

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

FORM 8-K

CURRENT REPORT

PURSUANT TO SECTION 13 OR 15(d) OF THE
SECURITIES EXCHANGE ACT OF 1934

Date of Report (Date of earliest event reported): OCTOBER 15, 1998

AVALONBAY COMMUNITIES, INC.
(Exact name of Registrant as specified in charter)

----- MARYLAND (State or other jurisdiction of incorporation)	----- 1-12672 (Commission file number)	----- 77-0404318 (IRS employer identification no.)
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2900 EISENHOWER AVENUE, SUITE 300, ALEXANDRIA, VIRGINIA 22314

(Address of principal executive offices) (Zip Code)

(703) 329-6300

(Registrant's telephone number, including area code)

ITEM 5. OTHER EVENTS

On October 15, 1998, AvalonBay Communities, Inc. (the "Company") consummated an underwritten public offering of 4,000,000 shares of the Company's 8.70% Series H Cumulative Redeemable Preferred Stock, par value \$.01 per share ("Series H Preferred Stock"), at a price per share of \$25.00. Dividends on the Series H Preferred Stock are cumulative from the date of original issuance and are payable quarterly, commencing December 15, 1998, at the rate of 8.70% per annum of the liquidation preference (equivalent to a fixed annual amount of \$2.175 per share). The offering of the Series H Preferred Stock was made pursuant to a Prospectus Supplement dated October 7, 1998 relating to the Prospectus dated August 18, 1998, which is a part of the Company's registration statement on Form S-3, as amended (File No. 333-60875). The Underwriting Agreement and Price Determination Agreement related to this offering are being filed as exhibits hereto.

ITEM 7. FINANCIAL STATEMENTS

EXHIBIT NUMBER	EXHIBIT
1.1	Underwriting Agreement, dated October 7, 1998, between the Company and PaineWebber Incorporated, A.G. Edwards & Sons, Inc., Legg Mason Wood Walker, Incorporated, Morgan Stanley & Co. Incorporated, Prudential Securities Incorporated, Smith Barney Inc. and Wheat First Union, a division of Wheat First Securities, Inc. (collectively, the "Underwriters").
1.2	Price Determination Agreement, dated October 7, 1998, between the Company and the Underwriters.
3(i).1	Articles Supplementary establishing the rights and preferences of the Company's Series H Preferred Stock. (Incorporated by reference to Exhibit 1 to Form 8-A of the Company filed October 14, 1998.)

SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, as amended, the registrant has duly caused this report to be filed on its behalf by the undersigned hereunto duly authorized.

AVALONBAY COMMUNITIES, INC.

Dated: October 21, 1998

By: /s/ Thomas J. Sargeant

Name: Thomas J. Sargeant
Title: Senior Vice President and Chief
Financial Officer

4,000,000 SHARES

AVALONBAY COMMUNITIES, INC.

SERIES H CUMULATIVE REDEEMABLE PREFERRED STOCK

UNDERWRITING AGREEMENT

dated October 7, 1998

PAINWEBBER INCORPORATED

A.G. EDWARDS & SONS, INC.

LEGG MASON WOOD WALKER, INCORPORATED

MORGAN STANLEY & CO. INCORPORATED

PRUDENTIAL SECURITIES INCORPORATED

SMITH BARNEY INC.

WHEAT FIRST UNION, A DIVISION OF WHEAT FIRST SECURITIES, INC.

4,000,000 Shares

AVALONBAY COMMUNITIES, INC.

Series H Cumulative Redeemable Preferred Stock

UNDERWRITING AGREEMENT

October 7, 1998

PAINWEBBER INCORPORATED

A.G. EDWARDS & SONS, INC.

LEGG MASON WOOD WALKER, INCORPORATED

MORGAN STANLEY & CO. INCORPORATED

PRUDENTIAL SECURITIES INCORPORATED

SMITH BARNEY INC.

WHEAT FIRST UNION, a division of
Wheat First Securities, Inc.

c/o PaineWebber Incorporated

1285 Avenue of the Americas

New York, New York 10019

Ladies and Gentlemen:

AvalonBay Communities, Inc., a Maryland corporation (the "Company"), confirms its agreement with you and the other underwriters listed in SCHEDULE A (collectively, the "Underwriters"), for whom PaineWebber Incorporated, A.G. Edwards & Sons, Inc., Legg Mason Wood Walker, Incorporated, Morgan Stanley & Co. Incorporated, Prudential Securities Incorporated, Smith Barney Inc., and Wheat First Union, a division of Wheat First Securities, Inc. are acting as representatives (the "Representatives"), as follows:

1. DESCRIPTION OF SECURITIES.

(a) The Company proposes to issue and sell to the Underwriters 4,000,000 shares (the "Firm Shares") of its Series H Cumulative Redeemable Preferred Stock, par value \$.01 per share (the "Series H Preferred Stock").

(b) In addition, the Company is granting to the Underwriters an option to purchase up to an additional 600,000 shares of the Series H Preferred Stock on the terms and for the purposes set forth in Section 10 hereof (the

"Option Shares"; and together with the Firm Shares, the "Shares").

2. AGREEMENT TO SELL AND PURCHASE.

(a) On the basis of the representations, warranties and agreements contained herein, but subject to the terms and conditions set forth herein, the Company agrees to issue and sell to the

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Underwriters listed in SCHEDULE A, and the Underwriters agree to purchase from the Company, at the purchase price per share for the Shares to be agreed upon by the Representatives and the Company as set forth in the Price Determination Agreement, as hereinafter defined, the number of Shares set forth opposite the name of such Underwriter in SCHEDULE A hereto plus such additional number of Shares which such Underwriter may become obligated to purchase pursuant to Section 9 hereof. If the Company elects to rely on Rule 430A (as hereinafter defined), SCHEDULE A may be attached to the Price Determination Agreement.

(b) The Company understands that the Underwriters intend (i) to make a public offering of the Shares, and (ii) initially to offer the Shares upon the terms set forth in the Prospectus.

3. DELIVERY AND PAYMENT.

(a) Delivery of the Shares shall be made to the Representatives for the accounts of the Underwriters, against payment of the purchase price by wire transfer of immediately available funds to the order of the Company, at the office of PaineWebber Incorporated, 1285 Avenue of the Americas, New York, New York 10019 or, if the Representatives so elect, through the book-entry facilities of The Depository Trust Company. Such payments shall be made at 10:00 a.m., New York City time, on October 15, 1998, or at such time on such other date, not later than seven business days after the date of this Agreement, as may be agreed upon by the Company and the Representatives (such date is herein referred to as the "Closing Date").

(b) To the extent the Option is exercised, delivery of the Option Shares against payment by the Underwriters (in the manner specified above) will take place in the manner specified above for the Closing Date at the time and date (which may be the Closing Date) specified in the Option Shares Notice.

(c) If requested by the Representatives no later than the date of this Agreement (or as to the Option Shares, the date of the Option Shares Notice), certificates evidencing the Shares shall be in definitive form and shall be registered in such names and in such denominations as the Representatives shall request at least two full business days prior to the Closing Date (or the Option Closing Date, as the case may be) by written notice to the Company. For the purpose of expediting the checking and packaging of certificates for the Shares, the Company agrees to make such certificates available for inspection at least 24 hours prior to the Closing Date or the Option Closing Date, as the case may be.

(d) The initial public offering price per share for the Shares and the purchase price per share for the Shares to be paid by the several Underwriters shall be agreed upon by the Company and the Representatives, and such agreement shall be set forth in a separate written instrument substantially in the form of EXHIBIT B hereto (the "Price Determination Agreement"). The Price Determination Agreement may take the form of an exchange of any standard form of written telecommunication among the Company and the Representatives and shall specify such applicable information as is indicated in EXHIBIT B hereto. The offering of the Shares will be governed by this Agreement, as supplemented by the Price Determination Agreement. From and after the date of the execution and delivery of the Price Determination Agreement, this Agreement shall be deemed to incorporate, and, unless the context otherwise indicates, all references contained herein to "this Agreement" and to the phrase "herein" shall be deemed to include, the Price Determination Agreement.

