE APPROPRIATE BOX IF A MEMBER OF A GROUP  
(See Instructions)

(a)   
(b)

3 SEC USE ONLY

-----  
4 SOURCE OF FUNDS (See Instructions)

OO

-----  
5 CHECK IF DISCLOSURE OF LEGAL PROCEEDINGS IS REQUIRED PURSUANT  
TO ITEM 2(d) OR 2(e) [ ]

-----  
6 CITIZENSHIP OR PLACE OF ORGANIZATION

Texas

-----  
7 SOLE VOTING POWER  
NUMBER OF SHARES None

-----  
8 SHARED VOTING POWER  
BENEFICIALLY OWNED BY EACH 1,000,000\*\*

-----  
9 SOLE DISPOSITIVE POWER  
REPORTING PERSON None

-----  
10 SHARED DISPOSITIVE POWER  
WITH 1,000,000\*\*

-----  
11 AGGREGATE AMOUNT BENEFICIALLY OWNED BY EACH REPORTING PERSON  
1,000,000\*\*

-----  
12 CHECK BOX IF THE AGGREGATE AMOUNT IN ROW (11) EXCLUDES  
CERTAIN SHARES (See Instructions) [ ]

O

-----  
13 PERCENT OF CLASS REPRESENTED BY AMOUNT IN ROW (11)

100%

-----  
14 TYPE OF REPORTING PERSON (See Instructions)

PN

-----  
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CUSIP NO. 681936100

13D

PAGE 5 OF 13 PAGES

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1 NAMES OF REPORTING PERSONS/I.R.S. IDENTIFICATION NOS. OF ABOVE PERSONS  
(ENTITIES ONLY)

Donald J. McNamara

-----  
2 CHECK THE APPROPRIATE BOX IF A MEMBER OF A GROUP  
(See Instructions)

(a) [x]

(b) [ ]

-----  
3 SEC USE ONLY

-----  
4 SOURCE OF FUNDS (See Instructions)

OO

-----  
5 CHECK IF DISCLOSURE OF LEGAL PROCEEDINGS IS REQUIRED PURSUANT  
TO ITEM 2(d) OR 2(e) [ ]

-----  
6 CITIZENSHIP OR PLACE OF ORGANIZATION

-----

7 SOLE VOTING POWER

NUMBER OF  
SHARES None

-----

8 SHARED VOTING POWER

BENEFICIALLY 1,000,000\*\*

OWNED BY EACH

-----

9 SOLE DISPOSITIVE POWER

REPORTING None

PERSON

-----

10 SHARED DISPOSITIVE POWER

WITH 1,000,000\*\*

-----

11 AGGREGATE AMOUNT BENEFICIALLY OWNED BY EACH REPORTING PERSON

1,000,000\*\*

-----

12 CHECK BOX IF THE AGGREGATE AMOUNT IN ROW (11) EXCLUDES  
CERTAIN SHARES (See Instructions) [ ]

0

-----

13 PERCENT OF CLASS REPRESENTED BY AMOUNT IN ROW (11)

100%

-----

14 TYPE OF REPORTING PERSON (See Instructions)

IN

-----

\*SEE INSTRUCTIONS BEFORE FILLING OUT!

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CUSIP NO. 681936100 13D PAGE 6 OF 13 PAGES

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1 NAMES OF REPORTING PERSONS/I.R.S. IDENTIFICATION NOS. OF ABOVE PERSONS  
(ENTITIES ONLY)

Daniel A. Decker

-----

2 CHECK THE APPROPRIATE BOX IF A MEMBER OF A GROUP  
(See Instructions)

(a) [x]  
(b) [ ]

-----

3 SEC USE ONLY

-----

4 SOURCE OF FUNDS (See Instructions)

OO

-----

5 CHECK IF DISCLOSURE OF LEGAL PROCEEDINGS IS REQUIRED PURSUANT  
TO ITEM 2(d) OR 2(e) [ ]

-----

6 CITIZENSHIP OR PLACE OF ORGANIZATION

-----

7 SOLE VOTING POWER

NUMBER OF  
SHARES None

-----

8 SHARED VOTING POWER

BENEFICIALLY 1,000,000\*\*















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    <TD align="left" valign="top">By: /s/ William T. Cavanaugh,  
Jr.</TD>  
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<td align="left"><hr noshade width="300" size="1">William T. Cavanaugh, Jr.<br>Authorized Officer</td>  
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GenPar, L.P., its General Partner</TD>

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its General Partner</TD>

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    <TD align="left" valign="top">By: /s/ William T. Cavanaugh,  
Jr.

