The following table summarizes information about stock options outstanding at December 31, 1997 (shares in thousands):

| | Options Outstanding | | | Options Exercisable | |
|---|---|---|---|---|---|
| Range of Exer. Prices | Number Outstanding at 12/31/97 | Wtd-Avg. Remaining Cont. Life | Number Wtd. Avg. Exer. Price | Exercisable at 12/31/97 | Weighted Avg. Exercise Price |
| $0 to 9.50 | 149 | 7.6 years | $ 5.90 | 39 | $ 9.25 |
| $9.83 to 12.50 | 402 | 6.9 | 10.69 | 285 | 10.84 |
| $15.37 | 304 | 8.0 | 15.37 | 128 | 15.37 |
| $17.50 to 23.00 | 130 | 9.4 | 21.09 | 6 | 23.00 |
| $28.83 | 93 | 8.5 | 28.83 | 43 | 28.83 |
| $30.25 to 32.00 | 678 | 9.1 | 30.57 | 104 | 30.53 |
| $43.38 | 121 | 9.8 | 43.38 | 12 | 43.38 |
| $0 to 43.38 | 1,877 | 8.1 | 21.98 | 617 | 17.00 |

*Employee Stock Purchase Plan:*

In October 1994, the Company's shareholders approved an employee stock purchase plan which allows eligible employees to purchase shares of the Company's Class A Common Stock at 85% of market value on the date on which the annual offering period begins, or the last business day of each calendar quarter in which shares are purchased during the offering period, whichever is lower. In June 1997, the Company's shareholders approved an additional 200,000 shares for issuance under the plan, bringing the total shares available for issuance to 950,000. Class A Common Stock reserved for future employee purchases aggregated 847,748 shares at December 31, 1997. There were 35,450 shares issued at an average price of $8.37 per share during the year ended December 31, 1995; 19,341 shares issued at an average price of $17.69 per share during the year ended December 31, 1996; and 28,339 shares issued at an average price of $24.24 per share during the year ended December 31, 1997. There have been no charges to income in connection with this plan other than incidental expenses related to the issuance of shares. The weighted average fair value of shares offered in 1997 and 1996 were $14.82 and $3.80, respectively. In connection with the merger with Teleport Communications Group Inc., the employee stock purchase plan has been discontinued effective January 1, 1998 (see Note 10, "Mergers").

For purposes of the pro forma disclosure above, the fair value of each option grant is estimated on the date of the grant using the Black-Scholes option-pricing model with the following weighted-average assumptions used for grants in 1997, 1996 and 1995:

| | 1997 | 1996 | 1995 |
|---|---|---|---|
| Dividend yield | 0% | 0% | 0% |
| Expected volatility | 57% | 19% | 18% |
| Risk-free interest rate | 6.04% | 5.77% | 7.66% |
| Expected life | 3 months | 3 months | 3 months |

*Non-Employee Directors' Stock Option Plan:*

In June 1996, the Company's shareholders approved a Non-Employee Directors' Stock Option Plan (the Directors' Stock Option Plan). The Directors' Stock Option Plan provides for grants of options to purchase 7,500 shares of Class A Common Stock at an exercise price of 100% of the fair market value of the stock on the date of grant, which options vest at the first anniversary of the date of grant. The maximum number of shares with respect to which options may be granted under the Directors' Stock Option Plan is 375,000 shares, subject to adjustment for stock splits, stock dividends, and the like.

Each option shall be exercisable for ten years and one day after its date of grant. Any vested option is exercisable during the holder's term as a director (in accordance with the option's terms) and remains exercisable for one year following the date of termination as a director (unless the director is removed for cause). Exercise of the options would involve payment in cash, securities, or a combination of cash and securities.

For purposes of the pro forma disclosure above, the fair value of each option grant is estimated on the date of the grant using the Black-Scholes option-pricing model with the following weighted-average assumptions used for grants in 1997, 1996 and 1995:

| | 1997 | 1996 | 1995 |
|---|---|---|---|
| Dividend yield | 0% | 0% | — |
| Expected volatility | 54% | 44% | — |
| Risk-free interest rate | 6.36% | 5.39% | — |
| Expected life | 3 years | 3 years | — |

Changes in the status of the Directors' Stock Option Plan during 1997 and 1996 are summarized as follows:

| | 1997 | | 1996 | |
|---|---|---|---|---|
| | Shares (000s) | Weighted Average Exercise Price | Shares (000s) | Weighted Average Exercise Price |
| Outstanding at beginning of year | 60 | $ 22.08 | — | — |
| Granted | 45 | 17.50 | 60 | $ 22.08 |
| Exercised | — | — | | |
| Forfeited | 7 | 17.50 | — | — |
| Outstanding at end of year | 98 | $ 20.32 | 60 | $ 22.08 |
| Number of options at end of year: | | | | |
| Exercisable | 60 | $ 22.08 | 30 | $ 15.33 |
| Available for grant | 277 | | 315 | |
| Range of prices: | | | | |
| Granted during the year | | $ 17.50 | | $15.33-$28.83 |
| Outstanding at end of year | | $15.33-28.83 | | $15.33-$28.83 |
| Exercised during the year | | $ — | | $ — |
| Weighted average fair value of options granted | | $ 7.33 | | $ 5.41 |

The table summarizing information about stock options outstanding, required by SFAS No. 123, is not included, as the impact of the application of this statement would not be material.

*United Kingdom Sharesave Scheme:*

In August 1996, the Executive Compensation Committee of the Board of Directors approved the United Kingdom Sharesave Scheme whereby eligible employees of ACC UK are entitled to purchase shares of the Company's Class A Common Stock at an exercise price equal to 85% of market value on the date that the purchase period begins. Employees contribute the purchase price through monthly payroll deduction of a predetermined amount, not to exceed 250 pounds sterling, over a three year period, at the end of which the shares are purchased. A total of 150,000 shares are reserved for issuance under this plan, of which options for 17,160 shares at an exercise price of $32.08 were granted in 1996, and options for 7,259 shares at an exercise price of $26.56 were granted in 1997. The weighted average fair value of options offered in 1997 and 1996 was $12.63 and $14.29.

For purposes of the pro forma disclosure above, the fair value of each option grant is estimated on the date of the grant using the Black-Scholes option-pricing model with the following weighted-average assumptions used for grants in 1997, 1996 and 1995:

| | 1997 | 1996 | 1995 |
|---|---|---|---|
| Dividend yield | 0% | 0% | — |
| Expected volatility | 48% | 40.8% | — |
| Risk-free interest rate | 5.93% | 6.45% | — |
| Expected life | 3 years | 3 years | — |

The table summarizing information about stock options outstanding, required by SFAS No. 123, is not included, as the impact of the application of this statement would not be material.