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4. REPRESENTATIONS AND WARRANTIES OF THE COMPANY. The Company represents, warrants and covenants to each Underwriter that:

(a) The Company meets the requirements for use of Form S-3 and a registration statement (Registration No. 333-60875) on Form S-3, as amended, with respect to the Shares, including a prospectus (the "Base Prospectus"), has

been carefully prepared by the Company in conformity with the requirements of the Securities Act of 1933, as amended (the "Act"), and the rules and regulations (the "Rules and Regulations") of the Securities and Exchange Commission (the "Commission") thereunder, and has been filed with the Commission and has become effective. Such registration statement and prospectus may have been amended or supplemented prior to the date of this Agreement; any such amendment or supplement was so prepared and filed, and any such amendment or supplement filed after the effective date of such registration statement has become effective. No stop order suspending the effectiveness of the registration statement has been issued, and, to the Company's knowledge, no proceeding for that purpose has been instituted or threatened by the Commission. A prospectus supplement and a final prospectus containing information permitted to be omitted at the time of effectiveness by Rule 430A of the Rules and Regulations has been or will be so prepared and filed with the Commission pursuant to Rule 424(b) of the Rules and Regulations on or before the second business day after the date hereof (or such earlier time as may be required by the Rules and Regulations); and the Rules and Regulations do not require the Company to, and, without the Representatives' consent, the Company will not, file a post-effective amendment after the time of execution of this Agreement and prior to the filing of such final form of prospectus. The registration statement may be supplemented by one or more forms of preliminary prospectus supplement, as contemplated by Rule 430 or Rule 430A of the Rules and Regulations, to be used in connection with the offering and sale of the Shares (each a "Preliminary Prospectus"). Copies of such registration statement, any such amendments, and each related Preliminary Prospectus and all documents incorporated by reference therein that were filed with the Commission on or prior to the date of this Underwriting Agreement have been delivered to the Representatives and their counsel. The term "Registration Statement" means such registration statement as amended at the time it becomes or became effective (the "Effective Date"), including financial statements and all exhibits and any information deemed by virtue of Rule 430A of the Rules and Regulations to be included in such Registration Statement at the Effective Date and any prospectus supplement filed thereafter with the Commission and shall include the documents incorporated by reference therein pursuant to Item 12 of Form S-3 which were filed under the Securities Exchange Act of 1934, as amended (the "Exchange Act"). The term "Prospectus" means, collectively, the Base Prospectus together with any prospectus supplement, in the respective forms they are filed with the Commission pursuant to Rule 424(b) of the Rules and Regulations. Any reference herein to the terms "amend," "amendment" or "supplement" with respect to the Registration Statement, the Base Prospectus, any Preliminary Prospectus or the Prospectus shall be deemed to refer to and include the filing of any document under the Exchange Act after the Effective Date, or the date of any Preliminary Prospectus or the Prospectus, as the case may be, that is incorporated therein by reference. For purposes of this Underwriting Agreement, all references to the Registration Statement, the Prospectus, any preliminary prospectus or any amendment or supplement thereto shall be deemed to include any copy filed with the Commission pursuant to its Electronic Data Gathering Analysis and Retrieval System (EDGAR), and such copy shall be identical (except to the extent permitted by Regulation S-T) to any Prospectus delivered to the Representatives for use in connection with the offering of the Shares by the Company.

(b) Each part of the Registration Statement (excluding any prospectus supplement with respect to an offering of securities other than the offering of the Shares contemplated hereby), when such part became or becomes effective, each Preliminary Prospectus, on the date of filing thereof with the Commission, and the Prospectus and any amendment or supplement thereto, on the date of filing

thereof with the Commission and at the Closing Date (as hereinafter defined) conformed or will conform in all material respects with the requirements of the Act and the Rules and Regulations; each part of the Registration Statement (excluding any prospectus supplement with respect to an offering of securities other than the offering of the Shares contemplated hereby), when such part became or becomes effective, did not or will not contain an untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein not misleading; each Preliminary Prospectus, on the date of filing thereof with the Commission, and the Prospectus and any amendment or supplement thereto, on the date of filing thereof with the Commission and at the Closing Date, did not or will not include an untrue statement of a material fact or omit to state a material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading; the foregoing shall not apply to the statements in or omissions from any such document in reliance upon, and in conformity with, written information relating to any Underwriter furnished to the Company by the Representatives, or by any Underwriter through the Representatives, specifically for use in the preparation thereof. The Company acknowledges that the only information furnished to the Company by the Representatives specifically for inclusion in the Registration Statement is the information set forth in SCHEDULE B hereto. The Company has not distributed any

offering material in connection with the offering or sale of the Shares other than the Registration Statement, any Preliminary Prospectus, the Prospectus or any other materials, if any, permitted by the Act.

(c) The documents incorporated by reference in the Registration Statement, the Prospectus and any amendment or supplement to such Registration Statement or such prospectus, when they became or become effective under the Act or were or are filed with the Commission under the Exchange Act, as the case may be, conformed or will conform in all material respects with the requirements of the Act, the 1933 Act Rules and Regulations, the Exchange Act and the rules and regulations of the Commission thereunder (the "Exchange Act Rules and Regulations"), as applicable.

(d) The Company has been duly organized and is, and at the Closing Date will be, validly existing as a corporation in good standing under the laws of the State of Maryland with the power and authority to conduct all the activities conducted by it, to own or lease all the assets owned or leased by it and otherwise to conduct its business as described in the Registration Statement and Prospectus. The Company is, and at the Closing Date will be, duly licensed or qualified to do business and in good standing in each jurisdiction in which the nature of the activities conducted by it or the character of the assets owned or leased by it makes such licensing or qualification necessary except where the failure to be so qualified, considering all such cases in the aggregate, will not have a material adverse effect on the business, properties, business prospects, condition (financial or otherwise) or results of operations of the Company and its Subsidiaries (as hereinafter defined), taken as a whole.

(e) The only subsidiaries (as defined in the Rules and Regulations) of the Company are the entities listed on SCHEDULE C attached hereto. Each of such subsidiaries is, and at the Closing Date will be, an entity duly organized or formed, as the case may be, and, in the case of each such subsidiary that is a corporation, limited partnership or limited liability company (each a "Subsidiary" and, collectively, the "Subsidiaries") is, and at the Closing Date will be, validly existing and in good standing under the laws of its respective jurisdiction of organization or incorporation. Each of the subsidiaries listed in SCHEDULE C has, and at the Closing Date will have, full power and authority to conduct all the activities conducted by it, to own or lease all the assets owned or leased by it and otherwise to conduct its business as described in the Registration Statement and the Prospectus. Each of the Subsidiaries is, and at the Closing Date will be, duly licensed or qualified to do business in good standing as a corporation, limited partnership or limited liability company, as the case may be, in all jurisdictions in which the nature of the activities conducted by it or the character of the assets owned or

leased by it makes such licensing or qualification necessary except where the failure to be so qualified will not have a material adverse effect on the business, properties, business prospects, condition (financial or otherwise) or results of operations of the Company and its Subsidiaries, taken as a whole. Except for the stock or other interests in the subsidiaries and as disclosed in the Registration Statement, the Company does not own, and at the Closing Date will not own, directly or indirectly, any shares of stock or any other equity or long-term debt securities of any corporation or have any equity interest in any firm, partnership, joint venture, trust, association or other entity. Complete and correct copies of the charter of the Company, as amended through the date hereof (collectively, the "Charter"), and the bylaws of the Company, as amended through the date hereof (the "Bylaws"), of the Company and the charter documents of each of its subsidiaries and all amendments thereto have been delivered to the Representatives, and no changes therein will be made subsequent to the date hereof and prior to the Closing Date, except as heretofore disclosed in writing to the Representatives. Except as otherwise described in the Registration Statement or the Prospectus, or as described in SCHEDULE C, all of the issued and outstanding capital stock of each corporate Subsidiary of the Company has been duly authorized and will be, as of the Closing Date, validly issued, fully paid and non-assessable, and owned by the Company.

(f) The outstanding securities of the Company, including the outstanding shares of common stock, \$0.01 par value (the "Common Stock"), and the outstanding shares of each series of preferred stock (the "Preferred Stock"), and the Shares have been duly authorized and are or, in the case of the Shares, when issued upon receipt of full payment therefor as contemplated hereby will be, validly issued, fully paid and nonassessable by the Company and conform or, in the case of the Shares, when issued will conform, to the description thereof in the Prospectus. Upon issuance, the Shares will have been issued in conformance with the requirements of the Preferred Stock and the issuance and sale of the Shares as contemplated by this Agreement does not conflict with any restrictions or limitations granted to the holders of the Preferred Stock which have not been waived in writing. Copies of such waivers, if any, have been delivered to the Representatives. The shareholders of the Company have no preemptive or similar rights with respect to the Shares. Except as set forth in

the Registration Statement or the Prospectus, the Company does not have outstanding any option to purchase, or any rights or warrants to subscribe for, or any securities or obligations convertible into, or any contracts or commitments to issue or sell, any of its securities or any shares of capital stock of any subsidiary or any such warrants, convertible securities or obligations, except for shares of Common Stock to be issued to certain employees in connection with the deferment of income, shares of Common Stock issuable pursuant to awards granted or to be granted under the Company's 1994 Stock Incentive Plan, as amended and restated, shares of Common Stock issuable under the Company's 1996 Non-Qualified Employee Stock Purchase Plan, shares of Common Stock issuable under the Company's Dividend Reinvestment and Stock Purchase Plan and shares of Common Stock issuable upon redemption or conversion of units of limited partnership interests.

(g) The financial statements and schedules included or incorporated by reference in the Registration Statement and the Prospectus set forth fairly the financial condition of the respective entity or entities presented as of the dates indicated and the results of operations and changes in financial position for the periods therein specified in conformity with generally accepted accounting principles consistently applied throughout the periods involved (except as otherwise stated therein and except to the extent that Avalon Properties, Inc. applied different principles than the Company prior to its merger with and into the Company and except, in the case of interim periods, for the notes thereto and normal year-end adjustment). The pro forma financial statements of the Company included in the Registration Statement and the Prospectus comply in all material respects with the applicable requirements of Rule 11-02 of Regulation S-X of the Commission and the pro forma adjustments have been properly applied

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to the historical amounts in the compilation of such statements. No other financial statements (or schedules) of the Company or any predecessor of the Company are required by the Act or the Rules and Regulations to be included in the Registration Statement or the Prospectus. PricewaterhouseCoopers LLP (the "Accountants"), who have reported on the financial statements and schedules which are audited, are independent accountants with respect to the Company as required by the Act and the Rules and Regulations. The statements included in the Registration Statement with respect to the Accountants pursuant to Rule 509 of Regulation S-K of the Rules and Regulations are true and correct in all material respects.