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William T. Cavanaugh, Jr.<br>Authorized Officer</TD>  
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    <TD></TD>  
    <TD align="left" valign="top">/s/ Donald J.  
McNamara<hr noshade width="300" size="1">  
Donald J. McNamara</TD>

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    <TD></TD>  
    <TD align="left" valign="top">/s/ Daniel A.  
Decker<hr noshade width="300" size="1">Daniel A. Decker</TD>

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(d) Demand Registration: As defined in Section 3 hereof.
(e) Investment Agreement: The Investment Agreement dated as of May 11, 2000 by and between the Company and Stockholder.
(f) Losses: As defined in Section 8 hereof.
(g) Piggyback Registration: As defined in Section 4 hereof.
(h) Prospectus: The prospectus included in any Registration Statement (including, without limitation, a prospectus that discloses information previously omitted from a prospectus filed as part of an effective registration statement in reliance upon Rule 430A promulgated under the Securities Act), as amended or supplemented by any prospectus supplement, with respect to the terms of the offering of any portion of the Registrable Securities covered by such Registration Statement and all other amendments and supplements to the Prospectus, including post-effective amendments, and all material incorporated by reference or deemed to be incorporated by reference in such Prospectus.
(i) Registrable Securities: All shares of Series C Preferred and Common Stock acquired by Stockholder or any of its Affiliates or any permitted transferee or their respective

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<P>assigns of any such Person (including all shares of Common Stock issued upon conversion of any shares of Series C Preferred, any shares of Series C Preferred or Common Stock or other securities that may be received by Stockholder or any permitted transferee or their respective assigns (x) as a result of a stock dividend or stock split of Series C Preferred or Common Stock or (y) on account of Series C Preferred or Common Stock in a recapitalization or other transaction involving the Company) upon the respective original issuance thereof, and at all times subsequent thereto, and all other securities of the Company of any class or series that are beneficially owned by Stockholder or any of its Affiliates, until, in the case of any such security, (i) it is effectively registered under the Securities Act and disposed of in accordance with the Registration Statement covering it, (ii) it is saleable by the holder thereof pursuant to Rule 144(k) without any volume limitation applicable thereto, or (iii) it is distributed to the public pursuant to Rule 144.

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<p>&amp;nbsp;</p> <p>(j) Registration Expenses: As defined in Section 7 hereof.</p>	
<p>&amp;nbsp;</p> <p>(k) Registration Statement: Any registration statement of the Company under the Securities Act that covers any of the Registrable Securities pursuant to the provisions of this Agreement, including the related Prospectus, all amendments and supplements to such registration statement (including post-effective amendments), all exhibits and all material incorporated by reference or deemed to be incorporated by reference in such registration statement.</p>	
<p>&amp;nbsp;</p> <p>(l) Rule 144: Rule 144 under the Securities Act, as amended from time to time, or any similar rule or regulation hereafter adopted by the SEC.</p>	
<p>&amp;nbsp;</p> <p>(m) SEC: The Securities and Exchange Commission.</p>	
<p>&amp;nbsp;</p> <p>(n) Securities Act: The Securities Act of 1933, as amended.</p>	
<p>&amp;nbsp;</p> <p>(o) Series C Preferred: Shares of Series C Preferred Stock, par value \$1.00 per share, of the Company.</p>	
<p>&amp;nbsp;</p> <p>(p) Underwritten registration or underwritten offering: A distribution, registered pursuant to the Securities Act in which securities of the Company are sold to an underwriter for reoffering to the public.</p>	

2. Holders of Registrable Securities. Whenever a number or percentage of Registrable Securities is to be determined hereunder, each then-outstanding other equity security that is exercisable to purchase, convertible into, or exchangeable for shares of Common Stock of the Company will be deemed to be equal to the number of shares of Common Stock for which such other equity security (or the security into which such other equity security is then convertible) is then so purchasable, convertible, exchangeable or exercisable.