*D. Shareholder Rights Plan:*

In October 1997, the Board of Directors adopted a Shareholder Rights Plan. In connection with this plan, the Board of Directors declared a dividend of one Preferred Stock Purchase Right ("Right") on each outstanding share of ACC Common Stock. The dividend was distributed on October 15, 1997 to shareholders of record on that date. Subject to certain exceptions, the Rights would be exercisable only if a person or group acquired 15% or more of ACC's Common Stock or announced a tender or exchange offer which would result in ownership by a person or group of 15% or more of the Common Stock. The plan was amended in November 1997 to reduce the threshold by which the rights become exercisable from 15% to 7.5%. Any shareholder whose ownership exceeded 7.5% on November 6, 1997, and who did not acquire additional shares, was exempt from this amendment. Each Right entitles its holder to buy one one-thousandth of a share of Series A preferred stock at an exercise price of $150.00. Each Right entitles its holder (other than the acquiring person or group) to purchase, at the exercise price, shares of the preferred stock or shares of the acquiring company having a market value of twice such price. The Company could redeem the rights for $.01 per Right before the acquisition by a person or group of 7.5% or more of ACC's Common Stock and thereafter under certain circumstances. In connection with the merger with Teleport Communications Group Inc. ("TCG") (see Note 10, "Mergers"), the Board of Directors amended the Shareholder Rights Plan to exempt TCG from the 7.5% threshold by which the rights become exercisable. The amendment will remain in effect until December 31, 1998.

## 7. Commitments and Contingencies

*A. Operating Leases:*

The Company leases office space and other items under various agreements expiring through 2004. At December 31, 1997, the minimum aggregate payments under non-cancelable operating leases are summarized as follows (amounts in 000s):

| Year | Amount |
|---|---|
| 1998 | $ 6,373 |
| 1999 | 5,339 |
| 2000 | 4,991 |
| 2001 | 4,753 |
| 2002 | 4,665 |
| Thereafter | 6,916 |
| | $33,037 |

Rent expense for the years ending December 31, 1997, 1996, and 1995 was approximately $4,583,000, $4,006,000, and $1,965,000, respectively.

*B. Employment and Other Agreements:*

On December 5, 1997 the Company's Chairman and Chief Executive Officer died unexpectedly. As an interim measure, the Board of Directors created an Office of the Chief Executive electing each of Christopher Bantoft (President of European Operations), Steve Dubnik (President and Chief Operating Officer of North American Operations), and Michael Daley (Executive Vice President and Chief Financial Officer) to this office. The Company has employment agreements with each of Messrs. Bantoft, Dubnik and Daley, which provides for continuation of salary and benefits in the event each is terminated without cause or in the event of a change in control of the Company. At December 31, 1997, the Company's maximum potential liability for each of these individuals separately is approximately $350,000.

The Company had a contract with a former Chairman which provided for an annual base salary, including an annual bonus and other benefits during his employment term, and also for a payment of $1.0 million, payable over a three year term, in the event that he resigned or was terminated without cause. During 1996, the Chairman of the Board resigned his position as Chairman of the Company. At December 31, 1996, under this agreement, the Company had accrued the entire $1.0 million, and a payment of $0.3 million was made in each of January 1997 and January 1998. In consideration for a non-compete agreement which has a three-year term beginning in January 1997, the former Chairman received a payment of $750,000, which was expensed in 1995.

The Company has entered into employee continuation incentive agreements with certain other key management personnel. These agreements provide for continued compensation and continued vesting of options previously granted under the Company's Employee Long-Term Incentive Plan for a period of up to one year in the event of termination without cause or in the event of termination after a change in control of the Company. At December 31, 1997, the Company's estimated maximum potential liability under these agreements totaled approximately $3.7 million (excluding the Office of the Chief Executive).

*C. Purchase Commitments:*

At December 31, 1997, the Company had outstanding purchase commitments totaling approximately $7.5 million primarily related to the purchase of local exchange switches for the US business, the purchase of a microwave for the UK operation and other capital expenditures.

In 1993, ACC Long Distance Ltd., a subsidiary of ACC TelEnterprises Ltd., entered into an agreement with one of its vendors to lease long distance facilities totaling a minimum of Cdn.$1.0 million per month for seven years. The Company currently leases more than Cdn.$1.0 million per month of such facilities from this vendor. This commitment allows the Company to receive up to a 60% discount on certain monthly charges from this vendor.

*D. Defined Contribution Plans:*

The Company provides a defined contribution 401(k) plan to substantially all US employees. Amounts contributed to this plan by the Company were approximately $314,000, $240,000, and $183,000 in 1997, 1996, and 1995, respectively. The Company's Canadian subsidiary provides a registered retirement savings plan to substantially all Canadian employees. Amounts contributed to this plan by the Company were Cdn.$229,000, Cdn.$186,000, and Cdn.$106,000 in 1997, 1996, and 1995, respectively. In 1997, the Company's UK subsidiary established a group retirement plan available to substantially all UK employees. Amounts contributed to this plan in 1997 were 37,400 pounds sterling.

*E. Annual Incentive Plan:*

During 1997, no incentive bonuses were authorized, as performance criteria specified under the incentive plan were not met. During 1996, the Company's Board of Directors authorized incentive bonuses based upon

the Company's sales, gross margin, operating expenses, and operating income. Prior to 1995, incentive bonuses were discretionary as determined by the Company's management and approved by the Board of Directors. The amounts included in operations for these incentive bonuses were approximately $0, $2.6 million, and $1.4 million for the years ended December 31, 1997, 1996, and 1995, respectively.

*F. Legal Matters:*

The Company is subject to litigation from time to time in the ordinary course of business. Although the amount of any liability with respect to such litigation cannot be determined, in the opinion of management, such liability as of December 31, 1997 will not have a material adverse effect on the Company's financial condition or results of operations.

## 8. Geographic Area Information (amounts in 000s)

### Year ended December 31, 1997:

| | United States | Canada | United Kingdom | Germany | Eliminations | Consolidated |
|---|---|---|---|---|---|---|
| Revenue from unaffiliated customers | $120,627 | $116,638 | $132,151 | $ 3,197 | $ — | $372,613 |
| Intercompany revenue | 43,460 | 3,875 | 7,377 | — | (54,712) | — |
| Total revenue | $164,087 | $120,513 | $139,528 | $ 3,197 | $ (54,712) | $372,613 |
| Income (loss) from operations before income taxes | $ 8,254 | $ (1,079) | $ 6,654 | $(2,962) | $ — | $ 10,867 |
| Identifiable assets at December 31, 1997 | $258,390 | $ 96,679 | $ 90,649 | $12,929 | $(142,335) | $316,312 |

### Year ended December 31, 1996:

| | United States | Canada | United Kingdom | Germany | Eliminations | Consolidated |
|---|---|---|---|---|---|---|
| Revenue from unaffiliated customers | $ 99,461 | $117,168 | $ 92,138 | $ — | $ — | $308,767 |
| Intercompany revenue | 35,060 | 2,917 | 3,519 | — | (41,496) | — |
| Total revenue | $134,521 | $120,085 | $ 95,657 | $ — | $ (41,496) | $308,767 |
| Income (loss) from operations before income taxes | $ 6,676 | $ 3,452 | $ 731 | $ — | $ — | $ 10,859 |
| Identifiable assets at December 31, 1996 | $182,435 | $ 94,165 | $ 49,667 | $ — | $(122,236) | $204,031 |

### Year ended December 31, 1995:

| | United States | Canada | United Kingdom | Germany | Eliminations | Consolidated |
|---|---|---|---|---|---|---|
| Revenue from unaffiliated customers | $ 65,975 | $ 84,421 | $ 38,470 | $ — | $ — | $188,866 |
| Intercompany revenue | 15,256 | 4,071 | 1,143 | — | (20,470) | — |
| Total revenue | $ 81,231 | $ 88,492 | $ 39,613 | $ — | $ (20,470) | $188,866 |
| Income (loss) from operations before income taxes | $ 1,512 | $ 456 | $ (6,793) | $ — | $ — | $ (4,825) |
| Identifiable assets at December 31, 1995 | $105,995 | $ 43,775 | $ 31,593 | $ — | $ (57,379) | $123,984 |

Intercompany revenue is recognized when calls are originated in one country and terminated in another country over the Company's leased network. This revenue is recognized at rates similar to those charged by unaffiliated companies. Income from operations before income taxes of the Canadian, United Kingdom and German operations includes corporate charges for general corporate expenses and interest.