(h) The Company maintains a system of internal accounting controls sufficient to provide reasonable assurances that: (i) transactions are executed in accordance with management's general or specific authorization; (ii) transactions are recorded as necessary to permit preparation of financial statements in conformity with generally accepted accounting principles and to maintain accountability for assets; (iii) access to assets and financial and corporate books and records is permitted only in accordance with management's general or specific authorization; and (iv) the recorded accountability for assets is compared with existing assets at reasonable intervals and appropriate action is taken with respect to any differences.

(i) Subsequent to the respective dates as of which information is given in the Registration Statement and the Prospectus and prior to the Closing Date, except as set forth in or contemplated by the Registration Statement and the Prospectus, (i) there has not been and will not have been any material change in the capitalization of the Company, or in the business, properties, business prospects, condition (financial or otherwise) or results of operations of the Company and its Subsidiaries, arising for any reason whatsoever, (ii) neither the Company nor any of its Subsidiaries has incurred nor will it incur any material liabilities or obligations, direct or contingent, nor has it entered into nor will it enter into any material transactions other than pursuant to this Agreement and the transactions referred to herein and (iii) the Company has not and will not have paid or declared any dividends or other distributions of any kind on any class of its capital stock.

(j) The Company is not an "investment company" or an entity "controlled" by an "investment company" as such terms are defined in the Investment Company Act of 1940, as amended (the "1940 Act").

(k) Except as set forth in the Registration Statement and the Prospectus, there is not pending or, to the knowledge of the Company, threatened any action, suit or proceeding against or affecting the Company or any of its subsidiaries or any of their respective directors, partners or officers in their capacity as such, or any of the Current Communities, the Development Communities or the Redevelopment Communities (each as defined in the Prospectus and collectively, the "Communities") before or by any Federal or state court, commission, regulatory body, administrative agency or other governmental body, domestic or foreign, wherein an unfavorable ruling, decision or finding might, individually or in the aggregate, have a material adverse effect on the

business, properties, business prospects, condition (financial or otherwise) or results of operations of the Company and its subsidiaries, taken as a whole.

(l) There are no contracts or documents of a character required to be described in the Prospectus or to be filed as exhibits to the Registration Statement by the Act or the Rules and Regulations that have not been so described or filed (the "Contracts").

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(m) Each of the Company and its subsidiaries has complied in all material respects with all laws, regulations and orders applicable to it or their respective businesses and properties where the failure to comply would, individually or in the aggregate, have a material adverse effect on the business, properties, business prospects, condition (financial or otherwise) or results of operations of the Company and its subsidiaries, taken as a whole; neither the Company nor any of its subsidiaries is, and upon consummation of the Offering (as defined below), none of them will be, in default under any Contract, the violation of which would individually or in the aggregate have a material adverse effect on the Company and its subsidiaries taken as a whole, and no other party under any such Contract to which the Company or any of its subsidiaries is a party is, to the knowledge of the Company, in default in any material respect thereunder; the Company is not in violation of its Charter or Bylaws; except as disclosed in the Prospectus, the Company and each of its subsidiaries have or, upon the Closing Date, will have all governmental licenses (including, without limitation, a California real estate brokerage license and a California general contractor's license, if applicable), permits, consents, orders, approvals and other authorizations required to carry on its business as contemplated in the Prospectus, and none of them has received any notice of proceedings relating to the revocation or modification of any such governmental license, permit, consent, order, approval or other authorization which, individually or in the aggregate, if the subject of an unfavorable decision, ruling or finding, would have a material adverse effect on the business, properties, business prospects, condition (financial or otherwise) or results of operations of the Company and its subsidiaries, taken as a whole.

(n) No consent, approval, authorization or order of, or filing with, any court or governmental agency or body is required for the consummation of the transactions contemplated by this Agreement or in connection with the issuance or sale of the Shares by the Company, except such as may be required under the Act, the Exchange Act or state securities or Blue Sky laws, or the By-Laws and Rules of the National Association of Securities Dealers, Inc. (the "NASD") in connection with the purchase and distribution by the Underwriters of the Shares to be sold by the Company.

(o) The Company has the corporate power and authority to enter into this Agreement. This Agreement has been duly authorized, executed and delivered by the Company and constitutes a valid and binding agreement of the Company and is enforceable against the Company in accordance with the terms hereof, except as limited by (i) applicable bankruptcy, insolvency, reorganization, moratorium and similar laws affecting creditors' rights and remedies generally, (ii) general principles of equity (regardless of whether enforcement is sought in a proceeding in equity or law), (iii) the discretion of the court before which any proceeding therefor may be brought, and (iv) applicable Federal and state securities laws and public policy which may limit the application of provisions relating to indemnification and contribution with respect to securities law matters (clauses (i), (ii), (iii) and (iv) are collectively referred to as the "Enforceability Limitations"). The execution, delivery and the performance of this Agreement and the consummation of the transactions herein contemplated will not result in the creation or imposition of any lien, charge or encumbrance upon the Communities or any of the other assets of the Company or any of its subsidiaries pursuant to the terms or provisions of, or result in a breach or violation of any of the terms or provisions of, or constitute a default under, or give any other party a right to terminate any of its obligations under, or result in the acceleration of any obligation under, the Charter or Bylaws of the Company, the articles or certificate of incorporation or by-laws or partnership agreement or operating agreement of any of the Company's subsidiaries, or any Contract, or violate or conflict with any judgment, ruling, decree, order, statute, rule or regulation of any court or other governmental agency or body applicable to the Communities or business or properties of the Company or any of its subsidiaries, except as disclosed in the Prospectus and except as will not have a material adverse effect on the business, properties, business prospects, condition (financial or otherwise) or results of operations of the Company and its subsidiaries, taken as a

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whole. The Company has the power and authority to authorize, issue, offer and sell the Shares, as contemplated by this Agreement, free of preemptive rights.

(p) The Company, or its subsidiaries, as applicable, has good and marketable title to the Communities, and the Communities are not subject to any liens or encumbrances except for monetary liens as set forth in the Prospectus or the Registration Statement, non-delinquent property taxes, utility easements and other immaterial non-monetary liens or encumbrances of record. All liens, charges, encumbrances, claims or restrictions on or affecting the Communities which are required to be disclosed in the Prospectus are disclosed therein. Except as is disclosed in the Registration Statement or the Prospectus and except as would not, in the aggregate, have a material adverse effect on the business, properties, business prospects, condition (financial or otherwise) or results of operations of the Company and its subsidiaries, taken as a whole, (i) each of the Company and each of its subsidiaries has valid, subsisting and enforceable leases with its tenants for the properties described in the Prospectus as leased by it, (ii) no tenant under any of the leases pursuant to which the Company or any subsidiary leases its properties has an option or right of first refusal to purchase the premises demised under such lease, (iii) the use and occupancy of each of the properties of the Company and its subsidiaries complies in all material respects with all applicable codes and zoning laws and regulations, (iv) the Company has no knowledge of any pending or threatened condemnation or zoning change that will in any material respect affect the size of, use of, improvements of, construction on, or access to any of the properties of the Company or its subsidiaries, and (v) the Company has no knowledge of any pending or threatened proceeding or action that will in any manner affect the size of, use of, improvements on, construction on, or access to any of the properties of the Company or its subsidiaries.

(q) Except as disclosed in the Registration Statement, the mortgages and deeds of trust encumbering the Communities are not convertible nor will the Company or any of its subsidiaries hold a participating interest therein and such mortgages and deeds of trust are not cross-defaulted or cross-collateralized to any property not to be owned directly or indirectly by the Company. To the knowledge of the Company (i) the present use and occupancy of each of the Communities complies with all applicable codes and zoning laws and regulations, if any, except for such failures to comply which would not individually or in the aggregate have a material adverse effect on the condition, financial or otherwise, or on the earnings, business affairs or business prospects of the Company and its subsidiaries taken as a whole; and (ii) there is no pending or, to the Company's knowledge, threatened condemnation, zoning change, environmental or other proceeding or action that will in any material respect affect the size of, use of, improvements on, construction on, or access to the Communities, except for such proceedings or actions that would not individually or in the aggregate have a material adverse effect on the condition, financial or otherwise, or on the earnings, business affairs or business prospects of the Company and its subsidiaries taken as a whole.

(r) All Contracts executed and delivered on or before the date hereof to which the Company or any subsidiary of the Company is a party have been duly authorized, executed and delivered by the Company or such subsidiary, constitute valid and binding agreements of the Company or such subsidiary and are enforceable against the Company or such subsidiary in accordance with the terms thereof, subject to the Enforceability Limitations.

(s) No statement, representation, warranty or covenant made by the Company in this Agreement or made in any certificate or document required by this Agreement to be delivered to the Representatives was or will be, when made, inaccurate, untrue or incorrect.

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(t) Except as stated in the Prospectus, neither the Company nor any of its directors, officers or controlling persons has taken, nor will it take, directly or indirectly, any action designed to or that might reasonably be expected to cause or result in stabilization or manipulation of the price of the Shares to facilitate the sale or resale of the Shares.