3. Demand Registration. (a) Requests for Registration. At any time and from time to time after the first anniversary of the Closing Date, the holders of Registrable Securities constituting at least 25% of the total number of Registrable Securities then outstanding will have the right by written notice delivered to the Company (a Demand Notice), to require the Company to register (a Demand Registration) under and in accordance with the provisions of

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<P>the Securities Act a number of Registrable Securities that would reasonably be expected to result in aggregate gross proceeds from such offering of not less than \$10 million (\$5 million in the case of any Demand Registration that is requested to be effected as a "shelf" registration); provided, however, that no Demand Notice may be given prior to six months after the effective date of the immediately preceding Demand Registration or any Piggyback Registration of which the Company has notified the Holder in accordance with Section 4(a) and for which the number of Registrable Securities requested to be registered by the Holder has not been reduced pursuant to Section 4(b).

<P>The number of Demand Registrations pursuant to this Section 3(a) shall not exceed five; provided, however, that in determining the number of Demand Registrations to which the holders of Registrable Securities are entitled there shall be excluded (1) any Demand Registration that is an underwritten registration if the managing underwriter or underwriters have advised the holders of Registrable Securities that the total number of Registrable Securities requested to be included therein exceeds the number of Registrable Securities that can be sold in such offering in accordance with the provisions of this Agreement without materially and adversely affecting the success of such offering, (2) any Demand Registration that does not become effective or is not maintained effective for the period required pursuant to Section 3(b) hereof, unless in the case of this clause (2) such Demand Registration does not become effective after being filed by the Company solely by reason of the refusal to proceed by the holders of Registrable Securities unless (i) the refusal to proceed is based upon the advice of counsel relating to a matter with respect to the Company or (ii) the holders of the Registrable Securities elect to pay all Registration Expenses in connection with such Demand Registration, and (3) any Demand Registration in connection with which any other stockholder of the Company or the Company exercises a right of first refusal which it may otherwise have and purchases all the stock registered and to be sold pursuant to the Demand Registration.

<P>(b) Filing and Effectiveness. The Company will file a Registration Statement relating to any Demand Registration within 45 calendar days, and will use its best efforts to cause the same to be declared effective by the SEC as soon as practicable thereafter, and in any event, within 90 calendar days, of the date on which the holders of Registrable Securities first give the Demand Notice required by Section 3(a) hereof with respect to such Demand Registration.

<P>All requests made pursuant to this Section 3 will specify the number of Registrable Securities to be registered and will also specify the intended methods of disposition thereof; provided, that if the holder demanding such registration specifies one particular type of underwritten offering, such method of disposition shall be such type of underwritten offering or a series of such underwritten offerings (as such demanding holders of Registrable Securities may elect) during the period during which the Registration Statement is effective.

<P>The Company will keep the Registration Statement filed in respect of a Demand Registration effective for a period of up to 90 calendar days from the date on which the SEC declares such Registration Statement effective (subject to extensions pursuant to Section 6 hereof) or such shorter period that will terminate when all Registrable Securities deemed by such Registration Statement have been sold pursuant to such Registration Statement. If any Demand Registration is requested to be effected as a "shelf" registration by the holders of Registrable

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<P>Securities demanding such Demand Registration, the Company will keep the Registration Statement filed in respect thereof effective for a period of up to 12 months from the date on which the SEC declares such Registration Statement effective (subject to extension pursuant to Section 6 hereof) or such shorter period that will terminate when all Registrable Securities covered by such Registration Statement have been sold pursuant to such Registration Statement.