Corporate general and administrative expenses are allocated to subsidiaries based on time dedicated to each subsidiary by members of corporate management and staff.

## 9. Related Party Transactions

The Company's headquarters is in a building owned by a partnership in which the Company's former chairman of the board has a 50% ownership interest. A Special Committee of the Company's Board of Directors reviewed the lease to ensure that the terms and conditions were commercially reasonable and fair to the Company prior to approval of the plan in February 1994. Minimum monthly lease payments for this space range from $44,000 to $60,000 over the ten-year term of the lease, which began on May 1, 1994. The Company also pays a pro-rata share of maintenance costs. Total rent and maintenance payments under this lease were approximately $0.8 million, $0.8 million, and $0.6 million during 1997, 1996, and 1995, respectively.

During 1994 and early 1995, the Company initiated efforts to obtain new telecommunications software programs from a software development company. The Company's former chairman of the board and chief executive officer was a controlling shareholder of the software development company during such period. In May 1995, anticipating material agreements with the software development company, all of the common shares owned by the Company's former chairman of the board were placed in escrow under the direction of a Special Committee of the Company's Board of Directors. The Special Committee, its outside consultants, and the Company's management then proceeded to review and evaluate the software technology and the terms and conditions of the proposed transactions.

In 1996, the Special Committee approved a software license agreement between the Company and a newly formed company (the purchaser of the software development company's intellectual property and other assets and an affiliate of such company). Immediately prior to entering into the agreement, the shares of the software development company held in escrow were returned to such company and the related party nature of the Company's relationship with the software development company was thereby extinguished. Total amounts accrued at December 31, 1997, 1996, and 1995 relating to this vendor were $0, $0 and $44,000, respectively. For an aggregate consideration of $1.8 million, paid in 1996, the Company received a perpetual right to use the telecommunications software programs. Approximately $0.2 million was paid to the vendor in 1996 and was expensed prior to entering into the agreement. During 1995, the Company paid the software development company $1.2 million, of which $772,000, relating to the purchase of certain hardware and acquisition of certain software licenses, was capitalized and recorded on the balance sheet as a component of property, plant, and equipment and $500,000 relating to software development was expensed.

The Company had notes receivable from two officers which totaled $370,000 as of December 31, 1996. These notes were paid in full in 1997.

## 10. Mergers

On October 28, 1997, the Company entered into an agreement and plan merger with US WATS Inc. ("USW"), a switch-based long distance provider based in Bala Cynwyd, Pennsylvania. Upon consummation of the merger, USW was to become a wholly owned subsidiary of ACC, and the shares of USW common stock that were issued and outstanding at the effective of the USW merger, other than the shares held by shareholders who perfected their statutory dissenters' rights, would have been converted automatically into the right to receive a number of shares of ACC stock determined pursuant to the merger agreement.

On March 11, 1998, ACC and USW agreed to a mutual termination of the agreement and plan of merger, by and among USW and ACC.

In November 1997, the Company signed a definitive agreement to be acquired by Teleport Communications Group Inc. ("TCG"), the largest competitive local exchange carrier in the US, in a stock for stock merger. Under

the agreement, ACC shareholders will receive $50 in value of TCG Class A common stock for each share of ACC stock, based upon the average closing price of TCG stock for a ten trading day period preceding the date of merger. The total value of the transaction would be approximately $1 billion. However, if TCG's average closing price during the ten day trading period prior to closing is below $45 or above $55, the exchange ratios will be fixed at 1.11111 shares of TCG stock or 0.90909 shares of TCG stock, respectively. It is anticipated that the merger will be treated as a tax-free exchange. The merger is subject to the approval of the holders of a majority of the outstanding shares of ACC and to other conditions, including various regulatory consents in the US and certain foreign jurisdictions.

In connection with the proposed mergers with USW and TCG, the Company has incurred costs for certain investment advisory, legal, accounting and other professional services. The Company has recorded $5.0 million of such costs (reflected in the consolidated statements of operations as "merger costs") in 1997, of which $1.3 million as been paid through December 31, 1997 and the remaining $3.7 million is accrued and expected to be paid during 1998.

APPENDIX A

# AGREEMENT AND PLAN OF MERGER

**By and Among**

## TELEPORT COMMUNICATIONS GROUP INC.,

## TCG MERGER CO., INC.

**and**

## ACC CORP.

**Dated As Of**

**November 26, 1997**

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## AGREEMENT AND PLAN OF MERGER

This Agreement and Plan of Merger (the "Agreement") is made and entered into as of November 26, 1997, by and among TELEPORT COMMUNICATIONS GROUP INC., a Delaware corporation ("TCG"), TCG MERGER CO., INC., a Delaware corporation and wholly-owned subsidiary of TCG ("Acquisition Subsidiary"), and ACC CORP., a Delaware corporation ("ACC").

### RECITALS

A. The respective Boards of Directors of ACC, Acquisition Subsidiary and TCG have approved the merger (the "Merger") of Acquisition Subsidiary with and into ACC in accordance with the laws of the State of Delaware and the provisions of this Agreement.

B. ACC, Acquisition Subsidiary and TCG desire to make certain representations, warranties and agreements in connection with, and establish various conditions precedent to, the Merger.

NOW, THEREFORE, in consideration of the premises and the representations, warranties, covenants and agreements hereinafter set forth, the parties hereto agree as follows:

### ARTICLE I TERMS OF THE MERGER

1.1 *The Merger.* Upon the terms and subject to the conditions of this Agreement, the Merger shall be consummated in accordance with the Delaware General Corporation Law (the "Delaware Code"). At the Effective Time (as defined in Section 1.2, below), upon the terms and subject to the conditions of this Agreement, Acquisition Subsidiary shall be merged with and into ACC in accordance with the Delaware Code and the separate existence of Acquisition Subsidiary shall thereupon cease, and ACC, as the surviving corporation in the Merger (the "Surviving Corporation"), shall continue its corporate existence under the laws of the State of Delaware as a subsidiary of TCG. The parties shall prepare and execute a certificate of merger (the "Certificate of Merger") in order to comply in all respects with the requirements of the Delaware Code and with the provisions of this Agreement.

1.2 *Effective Time.* The Merger shall become effective at the time of the filing of the Certificate of Merger with the Secretary of State of Delaware in accordance with the applicable provisions of the Delaware Code or at such later time as may be specified in the Certificate of Merger. The Certificate of Merger shall be filed as soon as practicable (but in any event within five (5) business days) after all of the conditions (other than those to be satisfied at the Effective Time (as hereinafter defined)) set forth in this Agreement have been satisfied or waived by the party or parties entitled to the benefit of the same. TCG and ACC shall mutually determine the time of such filing and the place where the closing of the Merger (the "Closing") shall occur. The time when the Merger shall become effective is herein referred to as the "Effective Time" and the date on which the Effective Time occurs is herein referred to as the "Closing Date."