(u) No labor dispute with the employees of the Company or any subsidiary exists or, to the knowledge of the Company after due inquiry and investigation, is threatened, which, in either case, would have a material adverse effect on the business, properties, business prospects, condition (financial or otherwise) or results of operations of the Company and its subsidiaries, taken as a whole.

(v) Neither the Company nor any of its subsidiaries nor, to the Company's knowledge, any employee or agent of the Company or any subsidiary has made any payment of funds of the Company or any subsidiary or received or retained any funds in violation of any law, rule or regulation or of a character

required to be disclosed in the Prospectus which has not been so disclosed.

(w) As of the Closing Date the Company, and each of its subsidiaries (i) will be in compliance in all material respects with any and all applicable foreign, Federal, state and local laws and regulations relating to the protection of human health and safety, the Hazardous Materials (as defined below), or hazardous or toxic wastes, pollutants or contaminants (the "Environmental Laws"); (ii) will have received all permits, licenses or other approvals required of them under applicable Environmental Laws to conduct their respective businesses; and (iii) will be in compliance with all terms and conditions of any such permit, license or approval, except where such noncompliance with Environmental Laws, failure to receive required permits, licenses or other approvals or failure to comply with the terms and conditions of such permits, licenses or approvals are otherwise disclosed in the Prospectus or would not, individually or in the aggregate, have a material adverse effect on the Company and its subsidiaries taken as a whole.

(x)(i) None of the Company or any partnership that owns a Community (each a "Partnership") has at any time, and, to the best knowledge of the Company after due inquiry and investigation, no other party has, at any time, handled, buried, stored, retained, refined, transported, processed, manufactured, generated, produced, spilled, allowed to seep, leak, escape or leach, or be pumped, poured, emitted, emptied, discharged, released, injected, dumped, transferred or otherwise disposed of or dealt with, Hazardous Materials (as hereinafter defined) on, to, above under, in, into or from the Communities, except as disclosed in the environmental reports previously delivered to the Representatives or referred to in the Prospectus, or such as would not individually or in the aggregate have a material adverse effect on the Company and its subsidiaries, taken as a whole. Neither the Company nor its subsidiaries intends to use the Communities or any subsequently acquired properties described in the Prospectus for the purpose of handling, burying, storing, retaining, refining, transporting, processing, manufacturing, generating, producing, spilling, seeping, leaking, escaping, leaching, pumping, pouring, emitting, emptying, discharging, releasing, injecting, dumping, transferring or otherwise disposing of or dealing with Hazardous Materials, except for the use, storage and transportation of small quantities of substances that are regularly used as office supplies, household cleaning supplies, gardening supplies, or pool maintenance supplies in compliance with applicable Environmental Laws and in accordance with prudent business practices and good hazardous materials storage and handling practices.

(ii) None of the Company or the Partnerships, to the best knowledge of the Company after due inquiry and investigation, knows of any seepage, leak, escape, leach,

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discharge, injection, release, emission, spill, pumping, pouring, emptying or dumping of Hazardous Materials into waters on, under or adjacent to the Communities or onto lands from which such hazardous or toxic waste or substances might seep, flow or drain into such waters, except as disclosed in the environmental reports previously delivered to the Representatives or referred to in the Prospectus or such as would not individually or in the aggregate have a material adverse effect on the Company and its subsidiaries, taken as a whole.

(iii) None of the Company or the Partnerships to the best knowledge of the Company after due inquiry and investigation, has received notice of, or has knowledge of any occurrence or circumstance which, with notice or passage of time or both, would give rise to, any claim under or pursuant to any Environmental Law pertaining to Hazardous Materials, hazardous or toxic waste or substances on or originating from the Communities arising out of the conduct of any such party, including, without limitation, pursuant to any Environmental Law, except as disclosed in the environmental reports previously delivered to the Representatives or referred to in the Prospectus or such as would not individually or in the aggregate have a material adverse effect on the Company and its subsidiaries, taken as a whole.

As used herein, "Hazardous Material" shall include, without limitation, any flammable materials or explosives, petroleum or petroleum-based products, radioactive materials, hazardous materials, hazardous wastes, hazardous or toxic substances, or related materials, asbestos or any material as defined by any Federal, state or local environmental law, ordinance, rule, or regulation including, without limitation, Environmental Laws, the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (42 U.S.C. Section 9601, ET SEQ.) ("CERCLA"), the Hazardous Materials Transportation Act, as amended (49 U.S.C. Section 1801, ET SEQ.), the Resource Conservation and Recovery Act, as amended (42 U.S.C. Section 9601, ET SEQ.), and in the

regulations adopted and publications promulgated pursuant to each of the foregoing or by any Federal, state or local governmental authority having or claiming jurisdiction over the Communities as described in the Prospectus.

(y) In the ordinary course of its business, each of the Company and the Partnerships conducts a periodic review of the effect of Environmental Laws on its business, operations and properties in the course of which it identifies and evaluates associated costs and liabilities (including, without limitation, any capital or operating expenditures required for investigation, clean-up, closure of properties or compliance with Environmental Laws or any permit, license or approval, any related constraints on operating activities and any potential liabilities to third parties). On the basis of such review and on the basis of the reviews conducted by the Company in connection with the Communities, the Company has reasonably concluded that such associated costs and liabilities would not individually or in the aggregate, have a material adverse effect on the Company and its subsidiaries taken as a whole.

(z) The Company and its subsidiaries maintain property and casualty insurance (other than earthquake insurance) in favor of the Company and its subsidiaries with respect to each of the Communities, in an amount and on such terms as is reasonable for businesses of the type proposed to be conducted by the Company and its subsidiaries. The Company maintains earthquake insurance on the Communities to the extent described in the Prospectus. Neither the Company nor any subsidiary has received from any insurance company notice of any material defects or deficiencies affecting the insurability of any of the Communities (other than with respect to seismic activities).

(aa) The Company has elected to be taxed as a REIT under the Code and will use its best efforts to continue to be organized and will continue to operate in a manner so as to qualify as a

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"real estate investment trust" ("REIT") under Sections 856 through 860 of the Internal Revenue Code of 1986, as amended (the "Code"), unless the Board of Directors determines that it is no longer in the best interest of the Company to continue to be so qualified.

(bb) Neither the assets of the Company nor its subsidiaries constitute, nor will such assets, as of the Closing Date, constitute, "plan assets" under the Employee Retirement Income Security Act of 1974, as amended ("ERISA").

(cc) The Company has not distributed and, prior to the later to occur of (i) the Closing Date and (ii) completion of the distribution of the Shares, will not distribute any offering material in connection with the offering and sale of the Shares other than the Registration Statement, the Prospectus or other materials, if any, permitted by the Act.

(dd) The Company has applied to have the Shares authorized for listing by the New York Stock Exchange and the Pacific Exchange. The Company shall use its best efforts to have the Shares listed by the New York Stock Exchange and the Pacific Exchange at such time as the Representatives request within thirty (30) days following the Closing Date.

5. AGREEMENTS OF THE COMPANY. The Company covenants and agrees with the Underwriters as follows:

(a) The Company will cause the Prospectus Supplement to be filed as contemplated by Section 4(a) hereof (but only if the Representatives have not reasonably objected thereto by notice to the Company after having been furnished a copy within a reasonable time prior to filing) and will notify the Representatives promptly of such filing. The Company will not during such period as the Prospectus is required by law to be delivered in connection with sales of the Shares by any Underwriter or dealer (the "Prospectus Delivery Period"), file any amendment or supplement to the Registration Statement or the Prospectus, unless a copy thereof shall first have been submitted to the Representatives within a reasonable period of time prior to the filing thereof and the Representatives shall not have objected thereto in good faith.

(b) The Company will use its best efforts to cause the Registration Statement to remain effective through the completion of the Underwriters' distribution of the Shares, and will notify the Representatives promptly, and will confirm such advice in writing, (i) of the preparation and filing (subject to Section 5(a)) of any post-effective amendment and when any such post-effective amendment to the Registration Statement becomes effective, (ii) of any request by the Commission for amendments or supplements to the Registration Statement or the Prospectus or for additional information, (iii) of the issuance by the Commission of any stop order suspending the effectiveness of the Registration Statement or the initiation of any proceedings for that purpose or the threat thereof, (iv) of the suspension of the qualification or

registration of the Shares for offering or sale in any jurisdiction, or of the initiation or threat of any proceeding for any such purpose; (v) of the happening of any event during the Prospectus Delivery Period that in the judgment of the Company makes any statement made in the Registration Statement or the Prospectus untrue or that requires the making of any changes in the Registration Statement or the Prospectus in order to make the statements therein, in light of the circumstances in which they are made, not misleading and (vi) of receipt by the Company or any representative or attorney of the Company of any other communication from the Commission relating to the Company, the Registration Statement, any preliminary prospectus or the Prospectus. If at any time the Commission or any jurisdiction shall threaten to issue, or shall issue, any order suspending the effectiveness of the Registration Statement or suspending the qualification or registration of the Shares for sale in any

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jurisdiction, the Company will make every reasonable effort to prevent the issuance of such order and, if such an order should be issued, to obtain the withdrawal of such order at the earliest possible moment. The Company will use its best efforts to comply with the provisions of and make all requisite filings with the Commission pursuant to Rule 430A and to notify the Representatives promptly of all such filings.