<P>Within ten calendar days after receipt of such Demand Notice, the Company will serve written notice thereof (the "Notice") to all other holders of Registrable Securities and will, subject to the provisions of Section 3(c) hereof, include in such registration all Registrable Securities with respect to which the Company receives written requests for inclusion therein within 20 calendar days after the receipt of the Notice by the applicable holder.

<P>The holders of Registrable Securities will be permitted to withdraw Registrable Securities from a Registration at any time prior to the effective date of such registration.







effect such registrations to permit the sale of such Registrable Securities in accordance with the intended method or methods of disposition thereof, and pursuant thereto the Company will as expeditiously as possible:

(a) Prepare and file with the SEC a Registration Statement or Registration Statements on any appropriate form under the Securities Act available for the sale of the Registrable Securities by the holders thereof in accordance with notice to the Company as to the intended method or methods of distribution thereof (including, without limitation, distributions in connection with transactions with broker-dealers or others for the purpose of hedging Registrable Securities, involving possible sales, short sales, options, pledges or other transactions which may require delivery and sale to broker-dealers or others of Registrable Securities), and cause each such Registration Statement to become effective and remain effective as provided herein; provided, however, that before filing a Registration Statement or Prospectus or any amendments or supplements thereto (including documents that would be incorporated or deemed to be incorporated therein by reference) the Company will furnish to the holders of the Registrable Securities covered by such Registration Statement, the Special Counsel and the managing underwriters, if any, copies of all such documents proposed to be filed, which documents will be subject to the review of such holders, the Special Counsel and such underwriters. Notwithstanding Section 3(b), the Company will not file any such Registration Statement or amendment thereto or any Prospectus or any supplement thereto (including such documents which, upon filing, would or would be incorporated or deemed to be incorporated by reference

6  
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therein) to which the holders of a majority of the Registrable Securities covered by such Registration Statement, the Special Counsel or the managing underwriter, if any, shall reasonably object on a timely basis.

(b) Prepare and file with the SEC such amendments and post-effective amendments to each Registration Statement as may be necessary to keep such Registration Statement continuously effective for the applicable period specified in Section 3; cause the related Prospectus to be supplemented by any required Prospectus supplement, and as so supplemented to be filed pursuant to Rule 424 (or any similar provisions then in force) under the Securities Act; and comply with the provisions of the Securities Act with respect to the disposition of all securities covered by such Registration Statement during the applicable period in accordance with the intended methods of disposition by the sellers thereof set forth in such Registration Statement as so amended or to such Prospectus as so supplemented.

(c) Notify the selling holders of Registrable Securities, the Special Counsel and the managing underwriters, if any, promptly, and (if requested by any such person) confirm such notice in writing, (i) when a Prospectus or any Prospectus supplement or post-effective amendment has been filed, and, with respect to a Registration Statement or any post-effective amendment, when the same has become effective, (ii) of any request by the SEC or any other federal or state governmental authority for amendments or supplements to a Registration Statement or related Prospectus or for additional information, (iii) of the issuance by the SEC or any other federal or state governmental authority of any stop order suspending the effectiveness of a Registration Statement or the initiation of any proceedings for that purpose, (iv) if at any time the representations and warranties of the Company contained in any agreement contemplated by Section 6(m) hereof (including any underwriting agreement) cease to be true and correct, (v) of the receipt by the Company of any notification with respect to the suspension of the qualification or exemption from qualification of any of the Registrable Securities for sale in any jurisdiction or the initiation or threatening of any proceeding for such purpose, (vi) of the occurrence of any event which makes any statement made in such Registration Statement or related Prospectus or any document incorporated or deemed to be incorporated therein by reference untrue in any material respect or which requires the making of any changes in a Registration Statement, Prospectus or documents so that, in the case of the Registration Statement, it will not contain any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary to make the statements therein not misleading and, in the case of the Prospectus, it will not contain any untrue statement of a material fact or omit to state any material fact required to be stated or is necessary to make the statements therein, in light of the circumstances under which they were made, not misleading, and (vii) of the Company's reasonable determination that a post-effective amendment to a Registration Statement would be appropriate.