1.3 *Merger Consideration.*

(a) Subject to the provisions of this Agreement, each of the issued and outstanding shares of Class A Common Stock, par value $.015 per share, of ACC (the "ACC Class A Common Stock") as of the Effective Time shall be converted into the right to receive (subject to any applicable backup or other withholding requirements), and there shall be issued by virtue of the Merger and without any action on the part of the holder thereof or any other person, except as hereinafter provided, in exchange for each of the shares of ACC Class A Common Stock, that number of shares of Class A Common Stock, par value $.01 per share, of TCG (the "TCG Stock") equal to the product of one (1), multiplied by the Exchange Ratio. For purposes hereof, the "Exchange Ratio" shall mean:

(i) if the average of the last reported sales prices per share of the TCG Common Stock as reported on the Nasdaq National Market ("Nasdaq") for the ten consecutive trading days immediately preceding the trading day immediately prior to the Closing Date (the "Average Price") is less than $45.00, 1.11111;

(ii) if the Average Price is equal to or greater than $45.00, but not in excess of $55.00, a fraction, the numerator of which shall be $50.00 and the denominator of which shall be the Average Price; or

(iii) if the Average Price is greater than $55.00, 0.90909;

subject to payment of cash in lieu of any fractional share as hereinafter provided (the "Merger Consideration"). The Exchange Ratio shall be subject to appropriate adjustment in the event of a stock split, stock dividend or recapitalization after the date of this Agreement applicable to shares of the TCG Stock or the ACC Class A Common Stock.

(b) No fractional shares of TCG Stock shall be issued pursuant to the Merger nor will any fractional share interest involved entitle the holder thereof to vote, to receive dividends or to exercise any other rights of a stockholder of TCG. In lieu thereof, any person who would otherwise be entitled to a fractional share of TCG Stock pursuant to the provisions hereof shall receive an amount in cash equal to the value of such fractional share. The value of such fractional share shall be the product of such fraction multiplied by the last sales price of TCG Stock as reported on the Nasdaq on the business day immediately prior to the Closing Date, subject to appropriate adjustment in the event of a stock split, stock dividend or recapitalization after the date of this Agreement applicable to shares of the TCG Stock.

(c) Each share of ACC Class A Common Stock held in the treasury of ACC or by a wholly owned subsidiary of ACC shall be canceled as of the Effective Time and no Merger Consideration shall be payable with respect thereto.

(d) Subject to the provisions of this Agreement, at the Effective Time, the shares of Acquisition Subsidiary common stock outstanding immediately prior to the Merger shall be converted, by virtue of the Merger and without any action on the part of the holder thereof, into one share of the common stock of the Surviving Corporation (the "Surviving Corporation Common Stock"), which one share of the Surviving Corporation Common Stock shall constitute all of the issued and outstanding capital stock of the Surviving Corporation and shall be owned by TCG.

1.4 *Stockholders' Rights upon Merger.* Upon consummation of the Merger, the certificates which theretofore represented shares of ACC Class A Common Stock (the "Certificates") shall cease to represent any rights with respect thereto, and, subject to applicable law and this Agreement, shall only represent the right to receive the Merger Consideration, including the amount of cash, if any, payable in lieu of fractional shares of TCG Stock into which the shares of ACC Class A Common Stock have been converted pursuant to this Agreement.

1.5 *Surrender and Exchange of Shares.*

(a) Prior to the Closing Date, TCG shall appoint an agent reasonably acceptable to ACC to act as exchange agent (the "Exchange Agent") for the Merger. Promptly after the Effective Time, TCG shall make available, or cause to be made available, to the Exchange Agent such certificates evidencing such number of shares of TCG Stock and such amount of cash, as and when necessary, in order to enable the Exchange Agent to effect the exchange of certificates and make the cash payments in respect of fractional shares contemplated by Section 1.5(c) below.

(b) On the Closing Date, TCG shall instruct the Exchange Agent to mail to each holder of record of a Certificate within five business days of receiving from ACC a list of such holders of record, (i) a letter of transmittal (which shall specify that delivery shall be effected, and risk of loss and title to the Certificates shall pass, only upon delivery of the Certificates to the Exchange Agent and shall be in such form and have such other provisions as TCG may reasonably specify) and (ii) instructions for use in effecting the surrender of the Certificates in exchange for certificates representing the Merger Consideration consisting of TCG Stock and any cash payable pursuant to Section 1.3(b) above.

(c) After the Effective Time, each holder of a share of ACC Class A Common Stock shall surrender and deliver the Certificates to the Exchange Agent together with a duly completed and executed transmittal letter. Upon such surrender and delivery, the holder shall receive a certificate representing the number of whole shares of TCG Stock into which such holder's shares of ACC Class A Common Stock have been converted pursuant to this Agreement, subject to payment of cash in lieu of any fractional share. Until so surrendered and exchanged, each outstanding Certificate after the Effective Time shall be deemed for all purposes to evidence the right to receive that number of whole shares of TCG Stock into which the shares of ACC Class A Common Stock have been converted pursuant to this Agreement, subject to payment of cash in lieu of any fractional share; provided, however, that no dividends or other distributions, if any, in respect of the shares of TCG Stock, declared after the Effective Time and payable to holders of record after the Effective Time, shall be paid to the holders of any unsurrendered Certificates until such Certificates and transmittal letters are surrendered and delivered as provided herein. Subject to applicable Law, after the surrender and exchange of Certificates, the record holders thereof will be entitled to receive any such dividends or other distributions without interest thereon, which theretofore have become payable with respect to the number of shares of TCG Stock for which such Certificates were exchangeable. Holders of any unsurrendered Certificates shall not be entitled to any rights as a holder of TCG Stock, including, without limitation, the right to vote TCG Stock, until such Certificates are exchanged pursuant to this Agreement.

(d) At the Effective Time, the stock transfer books of ACC shall be closed and no transfer of shares of ACC Class A Common Stock shall be made thereafter, other than transfers of shares of ACC Class A Common Stock that have occurred prior to the Effective Time. In the event that, after the Effective Time, Certificates are presented to the Surviving Corporation, they shall be canceled and exchanged for shares of TCG Stock or cash as provided in Section 1.3.

(e) Neither ACC nor TCG nor the Exchange Agent shall be liable to any holder of shares of ACC Class A Common Stock for any such shares of TCG Stock (or dividends or distributions with respect thereto), or cash delivered to a public official pursuant to any abandoned property, escheat or similar law, rule, regulation, statute, order, judgment or decree.

1.6 *Options and Stock Incentive Rights.* At the Effective Time, TCG shall cause each holder of a then-outstanding and unexercised option (the "ACC Options") or stock incentive right (the "ACC SIRs") exercisable for shares of ACC Class A Common Stock to receive, by virtue of the Merger and without any action on the part of the holder thereof, options or stock incentive rights, respectively, exercisable for shares of TCG Stock having the same terms and conditions as the ACC Options and ACC SIRs (including such terms and conditions as may be incorporated by reference into the agreements evidencing ACC Options and ACC SIRs pursuant to the plans or arrangements pursuant to which such ACC Options and ACC SIRs were granted), except that the exercise price and the number of shares issuable upon exercise shall be divided and multiplied, respectively, by the Exchange Ratio. TCG shall take all corporate action necessary to reserve for issuance a sufficient number of shares of TCG Stock for delivery upon the exercise of ACC Options and ACC SIRs after the Effective Time. Immediately after the Effective Time, TCG shall file or cause to be filed all registration statements on Form S-8 or other appropriate form as may be necessary in connection with the purchase and sale of TCG Stock contemplated by such ACC Options and ACC SIRs subsequent to the Effective Time.