(c) The Company will furnish to the Representatives without charge two signed copies of the Registration Statement and of any post-effective amendments thereto, including financial statements and schedules, and all exhibits thereto (including any document filed under the Exchange Act and deemed to be incorporated by reference into the Prospectus).

(d) The Company will comply with all requirements imposed upon it by the Act, the 1933 Act Rules and Regulations, the Exchange Act, and the Exchange Act Rules and Regulations, as from time to time in force, so far as necessary to permit the continuance of sales of, or dealings in, the Shares as contemplated by the provisions hereof and the Prospectus.

(e) The Company will comply with all the provisions of any undertakings contained, or incorporated by reference, in the Registration Statement.

(f) During the Prospectus Delivery Period, the Company will promptly furnish to the Underwriters, without charge, as many copies of each preliminary prospectus, the Prospectus (containing the Prospectus Supplement) and any amendment or supplement thereto as the Underwriters may from time to time reasonably request. The Company consents to the use of the Prospectus, as amended or supplemented from time to time, by the Underwriters and by all dealers to whom the Shares may be sold, both in connection with the offering or sale of the Shares and, thereafter, during the Prospectus Delivery Period. If during the Prospectus Delivery Period any event shall occur which in the judgment of the Company or counsel to the Underwriters should be set forth in the Prospectus in order to make any statement therein, in the light of the circumstances under which it was made, not misleading, or if, in the reasonable opinion of counsel to the Underwriters, it is necessary to supplement or amend the Prospectus to comply with law, the Company will forthwith prepare and duly file with the Commission an appropriate supplement or amendment thereto. Except as required by the Exchange Act or the Exchange Act Rules and Regulations, the Company shall not file any document under the Exchange Act before the termination of the Prospectus Delivery Period if such document would be deemed to be incorporated by reference into the Prospectus to which the Representatives reasonably object.

(g) Prior to any public offering of the Shares, the Company will cooperate with the Representatives and their counsel in connection with the registration or qualification of the Shares for offer and sale under the securities or Blue Sky laws of such jurisdictions within the United States and in or within Canada that require such registration or qualification as the Representatives may reasonably request; provided, that in no event shall the Company be obligated to qualify to do business in any jurisdiction where it is not now so qualified or to take any action which would subject it to general service of process in any jurisdiction where it is not now so subject.

(h) The Company will make generally available to its security holders as soon as practicable, but not later than ninety (90) days after the close of the period covered thereby, an earnings statement (in form complying with the provisions of Section 11(a) of the Act and Rule 158 of the Rules and Regulations) covering a twelve-month period beginning not later than the first day of the Company's fiscal quarter next following the "effective date" (as defined in said Rule 158) of the Registration Statement.

(i) Whether or not the transactions contemplated by this Agreement are consummated or this Agreement is terminated, the Company will pay, or reimburse if paid by the Underwriters, all fees, costs and expenses incident to the performance of the obligations of the Company under this Agreement, including, but not limited to, fees, costs and expenses of or relating to (i) the preparation, printing and filing of the Registration Statement and exhibits to it, each preliminary prospectus, the Prospectus and any amendment or supplement to the Registration Statement or the Prospectus and any other filing made by the Company with the Commission, (ii) the preparation and delivery of certificates representing the Shares, (iii) the printing of this Agreement and any Dealer Agreements, (iv) furnishing (including costs of shipping and mailing) such copies of the Registration Statement, the Prospectus and any preliminary prospectus, and all amendments and supplements thereto, as may be reasonably requested for use in connection with the offering and sale of the Shares by the Underwriters or by dealers to whom Shares may be sold, (v) the filing fees and the fees and expenses of counsel for the Underwriters in connection with any filings required to be made with the NASD; (vi) the reasonable fees, disbursements and other charges of counsel to the Underwriters in connection with, and the preparation of, preliminary, supplemental and final Blue Sky memoranda, (vii) counsel (including local and special counsel) to the Company and any surveyors, engineers, appraisers, photographers, accountants and other professionals engaged by the Company, (viii) the hotel, airfare and other travel arrangements of the Company's employees in connection with preparation of the Registration Statement and Prospectus and in connection with any "road show" or other presentation to potential investors, (ix) the Accountants and any other accountants engaged by the Company in connection with the offering of the Shares; (x) the registration of the Shares under the Exchange Act and the listing of the Shares on the New York Stock Exchange and the Pacific Exchange; and (xi) the transfer agent and registrar for the Shares.

(j) The Company will not at any time, directly or indirectly, take any action intended, or which might reasonably be expected, to cause or result in, or which will constitute, stabilization of the price of the Shares to facilitate the sale or resale of any of the Shares.

(k) The Company will apply the net proceeds from the offering and sale of the Shares to be sold by the Company in the manner set forth in the Prospectus under the caption "Use of Proceeds."

(l) Unless the Board of Directors of the Company determines in its reasonable business judgment and pursuant to the Charter that continued qualification as a "real estate investment trust" under the Code is not in the Company's best interest, the Company will use its best efforts to, and will continue to meet the requirements to, qualify as a "real estate investment trust."

(m) In the event that any portion of the Shares is issued without certificates pursuant to section 2-210 of the Maryland General Corporation Law (the "MGCL"), at the time of issuance of such Shares the Company shall comply with section 2-210 and 2-211 of the MGCL.

6. CONDITIONS OF THE OBLIGATIONS OF THE UNDERWRITERS. The Underwriters' obligations hereunder are subject to the following conditions:

(a) All filings required by Rule 424 and Rule 430A of the Rules and Regulations to be made by the Company prior to the Closing shall have been made by the Company.

(b) (i) No stop order suspending the effectiveness of the Registration Statement shall have been issued and no proceedings for that purpose shall be pending or threatened by the Commission,

(ii) no order suspending the effectiveness of the Registration Statement or the qualification or registration of the Shares under the securities or Blue Sky laws of any jurisdiction shall be in effect and no proceeding for such purpose shall be pending before or threatened or contemplated by the Commission or the authorities of any such jurisdiction, (iii) any request for additional information on the part of the staff of the Commission or any such authorities shall have been complied with to the satisfaction of the staff of the Commission or such authorities, and (iv) after the date hereof no amendment or supplement to the Registration Statement or the Prospectus shall have been filed unless a copy thereof was first submitted to the Representatives and the Representatives did not object thereto in good faith.

(c) Since the respective dates as of which information is given

in the Registration Statement and the Prospectus, (i) there shall not have been a material adverse change in the general affairs, business, business prospects, properties, management, condition (financial or otherwise) or results of operations of the Company and its subsidiaries, taken as a whole, whether or not arising from transactions in the ordinary course of business, in each case other than as set forth in or contemplated by the Registration Statement and the Prospectus, (ii) there shall not have been any change on a consolidated basis, in the equity capitalization, short-term debt or long-term debt of the Company, or any adverse change in the rating assigned to any securities of the Company, in each case other than as set forth in or contemplated by the Registration Statement and the Prospectus, and (iii) neither the Company nor any of its subsidiaries shall have sustained any material loss or interference with its business or properties from fire, explosion, flood or other casualty, whether or not covered by insurance, or from any labor dispute or any court or legislative or other governmental action, order or decree, which is not set forth in the Registration Statement and the Prospectus, if in the judgment of the Representatives any such development makes it impracticable or inadvisable to offer or deliver the Shares on the terms and in the manner contemplated in the Prospectus.

(d) Since the respective dates as of which information is given in the Registration Statement and the Prospectus, there shall have been no litigation or other proceeding instituted against the Company or any of its subsidiaries or any of their respective officers or directors in their capacities as such, before or by any Federal, state or local court, commission, regulatory body, administrative agency or other governmental body, domestic or foreign, in which litigation or proceeding an unfavorable ruling, decision or finding would materially and adversely affect the business, properties, business prospects, condition (financial or otherwise) or results of operations of the Company and its subsidiaries taken as a whole.

(e) Each of the representations and warranties of the Company contained herein shall be true and correct in all material respects at the Closing Date, as if made at the Closing Date, and all covenants and agreements contained herein to be performed on the part of the Company and all conditions contained herein to be fulfilled or complied with by the Company at or prior to the Closing Date, shall have been duly performed, fulfilled or complied with.

(f) The Representatives shall have received the opinion of Goodwin, Procter & Hoar LLP, counsel to the Company, dated the Closing Date, to the effect set forth in EXHIBIT A.

(g) The Representatives shall have received the opinion of Goodwin, Procter & Hoar LLP, tax counsel to the Company, dated the Closing Date, to the effect that, subject to the assumptions and qualifications historically included by such counsel in opinions rendered in recent public offerings by the Company and subject to changes in applicable laws and regulations and judicial and regulatory developments, commencing with the taxable year ending

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December 31, 1994, the form of organization of the Company and its operations are such as to enable the Company to qualify as a "real estate investment trust" under the applicable provisions of the Code.

(h) The Representatives shall have received the statement of Cox, Castle & Nicholson LLP, counsel for the Company, dated the Closing Date, to the effect that to the best of their knowledge statements relating to the Current Communities, the Development Communities and the Redevelopment Communities (as defined in the Prospectus) and tax-exempt bond financing in the Prospectus (but excluding the statistical and financial data, physical condition and construction status of such communities included therein) which involved transactions in which they represented the Company are materially fair and accurate.