(d) Use every reasonable effort to obtain the withdrawal of any order suspending the effectiveness of a Registration Statement, or the lifting of any suspension of the qualification (or exemption from qualification) of any of the Registrable securities for sale in any jurisdiction, at the earliest possible moment.



or

6(c) (vii) hereof, prepare a supplement or post-effective amendment to each Registration Statement or a supplement to the related Prospectus or any document incorporated therein by reference or file any other required document so that, as thereafter delivered to Stockholder of the Registrable Securities being sold thereunder, such Prospectus will not contain an untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances under which they were made, not misleading.

(l) Use its best efforts to cause all Registrable Securities covered by such Registration Statement to be listed on each securities exchange, if any, on which similar securities issued by the Company are then listed or, if no similar securities issued by the Company are then so listed, on the New York Stock Exchange or another national securities exchange if the securities qualify to be so listed or, if the securities do not qualify for such listing, authorized to be quoted on the National Association of Securities Dealers Automated Quotation System (NASDAQ) or the National Market System of NASDAQ if the securities qualify to be so quoted; in each case, if requested by the holders of a majority of the Registrable Securities covered by such Registration statement or the managing underwriters, if any.

(m) In the event of an underwritten offering, enter into such agreements (including an underwriting agreement in form, scope and substance as is customary in underwritten offerings) and take all such other actions in connection therewith (including those reasonably requested by the holders of a majority of the Registrable Securities being sold or those reasonably requested by the managing underwriters) in order to expedite or facilitate the disposition of such Registrable Securities and in such connection, (i) make such representations and warranties to the underwriters, if any, with respect to the business of the Company and its subsidiaries, the Registration Statement, Prospectus and documents incorporated by reference or deemed incorporated by reference, if any, in each case, in form, substance and scope as are customarily made by issuers to underwriters in underwritten offerings and confirm the same if and when requested; (ii) obtain opinions of counsel to the Company and updates thereof (which counsel and opinions (in form, scope and substance) shall be reasonably satisfactory to the managing underwriters, if any, and the holders of a majority of the Registrable Securities being sold) addressed to such selling holder of Registrable Securities and each of the underwriters, if any, covering the matters customarily covered in opinions requested in underwritten offerings and such other matters as may be reasonably requested by such holders and underwriters, including without limitation the matters referred to in Section 6(m) (i) hereof; (iii) use its best efforts to obtain "comfort" letters and updates thereof from the independent certified public accountants of the Company (and, if necessary, any other certified public accountants of any subsidiary of the Company or of any business acquired by the Company for which financial statements and financial data is, or is required to be, included in the Registration Statement), addressed to each selling holder of Registrable Securities and each of the underwriters, if any, such letters to be in

9  
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customary form and covering matters of the type customarily covered in "comfort" letters in connection with underwritten offerings; and (iv) deliver such documents and certificates as may be requested by the holders of a majority of the Registrable Securities being sold, the Special Counsel and the managing underwriters, if any, to evidence the continued validity of the representations and warranties of the Company and its subsidiaries made pursuant to clause (i) above and to evidence compliance with any customary conditions contained in the underwriting agreement or similar agreement entered into by the Company. The foregoing actions will be taken in connection with each closing under such underwriting or similar agreement as and to the extent required thereunder.

(n) Make available for inspection by a representative of the holders of Registrable Securities being sold, any underwriter participating in any disposition of Registrable Securities, and any attorney or accountant retained by such selling holders or underwriter, all financial and other records, pertinent corporate documents and properties of the Company and its subsidiaries, and cause the officers, directors and employees of the Company and its subsidiaries to supply all information reasonably requested by any such representative, underwriter, attorney or accountant in connection with such Registration Statement; provided, however, that any records, information or documents that are designated by the Company in writing as confidential at the time of delivery of such records, information or documents will be kept confidential by such persons unless (i) such records, information or documents are in the public domain or otherwise publicly available, (ii) disclosure of such records, information or documents is required by court or administrative

order or is necessary to respond to inquires of regulatory authorities, or (iii) disclosure of such records, information or documents, in the opinion of counsel to such person, is otherwise required by law (including, without limitation, pursuant to the requirements of the Securities Act).