1.7 *Certificate of Incorporation.* At and after the Effective Time, the Certificate of Incorporation of the Surviving Corporation shall be amended to be identical to the Certificate of Incorporation of Acquisition Subsidiary in effect at the Effective Time (subject to any subsequent amendment thereof, including, without limitation, any amendment thereof required in order to comply with Section 5.7).

1.8 *Bylaws.* Subject to Section 5.7 below, at and after the Effective Time, the Bylaws of Acquisition Subsidiary in effect at the Effective Time shall be the Bylaws of the Surviving Corporation (subject to any subsequent amendment thereof, including, without limitation, any amendment thereof required in order to comply with Section 5.7).

1.9 *Other Effects of Merger.* The Merger shall have all further effects as specified in the applicable provisions of the Delaware Code.

1.10 *Registration Statement; Prospectus/Proxy Statement.*

(a) For the purposes of (i) registering the issuance of TCG Stock to holders of the shares of ACC Class A Common Stock in connection with the Merger with the Securities and Exchange Commission ("SEC") under the Securities Act of 1933, as amended, and the rules and regulations thereunder (the "Securities Act"), and complying with applicable state securities Laws and (ii) holding the meeting of ACC stockholders to approve the Merger (the "ACC Proposals"), TCG and ACC will cooperate in the preparation of a registration statement on Form S-4 (such registration statement, together with any and all amendments and supplements thereto, being herein referred to as the "Registration Statement"), including a prospectus/proxy statement satisfying all requirements of applicable state securities Laws, the Securities Act and the Securities Exchange Act of 1934, as amended, and the rules and regulations thereunder (the "Securities Exchange Act"). Such prospectus/proxy statement in the form mailed by ACC and, if required, TCG to their respective stockholders, together with any and all amendments or supplements thereto, is herein referred to as the "Prospectus/Proxy Statement."

(b) ACC will furnish TCG with such information concerning ACC and its subsidiaries as is necessary in order to cause the Prospectus/Proxy Statement, insofar as it relates to ACC and its subsidiaries, to comply with applicable Law. None of the information relating to ACC and its subsidiaries supplied by ACC for inclusion in the Prospectus/Proxy Statement will be false or misleading with respect to any material fact or will omit to state any material fact required to be stated therein or necessary in order to make the statements therein, in light of the circumstances under which they were made, not misleading. ACC agrees promptly to advise TCG if, at any time prior to the respective meetings of the stockholders of ACC or TCG referenced herein, any information provided by it in the Prospectus/Proxy Statement is or becomes incorrect or incomplete in any material respect and to provide TCG with the information needed to correct such inaccuracy or omission. ACC will furnish TCG with such supplemental information as may be necessary in order to cause the Prospectus/Proxy Statement, insofar as it relates to ACC and its subsidiaries, to comply with applicable Law after the mailing thereof to the stockholders of ACC or TCG.

(c) ACC and TCG agree to cooperate in making any preliminary filings of the Prospectus/Proxy Statement with the SEC, as promptly as practicable, pursuant to Rule 14a-6 under the Securities Exchange Act, and shall cooperate in responding to any comments with respect thereto received from the SEC.

(d) TCG will file the Registration Statement with the SEC and appropriate materials with applicable state securities agencies as promptly as practicable and will use all reasonable efforts to cause the Registration Statement to become effective under the Securities Act and all such state filed materials to comply with applicable state securities Laws. ACC authorizes TCG to utilize in the Registration Statement and in all such state filed materials, the information concerning ACC and its subsidiaries provided to TCG in connection with, or contained in, the Prospectus/Proxy Statement. TCG promptly will advise ACC when the Registration Statement has become effective and of any supplements or amendments thereto, and TCG will furnish ACC with copies of all such documents. Except for the Prospectus/Proxy Statement or the preliminary prospectus/proxy statement, neither TCG nor ACC shall distribute any written material that might constitute a "prospectus" relating to the Merger or the ACC Proposals within the meaning of the Securities Act or any applicable state securities Law without the prior written consent of the other party.

(e) ACC shall mail the Prospectus/Proxy Statement to its stockholders as promptly as practicable after the date the Registration Statement is declared effective under the Securities Act.

1.11 *Tax-Free Reorganization.* The parties intend that the Merger qualify (a) as a reorganization within the meaning of Section 368(a) of the Internal Revenue Code of 1986, as amended, and the regulations thereunder (the "Code") and (b) for accounting treatment as a pooling of interests. None of the parties will knowingly take any action that would cause the Merger to fail to qualify as a reorganization within the meaning of Section 368(a)

of the Code. Each of the parties shall report the Merger for income tax purposes as a reorganization within the meaning of Section 368(a) of the Code (and any comparable state or local tax statute).

1.12 *Additional Actions.* If, at any time after the Effective Time, the Surviving Corporation shall consider or be advised that any deeds, bills of sale, assignments, assurances or any other actions or things are necessary or desirable to vest, perfect or confirm of record or otherwise in the Surviving Corporation its right, title or interest in, to or under any of the rights, properties or assets of Acquisition Subsidiary or ACC or otherwise to carry out this Agreement, the officers and directors of the Surviving Corporation shall be authorized to execute and deliver, in the name and on behalf of Acquisition Subsidiary or ACC, all such deeds, bills of sale, assignments and assurances and to take and do, in the name and on behalf of Acquisition Subsidiary or ACC, all such other actions and things as may be necessary or desirable to vest, perfect or confirm any and all right, title and interest in, to and under such rights, properties or assets in the Surviving Corporation or otherwise to carry out this Agreement.

## ARTICLE II REPRESENTATIONS, WARRANTIES AND CERTAIN COVENANTS OF ACC

ACC represents, warrants and/or covenants to and with TCG as follows:

2.1 *Organization and Good Standing.* ACC and each of the ACC Subsidiaries is a corporation or partnership duly organized, validly existing and in good standing under the laws of the jurisdiction of its incorporation or organization and has all requisite corporate or partnership power and authority to own, lease and operate its properties and to carry on its business as now being conducted. ACC and each of the ACC Subsidiaries is duly qualified or licensed and in good standing to do business in each jurisdiction in which the character of the property owned, leased or operated by it or the nature of the business conducted by it makes such qualification or licensing necessary, except where the failure to be so duly qualified or licensed and in good standing would not materially adversely affect the business, assets (including, but not limited to, intangible assets), financial condition, liabilities or the results of operations of ACC and its subsidiaries taken as a whole ("ACC Material Adverse Effect"). *Schedule 2.1* attached hereto contains a complete and accurate list of the jurisdictions of incorporation or organization and qualification or license of ACC and the ACC Subsidiaries. ACC has heretofore made available to TCG accurate and complete copies of the Certificate of Incorporation and Bylaws, as currently in effect, of ACC. For purposes of this Agreement, the term "ACC Subsidiary" shall mean any "significant subsidiary" (as such term is defined in Rule 1-02 of Regulation S-X of the SEC) of ACC.