(i) The Representatives shall have received the statement of Goulston & Storrs, P.C., special counsel to the Company, dated the Closing Date, to the effect that to the best of their knowledge certain statements regarding the Company's real estate operations in the Prospectus are materially fair and accurate.

(j) The Representatives shall have received an opinion, dated the Closing Date, from O'Melveny & Myers LLP, counsel to the Underwriters, with respect to the Registration Statement, the Prospectus and this Agreement, which opinion shall be satisfactory in all respects to the Representatives.

(k) Concurrently with the execution and delivery of this Agreement, the Accountants shall have furnished to the Representatives a letter, dated the date of its delivery, addressed to the Representatives and in form and substance satisfactory to the Representatives, confirming that they are independent accountants with respect to the Company as required by the Act and

the 1933 Act Rules and Regulations and with respect to the financial and other statistical and numerical information contained in the Registration Statement or incorporated by reference therein. At the Closing Date, the Accountants shall have furnished to the Representatives a letter, dated the date of its delivery, which shall confirm, on the basis of a review in accordance with the procedures set forth in the letter from the Accountants, that nothing has come to their attention during the period from the date of the letter referred to in the prior sentence to a date (specified in the letter) not more than five days prior to the Closing Date which would require any change in their letter dated the date hereof if it were required to be dated and delivered at the Closing Date.

(l) On the Closing Date there shall have been furnished to the Representatives an accurate certificate, dated the date of its delivery, signed by each of the Chief Executive Officer and the Chief Financial Officer of the Company, in form and substance satisfactory to the Representatives, to the effect that:

(i) No stop order suspending the effectiveness of the Registration Statement has been issued and, to the best of such officers' information and belief, no proceeding for that purpose is pending or threatened by the Commission;

(ii) No order suspending the effectiveness of the Registration Statement or the qualification or registration of the Shares under the securities or Blue Sky laws of any jurisdiction is in effect and, to the best of such officers' information and belief, no proceeding for such purpose is pending before or threatened or contemplated by the Commission or the authorities of any such jurisdiction;

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(iii) Any request for additional information on the part of the staff of the Commission or any such authorities has been complied with to the satisfaction of the staff of the Commission or such authorities;

(iv) Each signer of such certificate has carefully examined the Registration Statement and the Prospectus (including any documents filed under the Exchange Act and deemed to be incorporated by reference into the Prospectus) and (A) as of the date of such certificate, such documents, taken together, are true and correct in all material respects and do not omit to state a material fact required to be stated therein or necessary in order to make the statements therein not untrue or misleading and (B) no event has occurred as a result of which it is necessary to amend or supplement the Prospectus in order to make the statements therein not untrue or misleading in any material respect and there has been no document required to be filed under the Exchange Act and the Exchange Act Rules and Regulations that upon such filing would be deemed to be incorporated by reference into the Prospectus that has not been so filed;

(v) Each of the representations and warranties of the Company contained in this Agreement were, when originally made, and are, at the time such certificate is delivered, true and correct in all material respects;

(vi) Each of the covenants required to be performed by the Company herein on or prior to the delivery of such certificate has been duly, timely and fully performed and each condition herein required to be complied with by the Company on or prior to the date of such certificate has been duly, timely and fully complied with; and

(m) The Shares shall be qualified for sale in the jurisdictions designated pursuant to Section 5(g), each such qualification shall be in effect and not subject to any stop order or other proceeding on the Closing Date.

(n) The Company shall have applied to have the Shares approved for listing on the New York Stock Exchange and the Pacific Exchange, and such applications shall not have been disapproved.

(o) The Company shall have furnished to the Representatives such certificates, in addition to those specifically mentioned herein, as the Representatives may have reasonably requested as to the accuracy and completeness at the Closing Date of any statement in the Registration Statement or the Prospectus or any documents filed under the Exchange Act and deemed to be incorporated by reference into the Prospectus, as to the accuracy at the Closing Date of the representations and warranties of the Company herein, as to the performance by the Company of its obligations hereunder, or as to the fulfillment of the conditions concurrent and precedent to the obligations of the Underwriters hereunder.

(p) All such opinions, certificates, letters and other documents will be in compliance with the provisions hereof only if they are reasonably satisfactory in form and substance to the Representatives and their counsel. The Company will furnish the Representatives with such conformed copies of such opinions, certificates, letters and other documents as the Representatives shall reasonably request.

7. INDEMNIFICATION AND CONTRIBUTION.

(a) The Company will indemnify and hold harmless each Underwriter, each of the

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directors, officers, employees and agents of each Underwriter and each person, if any, who controls each Underwriter within the meaning of Section 15 of the Act or Section 20 of the Exchange Act from and against any and all losses, claims, liabilities, expenses and damages (including, but not limited to, any and all investigative, legal and other expenses reasonably incurred in connection with, and any and all amounts paid in settlement of, any action, suit or proceeding between any of the indemnified parties and any indemnifying parties or between any indemnified party and any third party, or otherwise, or any claim asserted), as and when incurred, to which any Underwriter, or any such person, may become subject under the Act, the Exchange Act or other Federal or state statutory law or regulation, at common law or otherwise, insofar as such losses, claims, liabilities, expenses or damages arise out of or are based on (i) any untrue statement or alleged untrue statement of a material fact contained in any preliminary prospectus, the Registration Statement or the Prospectus or any amendment or supplement to the Registration Statement or the Prospectus, or in any application or other document executed by the Company and filed in any jurisdiction in order to qualify the Shares under the securities laws thereof or filed with the Commission, (ii) the omission or alleged omission to state in such document a material fact required to be stated in it or necessary to make the statements in it not misleading or (iii) any act or failure to act or any alleged act or failure to act by any Underwriter in connection with, or relating in any manner to, the Shares or the offering contemplated hereby, and which is included as part of or referred to in any loss, claim, liability, expense or damage arising out of or based upon matters covered by clause (i) or (ii) above (provided that the Company shall not be liable under this clause (iii) to the extent it is finally judicially determined by a court of competent jurisdiction that such loss, claim, liability, expense or damage resulted directly from any such acts or failures to act undertaken or omitted to be taken by such Underwriter through its gross negligence or willful misconduct); provided that the Company will not be liable to the extent that such loss, claim, liability, expense or damage (A) arises from the sale of the Shares in the public offering to any person by an Underwriter and is based on an untrue statement or omission or alleged untrue statement or omission made in reliance on and in conformity with information relating to any Underwriter furnished in writing to the Company by the Representatives on behalf of any Underwriter expressly for inclusion in the Registration Statement, any preliminary prospectus or the Prospectus or (B) results solely from an untrue statement of a material fact contained in, or the omission of a material fact from, such preliminary prospectus, which untrue statement or omission was completely corrected in the Prospectus (as then amended or supplemented) if the Company shall sustain the burden of proving that the Underwriters sold Shares to the person alleging such loss, claim, liability, expense or damage without sending or giving, at or prior to the written confirmation of such sale, a copy of the Prospectus (as then amended or supplemented) if the Company had previously furnished copies thereof to the Underwriters within a reasonable amount of time prior to such sale or such confirmation, and the Underwriters failed to deliver the corrected Prospectus, if required by law to have so delivered it and if delivered would have been a complete defense against the person asserting such loss, claim, liability, expense or damage. This indemnity agreement will be in addition to any liability that the Company might otherwise have.

(b) Each Underwriter will indemnify and hold harmless the Company, each person, if any, who controls the Company within the meaning of Section 15 of the Act or Section 20 of the Exchange Act, each director of the Company and each officer of the Company who signs the Registration Statement to the same extent as the foregoing indemnity from the Company to each Underwriter, but only insofar as losses, claims, liabilities, expenses or damages (or actions in respect thereof) arise out of or are based on any untrue statement or omission or alleged untrue statement or omission made in reliance on and in conformity with information relating to any Underwriter furnished in writing to the Company by the Representatives on behalf of any Underwriter or its counsel expressly for use in the Registration Statement, the preliminary prospectus or the Prospectus. This indemnity will be in addition to any liability that each

Underwriter might otherwise have; provided, however, that in no

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case shall any Underwriter be liable or responsible for any amount in excess of the underwriting discounts and commissions received by such Underwriter.