(o) Comply with all applicable rules and regulations of the SEC and make generally available to its security holders earnings statements satisfying the provisions of Section 11(a) of the Securities Act and Rule 158 thereunder (or any similar rule promulgated under the Securities Act) no later than 45 calendar days after the end of any 12-month period (or 90 calendar days after the end of any 12-month period if such period is a fiscal year) (i) commencing at the end of any fiscal quarter in which Registrable Securities are sold to underwriters in a firm commitment or best efforts underwritten offering, and (ii) if not sold to underwriters in such an offering, commencing on the first day of the first fiscal quarter of the Company, after the effective date of a Registration Statement, which statements shall cover said 12-month period.

(p) Cooperate with any reasonable request by holders of a majority of the Registrable Securities offered for sale, including by ensuring participation by the executive management of the Company in road shows, so long as such participation does not materially interfere with the operation of the Company's business.

The Company may require each seller of Registrable Securities as to which any registration is being effected to furnish to the Company such information regarding the distribution of such Registrable Securities as the Company may, from time to time, reasonably request in writing and the Company may exclude from such registration the Registrable Securities of any seller who unreasonably fails to furnish such information within a reasonable time after receiving such request.

10  
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Each holder of Registrable Securities will be deemed to have agreed by virtue of its acquisition of such Registrable Securities that, upon receipt of any notice from the Company of the occurrence of any event of the kind described in Section 6(c) (ii), 6(c) (iii), 6(c) (v), 6(c) (vi) or 6(c) (vii) hereof, such holder will forthwith discontinue disposition of such Registrable Securities covered by such Registration Statement or Prospectus (a Black-Out) until such holder's receipt of the copies of the supplemented or amended Prospectus contemplated by Section 6(k) hereof, or until it is advised in writing (the Advice) by the Company that the use of the applicable Prospectus may be resumed, and has received copies of any additional or supplemental filings that are incorporated or deemed to be incorporated by reference in such Prospectus, provided, however, that in no event shall the aggregate number of days during which a Black-Out is effective during any period of twelve consecutive months exceed 90 calendar days. In the event the Company shall give any such notice, the time period prescribed in Section 3(b) hereof will be extended by the number of days during the time period from and including the date of the giving of such notice to and including the date when each seller of Registrable Securities covered by such Registration Statement shall have received (x) the copies of the supplemented or amended Prospectus contemplated by Section 6(k) hereof or (y) the Advice.

7. Registration Expenses. All Registration Expenses will be borne by the Company whether or not any of the Registration Statements become effective. Registration Expenses will mean all fees and expenses incident to the performance of or compliance with this Agreement by the Company, including, without limitation, (i) all registration and filing fees (including without limitation fees and expenses (x) with respect to filings required to be made with the National Association of Securities Dealers, Inc. and (y) of compliance with securities or blue sky laws (including without limitation fees and disbursements of counsel for the underwriters or selling holders in connection with blue sky qualifications of the Registrable Securities and determination of the eligibility of the Registrable Securities for investment under the laws of such jurisdictions as the managing underwriters, if any, or holders of a majority of the Registrable Securities being sold may designate), (ii) printing expenses (including without limitation expenses of printing certificates for Registrable Securities in a form eligible for deposit with The Depository Trust Company and of printing prospectuses if the printing of prospectuses is requested by the holders of a majority of the Registrable Securities included in any Registration Statement), (iii) messenger, telephone and delivery expenses, (iv) fees and disbursements of counsel for the Company, (v) fees and disbursements of all independent certified public accountants referred to in Section 6(m) (iii) hereof (including the expenses of any special audit and comfort letters required by or incident to such performance), (vi) fees and expenses of any qualified independent underwriter or other independent appraiser participating in an offering pursuant to Section 3 of Schedule E to the By-laws of the National Association of Securities Dealers, Inc., (vii) Securities Act liability insurance if the Company so desires such insurance, (viii) all fees and expenses in listing the Registrable Securities