2.2 *Capitalization.* As of the date hereof, the authorized capital stock of ACC consists of (a) 1,990,000 shares of Preferred Stock, $1.00 par value per share ("ACC Preferred Stock"), (b) 50,000,000 shares of ACC Class A Common Stock and (c) 25,000,000 shares of Class B Common Stock, $.015 par value per share ("ACC Class B Common Stock"). As of November 1, 1997, no shares of ACC Preferred Stock or ACC Class B Common Stock were issued and outstanding, and 16,984,657 shares of ACC Class A Common Stock were issued and outstanding. No other capital stock of ACC is authorized or issued. All issued and outstanding shares of the ACC Class A Common Stock are duly authorized, validly issued, fully paid and non-assessable and were issued free of preemptive rights and in compliance with applicable securities Laws. Except as set forth in the ACC Securities Filings (as hereinafter defined) or on *Schedule 2.2* attached hereto or as otherwise contemplated by this Agreement, as of the date hereof, there are no outstanding rights, subscriptions, warrants, puts, calls, unsatisfied preemptive rights, options or other agreements of any kind relating to any of the outstanding, authorized but unissued, unauthorized or treasury shares of the capital stock or any other security of ACC, and there is no authorized or outstanding security of any kind convertible into or exchangeable for any such capital stock or other security. Except as disclosed in the ACC Securities Filings, there are no restrictions upon the transfer of or otherwise pertaining to the securities (including, but not limited to, the ability to pay dividends thereon) or retained earnings of ACC and the ACC Subsidiaries or the ownership thereof other than those, if any, described on *Schedule 2.2* attached hereto, those imposed by this Agreement, or those imposed by the Federal Communications Act of 1934, as amended, and the rules, regulations and policies of the Federal Communications Commission or any successor entity thereunder, the Securities Act, the Securities Exchange Act, applicable state securities Laws or applicable corporate Law.

2.3 *Subsidiaries.* *Schedule 2.3* attached hereto sets forth the name and jurisdiction of incorporation or organization of each ACC Subsidiary, each of which is wholly-owned by ACC. All of the capital stock and other interests of the ACC Subsidiaries are owned by it or an ACC Subsidiary as indicated on *Schedule 2.3*, free and clear of any claim, lien, encumbrance, security interest or agreement with respect thereto except as set forth on *Schedule 2.3*. All of the outstanding shares of capital stock in each of the ACC Subsidiaries directly or indirectly held by ACC are duly authorized, validly issued, fully paid and non-assessable and were issued free of preemptive rights and in compliance with applicable Laws. Except as set forth on *Schedule 2.3* attached hereto, there are no irrevocable proxies or similar obligations with respect to such capital stock of the ACC Subsidiaries held by ACC and no equity securities or other interests of any of the ACC Subsidiaries are or may become required to be issued or purchased by reason of any options, warrants, rights to subscribe to, puts, calls or commitments of any character whatsoever relating to, or securities or rights convertible into or exchangeable for, shares of any capital stock of any ACC Subsidiary, and there are no contracts, commitments, understandings or arrangements by which any ACC Subsidiary is bound to issue additional shares of its capital stock, or options, warrants or rights to purchase or acquire any additional shares of its capital stock or securities convertible into or exchangeable for such shares.

2.4 *Authorization; Binding Agreement.* ACC has all requisite corporate power and authority to execute and deliver this Agreement and to consummate the transactions contemplated hereby. The execution and delivery of this Agreement and the consummation of the transactions contemplated hereby, including, but not limited to, the Merger, have been duly and validly authorized by ACC's Board of Directors and no other corporate proceedings on the part of ACC or any ACC Subsidiary are necessary to authorize the execution and delivery of this Agreement or to consummate the transactions contemplated hereby (other than the adoption of this Agreement by the stockholders of ACC in accordance with the Delaware Code and the Certificate of Incorporation and Bylaws of ACC). This Agreement has been duly and validly executed and delivered by ACC and, assuming due and valid execution and delivery by the other parties hereto, constitutes the legal, valid and binding agreement of ACC, enforceable against ACC in accordance with its terms, except to the extent that enforceability hereof may be limited by applicable bankruptcy, insolvency, reorganization or other similar laws affecting the enforcement of creditors' rights generally and by principles of equity regarding the availability of remedies ("Enforceability Exceptions"). The affirmative vote of the holders of a majority of the outstanding shares of ACC Class A Common Stock is the only vote of the holders of any class or series of ACC's capital stock necessary to approve and adopt the ACC Proposals.

2.5 *Governmental Approvals.* No consent, approval, waiver or authorization of, notice to or declaration or filing with ("Consent") any nation or government, any state or other political subdivision thereof, any entity, authority or body exercising executive, legislative, judicial, regulatory or administrative functions of or pertaining to government, including, without limitation, any governmental or regulatory authority, agency, department, board, commission, administration or instrumentality, any court, tribunal or arbitrator and any self-regulatory organization ("Governmental Authority") on the part of ACC or any of the ACC Subsidiaries is required in connection with the execution or delivery by ACC of this Agreement or the consummation by ACC of the transactions contemplated hereby other than (i) the filing of the Certificate of Merger with the Secretary of State of Delaware in accordance with the Delaware Code, (ii) filings with the SEC, state securities laws administrators and the National Association of Securities Dealers, Inc. ("NASD"), (iii) Consents from the Federal Communications Commission, state public service or utility commissions (or comparable state Governmental Authorities) or foreign telephone administrations, (iv) filings under the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended, and the rules and regulations promulgated thereunder (the "HSR Act"), and (v) those Consents that if they were not obtained or made, do not or would not have an ACC Material Adverse Effect or materially and adversely affect the ability of ACC to perform its obligations set forth herein or to consummate the transactions contemplated hereby.

2.6 *No Violations.* The execution and delivery of this Agreement, the consummation of the transactions contemplated hereby and compliance by ACC with any of the provisions hereof will not (i) conflict with or result in any breach of any provision of the Certificate and/or Articles of Incorporation or Bylaws or other governing

instruments of ACC or any of the ACC Subsidiaries, (ii) except as set forth on *Schedule 2.6* attached hereto, require any consent under or result in a violation or breach of, or constitute (with or without due notice or lapse of time or both) a default (or give rise to any right of termination, cancellation or acceleration or augment the performance required) under any ACC Material Contract (as hereinafter defined), (iii) result in the creation or imposition of any lien or encumbrance of any kind upon any of the assets of ACC or any ACC Subsidiary, or (iv) subject to obtaining the Consents from Governmental Authorities referred to in Section 2.5, above, contravene any applicable provision of any constitution, treaty, statute, law, code, rule, regulation, ordinance, policy or order of any Governmental Authority or other matters having the force of law including, but not limited to, any orders, decisions, injunctions, judgments, awards and decrees of or agreements with any court or other Governmental Authority ("Law") currently in effect to which ACC or any ACC Subsidiary or its or any of their respective assets or properties are subject, except in the case of clauses (ii), (iii) and (iv), above, for any deviations from the foregoing which do not or would not have an ACC Material Adverse Effect.