(c) Any party that proposes to assert the right to be indemnified under this Section 7 will, promptly after receipt of notice of commencement of any action against such party in respect of which a claim is to be made against an indemnifying party or parties under this Section 7, notify each such indemnifying party of the commencement of such action, enclosing a copy of all papers served, but the omission so to notify such indemnifying party will not relieve it from any liability that it may have to any indemnified party under the foregoing provisions of this Section 7 unless, and only to the extent that, such omission results in the forfeiture of substantive rights or defenses by the indemnifying party. If any such action is brought against any indemnified party and it notifies the indemnifying party of its commencement, the indemnifying party will be entitled to participate in and, to the extent that it elects by delivering written notice to the indemnified party promptly after receiving notice of the commencement of the action from the indemnified party, jointly with any other indemnifying party similarly notified, to assume the defense of the action, with counsel satisfactory to the indemnified party, and after notice from the indemnifying party to the indemnified party of its election to assume the defense, the indemnifying party will not be liable to the indemnified party for any legal or other expenses except as provided below and except for the reasonable costs of investigation subsequently incurred by the indemnified party in connection with the defense. The indemnified party will have the right to employ its own counsel in any such action, but the fees, expenses and other charges of such counsel will be at the expense of such indemnified party unless (i) the employment of counsel by the indemnified party has been authorized in writing by the indemnifying party, (ii) the indemnified party has reasonably concluded (based on advice of counsel) that there may be legal defenses available to it or other indemnified parties that are different from or in addition to those available to the indemnifying party, (iii) a conflict or potential conflict exists (based on advice of counsel to the indemnified party) between the indemnified party and the indemnifying party (in which case the indemnifying party will not have the right to direct the defense of such action on behalf of the indemnified party) or (iv) the indemnifying party has not in fact employed counsel to assume the defense of such action within a reasonable time after receiving notice of the commencement of the action, in each of which cases the reasonable fees, disbursements and other charges of counsel will be at the expense of the indemnifying party or parties. It is understood that the indemnifying party or parties shall not, in connection with any proceeding or related proceedings in the same jurisdiction, be liable for the reasonable fees, disbursements and other charges of more than one separate firm admitted to practice in such jurisdiction at any one time for all such indemnified party or parties. All such fees, disbursements and other charges will be reimbursed by the indemnifying party promptly as they are incurred. An indemnifying party will not be liable for any settlement of any action or claim effected without its written consent (which consent will not be unreasonably withheld). No indemnifying party shall, without the prior written consent of each indemnified party, settle or compromise or consent to the entry of any judgment in any pending or threatened claim, action or proceeding relating to the matters contemplated by this Section 7 (whether or not any indemnified party is a party thereto), unless such settlement, compromise or consent includes an unconditional release of each indemnified party from all liability arising or that may arise out of such claim, action or proceeding.

(d) In order to provide for just and equitable contribution in circumstances in which the indemnification provided for in the foregoing paragraphs of this Section 7 is applicable in accordance with its terms but for any reason is held to be unavailable from the Company or the Underwriters, the Company and the Underwriters will contribute to the total losses, claims, liabilities, expenses and damages (including any investigative, legal and other expenses reasonably incurred in connection with, and any amount paid in settlement of, any action, suit or proceeding or any claim asserted, but after

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deducting any contribution received by the Company from persons other than the Underwriters, such as persons who control the Company within the meaning of the Act, officers of the Company who signed the Registration Statement and directors of the Company, who also may be liable for contribution) to which the Company

and any one or more of the Underwriters may be subject in such proportion as shall be appropriate to reflect the relative benefits received by the Company on the one hand and the Underwriters on the other. The relative benefits received by the Company on the one hand and the Underwriters on the other shall be deemed to be in the same proportion as the total net proceeds from the offering (before deducting expenses) received by the Company bear to the total underwriting discounts and commissions received by the Underwriters, in each case as set forth in the table on the cover page of the Prospectus. If, but only if, the allocation provided by the foregoing sentence is not permitted by applicable law, the allocation of contribution shall be made in such proportion as is appropriate to reflect not only the relative benefits referred to in the foregoing sentence but also the relative fault of the Company, on the one hand, and the Underwriters, on the other, with respect to the statements or omissions which resulted in such loss, claim, liability, expense or damage, or action in respect thereof, as well as any other relevant equitable considerations with respect to such offering. Such relative fault shall be determined by reference to whether the untrue or alleged untrue statement of a material fact or omission or alleged omission to state a material fact relates to information supplied by the Company or the Underwriters, the intent of the parties and their relative knowledge, access to information and opportunity to correct or prevent such statement or omission. The Company and the Underwriters agree that it would not be just and equitable if contributions pursuant to this Section 7(d) were to be determined by pro rata allocation (even if the Underwriters were treated as one entity for such purpose) or by any other method of allocation which does not take into account the equitable considerations referred to herein. The amount paid or payable by an indemnified party as a result of the loss, claim, liability, expense or damage, or action in respect thereof, referred to above in this Section 7(d) shall be deemed to include, for purpose of this Section 7(d), any legal or other expenses reasonably incurred by such indemnified party in connection with investigating or defending any such action or claim. Notwithstanding the provisions of this Section 7(d), no Underwriter shall be required to contribute any amount in excess of the underwriting discounts and commissions received by it and no person found guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the Act) will be entitled to contribution from any person who was not guilty of such fraudulent misrepresentation. The Underwriters' obligations to contribute as provided in this Section 7(d) are several in proportion to their respective underwriting obligations and not joint. For purposes of this Section 7(d), any person who controls a party to this Agreement within the meaning of the Act will have the same rights to contribution as that party, and each officer of the Company who signed the Registration Statement will have the same rights to contribution as the Company, subject in each case to the provisions hereof. Any party entitled to contribution, promptly after receipt of notice of commencement of any action against such party in respect of which a claim for contribution may be made under this Section 7(d), will notify any such party or parties from whom contribution may be sought, but the omission so to notify will not relieve the party or parties from whom contribution may be sought from any other obligation it or they may have under this Section 7(d). No party will be liable for contribution with respect to any action or claim settled without its written consent (which consent will not be unreasonably withheld).

(e) The indemnity and contribution agreements contained in this Section 7 and the representations and warranties of the Company contained in this Agreement shall remain operative and in full force and effect regardless of (i) any investigation made by or on behalf of the Underwriters, (ii) acceptance of the Shares and payment therefor or (iii) any termination of this Agreement.

8. TERMINATION. The Representatives shall have the right, by giving notice as hereinafter specified at any time at or prior to the Closing Date, to terminate this Agreement if (i) the Company shall

have failed, refused or been unable, at or prior to the Closing Date, to perform any agreement on its part to be performed hereunder, (ii) any other condition of the Underwriters' obligations hereunder is not fulfilled, (iii) trading on the New York Stock Exchange shall have been wholly suspended, (iv) minimum or maximum prices for trading shall have been fixed, or maximum ranges for prices for securities shall have been required, on the New York Stock Exchange by such exchange or by order of the Commission or any other governmental authority having jurisdiction, (v) a banking moratorium shall have been declared by Federal or New York authorities, or (vi) any material adverse change in the financial or securities markets in the United States or in political, financial or economic conditions in the United States, any outbreak or material escalation of hostilities in which the United States is involved, a declaration of war by Congress, any other substantial national or international calamity or any other event or occurrence of a similar character shall have occurred since the execution of this Agreement that, in your judgment, makes it impractical or inadvisable to proceed with the completion of the sale of and payment for the Shares. Any such termination shall be without liability of any party to any other party with respect to Shares not purchased by reason of such termination except that the provisions of Section 5(i) (regarding costs and expenses) and

Section 7 (indemnification and contribution) hereof shall at all times be effective. If you elect to terminate this Agreement as provided in this Section, the Company shall be notified promptly by you by telephone, telex or telecopy, confirmed by letter.

9. SUBSTITUTION OF UNDERWRITERS. If any one or more of the Underwriters shall fail or refuse to purchase any of the Firm Shares which it or they have agreed to purchase hereunder, and the aggregate number of Firm Shares which such defaulting Underwriter or Underwriters agreed but failed or refused to purchase is not more than one-tenth of the aggregate number of Firm Shares, the other Underwriters shall be obligated, severally, to purchase the Firm Shares which such defaulting Underwriter or Underwriters agreed but failed or refused to purchase, in the proportions which the aggregate number of Firm Shares which they have respectively agreed to purchase pursuant to Section 2 bears to the aggregate number of Firm Shares which all such non-defaulting Underwriters have so agreed to purchase, or in such other proportions as the non-defaulting Underwriters may specify; provided that in no event shall the maximum aggregate number of Firm Shares which any Underwriter has become obligated to purchase pursuant to Section 2 be increased pursuant to this Section 9 by more than one-ninth of the number of Firm Shares agreed to be purchased by such Underwriter without the prior written consent of such Underwriter. If any Underwriter or Underwriters shall fail or refuse to purchase any Firm Shares and the aggregate number of Firm Shares which such defaulting Underwriter or Underwriters agreed but failed or refused to purchase exceeds one-tenth of the aggregate number of Firm Shares and arrangements satisfactory to the Representatives and the Company for the purchase of such Firm Shares are not made within 48 hours after such default, this Agreement will terminate without liability on the part of any non-defaulting Underwriter or the Company for the purchase or sale of any Shares under this Agreement. In any such case either the Representatives or the Company shall have the right to postpone the Closing Date, but in no event for longer than seven days, in order that the required changes, if any, in the Registration Statement and in the Prospectus or in any other documents or arrangements may be effected. Any action taken pursuant to this Section 9 shall not relieve any defaulting Underwriter from liability in respect of any default of such Underwriter under this Agreement.

10. OVER-ALLOTMENT OPTION.

(a) In addition to the Shares being sold by the Company as described in Section 1(a) hereof (which are referred to herein as the "Firm Shares"), the Company hereby grants to the Underwriters an option to purchase, severally and not jointly, up to an aggregate of 600,000 additional Shares (which are referred to herein as the "Option Shares") on the terms and for the purposes set forth in Section 10(b). The first paragraph of Section 3 hereof shall be deemed to apply only to the purchase,

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sale and delivery of the Firm Shares. References in that paragraph and in SCHEDULE A hereto to the "Shares" shall be deemed to be references to the "Firm Shares"; except as otherwise provided in this Section 10, other references in this Agreement to the "Shares" shall be deemed to include the Firm Shares and the Option Shares.