(within the meaning of Section 15 of the Securities Act and Section 20 of the Exchange Act), and the directors, officers, agents or employees of such controlling persons, from and against all Losses arising out of or based upon (i) any disposition of Registrable Securities after receiving notice of a Black-Out and prior to receiving Advice under Section 6 that use of the Prospectus may be resumed or (ii) any untrue statement of a material fact contained in any Registration Statement, Prospectus or preliminary prospectus or arising out of or based upon any omission of a material fact required to be stated therein or necessary to make the statements therein not misleading, to the extent, but only to the extent, that such untrue statement or omission is finally judicially determined by a court to have been contained in any information so furnished in writing by such holder to the Company expressly for use in such Registration Statement or Prospectus and was relied upon by the Company in the preparation of such Registration Statement, Prospectus or preliminary prospectus. In no event will the liability of any selling holder of Registrable Securities hereunder be greater in amount than the dollar amount of the proceeds (net of payment of all expenses and underwriter's discounts and commissions) received by such holder upon the sale of the Registrable Securities giving rise to such indemnification obligation.

(c) Conduct of Indemnification Proceedings. If any person shall become entitled to indemnity hereunder (an Indemnified Party), such Indemnified Party shall give prompt notice to the party from which such indemnity is sought (the Indemnifying Party) of any claim or of the commencement of any action or proceeding with respect to which such Indemnified Party seeks indemnification or contribution pursuant hereto; provided, however, that the failure to so notify the Indemnifying Party will not relieve the Indemnifying Party from any obligation or liability except to the extent that the Indemnifying Party has been prejudiced materially by such failure. All fees and expenses (including any fees and expenses incurred in connection with investigating or preparing to defend such action or proceeding) will be paid to the Indemnified Party, as incurred, within five calendar days of written notice thereof to the Indemnifying Party upon receipt of an undertaking to repay such amount if it is ultimately determined that an Indemnified Party is not entitled to indemnification hereunder). The Indemnifying Party will not consent to entry of any judgment or enter into any settlement or otherwise seek to terminate any action or proceeding in which any Indemnified Party is or could be a party and as to which indemnification or contribution could be sought by such Indemnified Party under this Section 8, unless such judgment, settlement or other termination includes as an unconditional term thereof the giving by the claimant or plaintiff to such Indemnified Party of a release, in form and substance reasonably satisfactory to the Indemnified Party, from all liability in respect of such claim or litigation for which such Indemnified Party would be entitled to indemnification hereunder.

(d) Contribution. If the indemnification provided for in this Section 8 is unavailable to an Indemnified Party under Section 8(a) or 8(b) hereof in respect of any Losses or is insufficient to hold such Indemnified Party harmless, then each applicable Indemnifying Party, in lieu of indemnifying such Indemnified Party, will, jointly and severally, contribute to the amount paid or payable by such Indemnified Party as a result of such Losses, in such proportion as is appropriate to reflect the relative fault of the Indemnifying Party or Indemnifying Parties, on the one hand, and such Indemnified Party, on the other hand, in connection with the actions, statements or omissions that resulted in such Losses as well as any other relevant equitable considerations. The relative

13  
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fault of such Indemnifying Party or Indemnifying Parties, on the one hand, and such Indemnified Party, on the other hand, will be determined by reference to, among other things, whether any action in question, including any untrue or alleged untrue statement of a material fact or omission or alleged omission of a material fact, has been taken or made by, or related to information supplied by, such Indemnifying Party or Indemnified Party, and the parties' relative intent, knowledge, access to information and opportunity to correct or prevent such action, statement or omission. The amount paid or payable by a party as a result of any Losses will be deemed to include any legal or other fees or expenses incurred by such party in connection with any action or proceeding.