2.7 *Securities Filings and Litigation.* ACC has made available to TCG true and complete copies of (i) its Annual Reports on Form 10-K, as amended, for the years ended December 31, 1994, 1995 and 1996, as filed with the SEC, (ii) its proxy statements relating to all of the meetings of stockholders (whether annual or special) of ACC since January 1, 1994, as filed with the SEC, and (iii) all other reports, statements and registration statements and amendments thereto (including, without limitation, Quarterly Reports on Form 10-Q and Current Reports on Form 8-K, as amended) filed by ACC with the SEC since January 1, 1994. The reports and statements set forth in clauses (i) through (iii), above, and those subsequently provided or required to be provided pursuant to this Section , are referred to collectively herein as the "ACC Securities Filings." As of their respective dates, or as of the date of the last amendment thereof, if amended after filing, none of the ACC Securities Filings (including all schedules thereto and disclosure documents incorporated by reference therein), contained or, as to ACC Securities Filings subsequent to the date hereof, will contain any untrue statement of a material fact or omitted or, as to ACC Securities Filings subsequent to the date hereof, will omit to state a material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances under which they were made, not misleading. Each of the ACC Securities Filings at the time of filing or as of the date of the last amendment thereof, if amended after filing, complied or, as to ACC Securities Filings subsequent to the date hereof, will comply in all material respects with the Securities Exchange Act or the Securities Act, as applicable. Except as set forth on *Schedule 2.7*, there is no action, cause of action, claim, demand, suit, proceeding, citation, summons, subpoena, inquiry or investigation of any nature, civil, criminal, regulatory or otherwise, in law or in equity, by or before any court, tribunal, arbitrator or other Governmental Authority ("Litigation") pending or, to the knowledge of ACC, threatened against ACC or any of its subsidiaries, any officer, director, employee or agent thereof, in his or her capacity as such, or as a fiduciary with respect to any ACC Employee Plan (as hereinafter defined) or otherwise relating to ACC or any of its subsidiaries or the securities of any of them, or any properties or rights of ACC or any of its subsidiaries or any ACC Employee Plan which is required to be described in any ACC Securities Filing that is not so described. Except as set forth on *Schedule 2.7*, no event has occurred as a consequence of which ACC would be required to file a Current Report on Form 8-K pursuant to the requirements of the Securities Exchange Act as to which such a report has not been timely filed with the SEC. Any reports, statements and registration statements and amendments thereof (including, without limitation, Reports on Form 10-K, Quarterly Reports on Form 10-Q and Current Reports on Form 8-K, as amended) filed by ACC with the SEC after the date hereof shall be provided to TCG on the date of such filing.

2.8 *ACC Financial Statements.* The audited consolidated financial statements and unaudited interim financial statements of ACC included in the ACC Securities Filings (the "ACC Financial Statements") have been prepared in accordance with generally accepted accounting principles applied on a consistent basis (except as may be indicated therein or in the notes thereto) and present fairly, in all material respects, the consolidated financial position of ACC and its subsidiaries as at the dates thereof and the results of their operations and cash flows for the periods then ended subject, in the case of the unaudited interim financial statements, to normal year-end audit adjustments, any other adjustments described therein and the fact that certain information and notes have been condensed or omitted in accordance with the Securities Exchange Act.

2.9 *Absence of Certain Changes or Events.* Except as set forth in the ACC Securities Filings filed with the SEC prior to the date hereof or in *Schedule 2.9* attached hereto, since December 31, 1996, ACC has conducted its business in the ordinary course, and there has not been: (i) any event, occurrence, fact, condition, change, development or effect ("Event") that has had or could reasonably be expected to have an ACC Material Adverse Effect; (ii) any material change by ACC in its accounting methods, principles or practices, except as required by any change in generally accepted accounting principles; or (iii) any action or event that would have required the consent of TCG pursuant to any of the provisions of Section 4.1 had such action or event occurred after the date of this Agreement.

2.10 *Compliance with Laws.* The business of ACC and each of its subsidiaries has been operated in compliance with all Laws and all tariffs, except for any instances of non-compliance which do not and will not have an ACC Material Adverse Effect. Without limiting the generality of the foregoing, neither ACC nor any of its subsidiaries has engaged in carrying transit or indirect traffic in violation of applicable Laws, tariffs, rules and regulations in any jurisdiction, foreign or domestic, which violation could reasonably be expected to have an ACC Material Adverse Effect.

2.11 *Permits.* (i) ACC and its subsidiaries have all permits, certificates, licenses, approvals, tariffs and other authorizations required in connection with the operation of their respective businesses (collectively, "ACC Permits"), (ii) neither ACC nor any of its subsidiaries is in violation of any ACC Permit, and (iii) no proceedings are pending or, to the knowledge of ACC, threatened, to revoke or limit any ACC Permit, except, in each case, those the absence or violation of which do not and could not reasonably be expected to have an ACC Material Adverse Effect.

2.12 *Finders and Investment Bankers.* Neither ACC nor any of its officers or directors has employed any broker or finder or incurred any liability for any brokerage fees, commissions or finders' fees in connection with the transactions contemplated hereby, other than pursuant to the agreement with Morgan Stanley & Co., Incorporated (the "Financial Advisor"), an accurate and complete copy of which agreement has been provided to TCG.

2.13 *Contracts.* Except as set forth in *Schedule 2.13* attached hereto, neither ACC nor any of its subsidiaries is a party or is subject to any material note, bond, mortgage, indenture, contract, lease, license, agreement, understanding, instrument, bid or proposal that is required to be described in or filed as an exhibit to any ACC Securities Filing ("ACC Material Contract") that is not so described in or filed as required by the Securities Act or the Securities Exchange Act, as the case may be. For purposes of this Section 2.13 and Section 3.13 below, a note, bond, mortgage, indenture, contract, lease, license, agreement, understanding, instrument, bid or proposal shall be considered material if it is required to be described in or filed as an exhibit to any document filed under the Securities Act or the Securities Exchange Act, as the case may be. ACC has made available to TCG true and accurate copies of the ACC Material Contracts. All such ACC Material Contracts are valid and binding and are in full force and effect and enforceable against ACC or such subsidiary in accordance with their respective terms, subject to the Enforceability Exceptions. Except as set forth in *Schedule 2.6* attached hereto, (i) no Consent of any person is needed in order that each such ACC Material Contract shall continue in full force and effect in accordance with its terms without penalty, acceleration or rights of early termination by reason of the consummation of the transactions contemplated by this Agreement, except for Consents the absence of which would not have an ACC Material Adverse Effect, and (ii) neither ACC nor any of its subsidiaries is in violation or breach of or default under any such ACC Material Contract; nor to ACC's knowledge is any other party to any such ACC Material Contract in violation or breach of or default under any such ACC Material Contract, in each case where such violation or breach would have an ACC Material Adverse Effect.

2.14 *Employee Benefit Plans.*

(a) All of ACC's Employee Plans and Compensation Arrangements are listed and described in *Schedule 2.14(a)*, and complete and accurate copies of (including any amendments to) any such written Employee Plans and Compensation Arrangements (including related insurance policies and trusts) have been furnished to TCG,

along with copies of any employee handbooks or similar documents describing such Employee Plans and Compensation Arrangements. Any unwritten Employee Plans or Compensation Arrangements also are listed in *Schedule 2.14(a)*, and complete descriptions have been furnished to TCG. Except as disclosed in *Schedule 2.14(a)*, neither ACC nor any ERISA Affiliate is a party to and does not have in effect or to become effective after the date of this Agreement any plan, arrangement or other scheme which will become an Employee Plan or Compensation Arrangement (including, but not limited to, any bonus, cash or deferred compensation, severance, medical, pension, profit sharing or thrift, stock option, employee stock ownership, life or group insurance, death benefit, vacation, sick leave, disability or trust agreement or arrangement), or any amendment to an Employee Plan or Compensation Arrangement.