(b) Upon written notice from the Representatives given to the Company not more than 30 days subsequent to the date of the initial public offering of the Shares, the Underwriters may exercise the option once, but only once, to purchase all or any portion of the Option Shares at the purchase price per share to be paid for the Firm Shares. The Company agrees to issue and sell to each Underwriter, and each Underwriter agrees, severally and not jointly, to purchase from the Company, that Underwriter's proportionate share (based upon the respective underwriting obligations of the several Underwriters hereunder as set forth in SCHEDULE A hereto except as may be adjusted by you to eliminate fractions) of the number of Option Shares specified in such notice. Such Option Shares may be purchased by the Underwriters only for the purpose of covering over-allotments made in connection with the sale of the Firm Shares. No Option Shares shall be sold or delivered unless the Firm Shares previously have been, or simultaneously are, sold and delivered. The right to purchase the Option Shares or any portion thereof may be surrendered and terminated at any time upon notice by the Representatives to the Company. The "Closing Date" as defined in Section 3 hereof with respect to the Firm Shares, shall be deemed to be the "First Closing Date," and the time for the delivery of and payment for the Option Shares is herein referred to as the "Second Closing Date," (which may be the same date as the First Closing Date). The Second Closing Date shall be determined by the Representatives but shall be not later than 10 days after you give to the Company written notice of election to purchase Option Shares. The preparation, registration, checking and delivery of, and payment for, the Option Shares shall occur or be made in the same manner as provided in Section 3 hereof for the Firm Shares, except as the Representatives and the Company may otherwise agree.

(c) The conditions to the Underwriters' obligations set forth in Section 6 shall be deemed to be conditions to the Underwriters' obligations to purchase and pay for the Shares to be purchased on each of the First Closing Date and the Second Closing Date, as the case may be; references in that Section and in Sections 3, 8 and 9 hereof to the "Closing Date" shall be deemed to be references to the First Closing Date or Second Closing Date, as the case may be, and references to the "Shares" in Section 6 hereof shall be deemed to be references to the Firm Shares and/or the Option Shares, as the case may be, to be purchased by the Underwriters on such Closing Date. A termination of this Agreement as to the Option Shares after the First Closing Date will not terminate this Agreement as to the Firm Shares.

11. MISCELLANEOUS.

(a) NOTICE. Notice given pursuant to any of the provisions of this Agreement shall be in writing and, unless otherwise specified, shall be mailed or delivered (a) if to the Company, at the office of the Company, 2900 Eisenhower Avenue, Suite 300, Alexandria, Virginia 22314, Attention: Thomas J. Sargeant, or (b) if to the Representatives, care of PaineWebber Incorporated, at the offices of PaineWebber Incorporated, 1285 Avenue of the Americas, New York, New York 10019, Attention: Corporate Real Estate Department. Any such notice shall be effective only upon receipt. Any notice under Section 8 hereof may be made by telex or telephone, but if so made shall be subsequently confirmed in writing.

(b) PARTIES. This Agreement has been and is made solely for the benefit of the several Underwriters and the Company and of the controlling persons, directors and officers referred to

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in Section 7, and their respective successors and assigns, and no other person shall acquire or have any right under or by virtue of this Agreement. The term "successors and assigns" as used in this Agreement shall not include a purchaser, as such purchaser, of Shares from any of the several Underwriters.

(c) REPRESENTATIONS AND AGREEMENTS TO SURVIVE DELIVERY. All representations, warranties, agreements and covenants, of the Company herein or in certificates delivered pursuant hereto, and the agreements of the several Underwriters contained in Section 7 hereof, shall remain operative and in full force and effect regardless of any investigation made by or on behalf of any Underwriter or any controlling persons, or the Company or any of its officers, directors or any controlling persons, and shall survive delivery of and payment for the Shares hereunder.

(d) ACTIONS BY REPRESENTATIVES. Any action required or permitted to be taken by the Representatives under this Agreement may be taken by them jointly or by PaineWebber Incorporated.

(e) APPLICABLE LAW. THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK WITHOUT REGARD TO THE CONFLICT OF LAWS PRINCIPLES OF SUCH STATE.

(f) COUNTERPARTS. This Agreement may be signed in two or more counterparts with the same effect as if the signatures thereto and hereto were upon the same instrument.

(g) SEVERABILITY. In case any provision in this Agreement shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

(h) WAIVER OF TRIAL BY JURY. The Company and the Underwriters each hereby irrevocably waive any right they may have to a trial by jury in respect of any claim based upon or arising out of this Agreement or the transactions contemplated hereby.

(i) AMENDMENTS AND MODIFICATIONS. This Agreement may not be amended or otherwise modified or any provision hereof waived except by an instrument in writing signed by the Underwriters and the Company.

[signature page follows.]

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If the foregoing correctly sets forth the understanding between the

Company and the several Underwriters, please so indicate in the space provided below for that purpose, whereupon this letter shall constitute a binding agreement between the Company and the several Underwriters.

Very truly yours,

AVALONBAY COMMUNITIES, INC.

By: /s/ Thomas J. Sargeant

Thomas J. Sargeant
Chief Financial Officer

ACCEPTED as of the date
first above written

PAINWEBBER INCORPORATED
A.G. EDWARDS & SONS, INC.
LEGG MASON WOOD WALKER, INCORPORATED
MORGAN STANLEY & CO. INCORPORATED
PRUDENTIAL SECURITIES INCORPORATED
SMITH BARNEY INC.
WHEAT FIRST UNION, a division of
Wheat First Securities, Inc.

By: PAINWEBBER INCORPORATED

By: /s/ Frederick T. Caven, Jr.

Frederick T. Caven, Jr.
Managing Director

4,000,000 Shares

AVALONBAY COMMUNITIES, INC.

Series H Cumulative Redeemable Preferred Stock

PRICE DETERMINATION AGREEMENT

October 7, 1998

PAINWEBBER INCORPORATED
A.G. EDWARDS & SONS, INC.
LEGG MASON WOOD WALKER, INCORPORATED
MORGAN STANLEY & CO. INCORPORATED
PRUDENTIAL SECURITIES INCORPORATED
SMITH BARNEY INC.
WHEAT FIRST UNION, a division of
Wheat First Securities, Inc.
c/o PaineWebber Incorporated
1285 Avenue of the Americas
New York, New York 10019

Ladies and Gentlemen:

Reference is made to the Underwriting Agreement, dated October 7, 1998 (the "Underwriting Agreement"), among AvalonBay Communities, Inc., a Maryland corporation (the "Company"), and the several Underwriters named in SCHEDULE A thereto (the "Underwriters"), for whom PaineWebber Incorporated, A.G. Edwards & Sons, Inc., Legg Mason Wood Walker, Incorporated, Morgan Stanley & Co. Incorporated, Prudential Securities Incorporated, Smith Barney Inc., and Wheat First Union, a division of Wheat First Securities, Inc. are acting as representatives (the Representatives"). The Underwriting Agreement provides for the purchase by the Underwriters from the Company, subject to the terms and conditions set forth therein, of an aggregate of 4,000,000 shares (the "Firm Shares") of the Company's Series H Cumulative Redeemable Preferred Stock, par value \$.01 per share. This Agreement is the Price Determination Agreement referred to in the Underwriting Agreement.

Pursuant to Section 2 of the Underwriting Agreement, the undersigned agree with the Representatives as follows:

The public offering price per share for the Firm Shares shall be \$25.00.

The stated dividend rate of the Shares shall be 8.70%.

The purchase price per share for the Firm Shares to be paid by the several Underwriters shall be \$24.2125 representing an amount equal to the public offering price set forth above, less \$.7875 (3.15% of the public offering price) per share.

The Company represents and warrants to the Underwriters that the representations and warranties of the Company set forth in Section 4 of the Underwriting Agreement are accurate as though expressly made at and as of the date hereof.

This Agreement shall be governed by and construed in accordance with the laws of the State of New York without regard to the conflict of laws principles of such State.

If the foregoing is in accordance with your understanding of the agreement among the Underwriters and the Company, please sign and return to the Company a counterpart hereof, whereupon this instrument along with all counterparts and together with the Underwriting Agreement shall be a binding agreement among the Underwriters and the Company in accordance with its terms and the terms of the Underwriting Agreement.

Very truly yours,

AVALONBAY COMMUNITIES, INC.

By: /s/ Thomas J. Sargeant

Thomas J. Sargeant
Chief Financial Officer

ACCEPTED as of the date
first above written

PAINWEBBER INCORPORATED
A.G. EDWARDS & SONS, INC.
LEGG MASON WOOD WALKER, INCORPORATED
MORGAN STANLEY & CO. INCORPORATED
PRUDENTIAL SECURITIES INCORPORATED
SMITH BARNEY INC.
WHEAT FIRST UNION, a division of
Wheat First Securities, Inc.

By: PAINWEBBER INCORPORATED

By: /s/ Frederick T. Caven, Jr.

Frederick T. Caven, Jr.
Managing Director