The parties hereto agree that it would not be just and equitable if contribution pursuant to this Section 8(d) were determined by pro rata allocation or by any other method of allocation that does not take into account the equitable considerations referred to in the immediately preceding paragraph. Notwithstanding the provision of this Section 8(d), an Indemnifying Party that is a selling holder of Registrable Securities will not be required to contribute any amount in excess of the amount by which the total price at which the Registrable Securities sold by such Indemnifying Party and



distributed to the public (net of any related expenses) exceeds the amount of any damages which such Indemnifying Party has otherwise been required to pay by reason of such untrue or alleged untrue statement or omission or alleged omission. No person guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the Securities Act) will be entitled to contribution from any person who was not guilty of such fraudulent misrepresentation.

The indemnity, contribution and expense reimbursement obligations of the Company hereunder will be in addition to any liability the Company may otherwise have hereunder, under the Investment Agreement or otherwise. The provisions of this Section 8 will survive any termination of this Agreement.

9. Rules 144 and 144A. The Company will file the reports required to be filed by it under the Securities Act and the Exchange Act in a timely manner, and will cooperate with any holder of Registrable Securities (including without limitation by making such representations as any such holder may reasonably request), all to the extent required from time to time to enable such holder to sell Registrable Securities without registration under the Securities Act within the limitations of the exemptions provided by Rules 144 and 144A (including, without limitation, the requirements of Rule 144A(d)(4)). Upon the request of any holder of Registrable Securities, the Company will deliver to such holder a written statement as to whether it has complied with such filing requirements.

10. Underwritten Registrations. If any of the Registrable Securities covered by any Demand Registration are to be sold in an underwritten offering, the investment banker or investment bankers and manager or managers that will manage the offering will be selected by the holder of Registrable Securities that gave the Demand Notice with respect to such offering; provided that such investment banker or manager shall be reasonably satisfactory to the Company. If any Piggyback Registration is an underwritten offering, the Company will have the right to select the investment banker or investment bankers and managers to administer the offering.

14  
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11. Miscellaneous. (a) Remedies. In the event of a breach by the Company of its obligations under this Agreement, each holder of Registrable Securities, in addition to being entitled to exercise all rights granted by law, including recovery of damages, will be entitled to specific performance of its rights under this Agreement. The Company agrees that monetary damages would not be adequate compensation for any loss incurred by reason of a breach by it of any of the provisions of this Agreement and hereby further agrees that, in the event of any action for specific performance in respect of such breach, it will waive the defense that a remedy at law would be adequate.

(b) No Inconsistent Agreements. The Company has not, as of the date hereof, and will not, on or after the date hereof, enter into any agreement with respect to its securities which conflicts with the rights granted to the holders of Registrable Securities in this Agreement or otherwise conflicts with the provisions hereof. This Agreement will be deemed to be an independent agreement and no limitation or restriction contained in this Agreement will be deemed to conflict with, limit or restrict the rights of the Stockholder under this Agreement.

(c) Amendments and Waivers. The provisions of this Agreement, including the provisions of this sentence, may not be amended, modified or supplemented, and waivers or consents to departures from the provisions hereof may not be given, unless the Company has obtained the written consent of holders of a majority of the then-outstanding Registrable Securities. Notwithstanding the foregoing, a waiver or consent to depart from the provisions hereof with respect to a matter that relates exclusively to the rights of holders of Registrable Securities whose securities are being sold pursuant to a Registration Statement and that does not directly or indirectly affect the rights of other holders of Registrable Securities may be given by holders of at least 51% of the Registrable Securities being sold by such holders; provided, however, that the provisions of this sentence may not be amended, modified, or supplemented except in accordance with the provisions of the immediately preceding sentence.

(d) Notices. All notices and other communications provided for or permitted hereunder shall be made in writing and will be deemed given (i) when made, if made by hand delivery, (ii) upon confirmation, if made by fax, or (iii) one business day after being deposited with a reputable next-day courier, postage prepaid, to the parties as follows:

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William T. Cavanaugh, Jr.<BR>  
Authorized Officer</TD>  
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Authorized Officer</TD>  
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