(b) ACC has furnished to TCG (i) the Forms 5500 filed for each of the Employee Plans (including all attachments and schedules), (ii) the actuarial reports, summaries of material modifications, summary annual reports, and any governmental filings, relating to the Employee Plans for the last three plan years, and (iii) the current summary plan description of each Employee Plan.

(c) Each Employee Plan and Compensation Arrangement has been administered in compliance with its own terms and in material compliance with the provisions of ERISA, the Code, the Age Discrimination in Employment Act and any other applicable Federal or state Laws.

(d) Neither ACC nor any ERISA Affiliate is contributing to, is required to contribute to, or has contributed within the last six (6) years to, any Multiemployer Plan, and neither ACC nor any ERISA Affiliate has incurred within the last six (6) years, or reasonably expects to incur, any "withdrawal liability," as defined under Section 4201 *et seq.* of ERISA. Neither ACC nor any ERISA Affiliate (i) is sponsoring, administering or contributing to, (ii) is required to contribute to, or (iii) has sponsored, administered or contributed within the last six (6) years to, any Employee Plan subject to Title IV of ERISA.

(e) Each Employee Plan intended to be tax-qualified under Code Section 401(a) satisfies, and at all times has satisfied, all minimum coverage and minimum participation requirements, if any, imposed on such Employee Plan by the applicable terms of the Code and ERISA.

(f) ACC is not aware of the existence of any governmental inspection, investigation, audit or examination of any Employee Plan or Compensation Arrangement or of any facts which would lead it to believe that any such governmental inspection, investigation, audit or examination is pending or threatened. There exists no action, suit or claim (other than routine claims for benefits) with respect to any Employee Plan or Compensation Arrangement pending or, to the knowledge of ACC, threatened against any of such plan or arrangement, and ACC possesses no knowledge of any facts which could give rise to any such action, suit or claim.

(g) Except as described in *Schedule 2.14(g)*, neither ACC nor any ERISA Affiliate sponsors, maintains or contributes to any Employee Plan or Compensation Arrangement that provides medical or death benefit coverage to former employees of ACC or any of its subsidiaries, except to the extent required by Section 4980B of the Code. *Schedule 2.14(g)* lists each former employee of ACC or its subsidiaries eligible for a benefit, if any, described in the preceding sentence.

(h) Except as described in *Schedule 2.14(h)*, with respect to each Employee Plan and, to the extent applicable, each Compensation Arrangement: (i) each Employee Plan that is intended to be tax-qualified under Code Section 401(a), and each amendment to such a plan is the subject of a favorable determination letter, and no amendment that is not the subject of a favorable determination letter would affect the validity of an Employee Plan's letter; (ii) no condition or event exists or is expected to occur that could subject, directly or indirectly, ACC or any ERISA Affiliate to any liability, contingent or otherwise, or to the imposition of any lien on the assets of ACC or any ERISA Affiliate under the Code or ERISA, whether to the Pension Benefit Guaranty Corporation, the Internal Revenue Service, or any other person which could reasonably be expected to have an ACC Material Adverse Effect; (iii) no prohibited transaction, within the definition of Section 4975 of the Code or Title 1, Part 4 of ERISA, has occurred which would subject ACC or any ERISA Affiliate to any liability

which could reasonably be expected to have an ACC Material Adverse Effect; and (iv) all contributions, premiums or payments accrued, in whole or in part, under each Employee Plan or Compensation Arrangement or with respect thereto as of the Closing will be paid by ACC, on or prior to Closing or, if later, within the time period permitted by ERISA and the Code which could reasonably be expected to have an ACC Material Adverse Effect.

(i) *Schedule 2.14(i)* contains a complete and accurate list of all qualified beneficiaries, as defined under Section 4980B(g)(1) of the Code, under any Employee Plan as of the date of this Agreement (including qualified beneficiaries who are in the election period for continuation coverage but who have not yet elected continuation coverage), the date of the applicable qualifying event and the nature of the qualifying event relating to the duration of such coverage. Neither ACC nor any ERISA Affiliate has failed to provide continuation coverage as required by Section 4980B(f) of the Code. ACC shall provide to TCG at Closing an updated list of the qualified beneficiaries, as described above, as of the Effective Time.

(j) For purposes of this Agreement, the following terms shall have the meaning indicated: (i) "Employee Plan" shall mean any retirement or welfare plan or arrangement or any other employee benefit plan as defined in Section 3(3) of ERISA to which ACC or any ERISA Affiliate contribute or to which ACC or any ERISA Affiliate sponsor, maintain or otherwise are bound; (ii) "Compensation Arrangement" shall mean any plan or compensation arrangement other than an Employee Plan, whether written or unwritten, which provides to employees, former employees, officers, directors and shareholders of ACC or any ERISA Affiliate any compensation or other benefits, whether deferred or not, in excess of base salary or wages, including, but not limited to, any bonus or incentive plan, stock rights plan, deferred compensation arrangement, life insurance, stock purchase plan, severance pay plan and any other employee fringe benefit plan; (iii) "ERISA" shall mean the Employee Retirement Income Security Act of 1974, as amended, any successor thereto and any regulations promulgated thereunder; (iv) "Multiemployer Plan" means a plan, as defined in ERISA Section 3(37), to which ACC or any ERISA Affiliate has contributed, is contributing or is required to contribute; and (v) "ERISA Affiliate" shall mean any trade or business related to ACC under the terms of Section s 414(b), (c), (m) or (o) of the Code.

(k) Except as disclosed on *Schedule 2.14(k)*, neither the execution and delivery of this Agreement nor the consummation of the transactions contemplated hereby, alone or in conjunction with another event, including but not limited, a termination of any individual's employment, will (i) result in any material payment (including, without limitation, severance, or unemployment compensation) becoming due to any director or employee of ACC or its subsidiaries; (ii) result in the acceleration of vesting under any Employee Plan or Compensation Arrangement; or (iii) materially increase any benefits otherwise payable under any Employee Plan; and any such payment or increase in benefits is fully deductible under the Code, including but not limited to Code Section s 162, 280G and 404.

2.15 *Taxes and Returns.*

(a) Except as disclosed in *Schedule 2.15* attached hereto, ACC and each of its subsidiaries has timely filed, or caused to be timely filed all income Tax Returns and all material other Tax Returns required to be filed by it, and all such Tax Returns were correct and complete in all material respects. ACC and each of its subsidiaries has paid, collected or withheld, or caused to be paid, collected or withheld, all material amounts of Taxes required to be paid, collected or withheld, other than such Taxes for which adequate reserves in the ACC Financial Statements have been established or which are being contested in good faith. Except as set forth in *Schedule 2.15* attached hereto, there are no claims or assessments pending against ACC or any of its subsidiaries for any alleged deficiency in any Tax, and ACC has not been notified in writing of any proposed Tax claims or assessments against ACC or any of its subsidiaries (other than in each case, claims or assessments for which adequate reserves in the ACC Financial Statements have been established or which are being contested in good faith or are immaterial in amount). Except as set forth in *Schedule 2.15* attached hereto, neither ACC nor any of its subsidiaries has any waivers or extensions of any applicable statute of limitations to assess any material amount of Taxes. Except as set forth in *Schedule 2.15* attached hereto, there are no outstanding requests by ACC