

United States
Securities and Exchange Commission
Washington, D.C. 20549

FORM 10-K

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

For the fiscal year ended December 31, 2005

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

For the transition period from _____ to _____

Commission File Number 1-12002

ACADIA REALTY TRUST
(Exact name of registrant as specified in its charter)

Maryland
(State of incorporation)

23-2715194
(I.R.S. employer identification no.)

1311 Mamaroneck Avenue, Suite 260
White Plains, NY 10605
(Address of principal executive offices)

(914) 288-8100
(Registrant's telephone number)

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

Common Shares of Beneficial Interest, \$.001 par value
(Title of Class)

New York Stock Exchange
(Name of Exchange on which registered)

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

None

Indicate by check mark if the Registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act.

YES NO

Indicate by check mark if the Registrant is not required to file reports pursuant to Section 13 or Section 15 (d) of the Securities Act.

YES NO

Indicate by check mark whether the Registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports) and (2) has been subject to such filing requirements for the past 90 days.

YES NO

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

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, or a non-accelerated filer (as defined in Rule 12b-2 of the Act).

Large Accelerated Filer Accelerated Filer Non-accelerated Filer

Indicate by checkmark whether the registrant is a shell company (as defined in Rule 12b-2 of the Act) YES NO

The aggregate market value of the voting and non-voting common equity held by non-affiliates of the registrant as of the last business day of the Registrant's most recently completed second fiscal quarter was \$586.4 million, based on a price of \$18.65 per share, the average sales price for the Registrant's shares of beneficial interest on the New York Stock Exchange on that date.

The number of shares of the registrant's Common Shares of Beneficial Interest outstanding on March 15, 2006 was 31,758,241.

DOCUMENTS INCORPORATED BY REFERENCE

Part III – Definitive proxy statement for the 2006 Annual Meeting of Shareholders presently scheduled to be held May 15, 2006 to be filed pursuant to Regulation 14A.

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SPECIAL NOTE REGARDING FORWARD-LOOKING STATEMENTS

Certain statements contained in this Annual Report on Form 10-K may contain forward-looking statements within the meaning of Section 27A of the Securities Act of 1933 and Section 21E of the Securities and Exchange Act of 1934 and as such may involve known and unknown risks, uncertainties and other factors which may cause our actual results, performance or achievements to be materially different from future results, performance or achievements expressed or implied by such forward-looking statements. Forward-looking statements, which are based on certain assumptions and describe our future plans, strategies and expectations are generally identifiable by use of the words “may,” “will,” “should,” “expect,” “anticipate,” “estimate,” “believe,” “intend” or “project” or the negative thereof or other variations thereon or comparable terminology. Factors which could have a material adverse effect on our operations and future prospects include, but are not limited to those set forth under the heading “Risk Factors” in this Form 10-K. These risks and uncertainties should be considered in evaluating any forward-looking statements contained or incorporated by reference herein.

PART I

ITEM 1. BUSINESS

GENERAL

Acadia Realty Trust (the “Company”, “Acadia”, “we”, “us” or “our”) was formed on March 4, 1993 as a Maryland Real Estate Investment Trust (“REIT”). We are a fully integrated, self-managed and self-administered equity REIT focused primarily on the ownership, acquisition, redevelopment and management of retail properties, including neighborhood and community shopping centers and mixed-use properties with retail components. We currently operate 75 properties, which we own or have an ownership interest in. These assets are located primarily in the Northeast, Mid-Atlantic and Midwestern regions of the United States which, in total, comprise approximately 10 million square feet. We also have non-operational investments in properties throughout the country through joint ventures.

All of our assets are held by, and all of our operations are conducted through, Acadia Realty Limited Partnership, a Delaware limited partnership (the “Operating Partnership”) and its majority-owned subsidiaries. As of December 31, 2005 we controlled 98% of the Operating Partnership as the sole general partner. As the general partner, we are entitled to share, in proportion to our percentage interest, in the cash distributions and profits and losses of the Operating Partnership. The limited partners represent entities or individuals who contributed their interests in certain properties or partnerships to the Operating Partnership in exchange for common or preferred units of limited partnership interest (“Common OP Units” or “Preferred OP Units”). Limited partners holding Common OP Units are generally entitled to exchange their units on a one-for-one basis for common shares of beneficial interest of the Company (“Common Shares”). This structure is commonly referred to as an umbrella partnership REIT or “UPREIT”.

Capital Market Transactions

On January 27, 2004, the Operating Partnership issued 4,000 Series B Preferred Units in connection with the acquisition from Klaff Realty, L.P. (“Klaff”) of its rights to provide asset management, leasing, disposition, development and construction services for an existing portfolio of retail properties. These units have a stated value of \$1,000 each and are entitled to a quarterly preferred distribution of the greater of (i) \$13.00 (5.2% annually) per Preferred OP Unit or (ii) the quarterly distribution attributable to a Preferred OP Unit if such unit were converted into a Common OP Unit. The Preferred OP Units are convertible into Common OP Units based on the stated value of \$1,000 divided by \$12.82 at any time. Additionally, the holder of the Preferred OP Units may redeem them at par for either cash or Common OP Units (at our option) after the earlier of the third anniversary of their issuance, or the occurrence of certain events including a change in the control of our Company. Finally, after the fifth anniversary of the issuance, we may redeem the Preferred OP Units and convert them into Common OP Units at market value as of the redemption date.

In March of 2004, a secondary public offering was completed for a total of 5,750,000 Common Shares. The selling shareholders, Yale University and its affiliates (“Yale”) and Ross Dworman, a former trustee and Chairman, sold 4,191,386 and 1,558,614 Common Shares, respectively. Yale was a major shareholder, owning, at one time, approximately one-third of all of our outstanding Common Shares. We did not sell any Common Shares in the offering and did not receive any proceeds from the offering.

During November 2004, we issued 1,890,000 Common Shares (the “Offering”). The Offering was made pursuant to shelf registration statements filed under the Securities Act of 1933, as amended, and previously declared effective by the Securities and Exchange Commission on March 29, 2000, May 14, 2003 and March 19, 2004. The \$28.3 million in proceeds from the Offering, net of related costs, were used to retire above-market, fixed-rate indebtedness as well as to invest in real estate assets. Yale, and Kenneth F. Bernstein, our Chief Executive Officer, also sold 1,000,000, and 110,000 Common Shares, respectively, in connection with this transaction.

RECENT DEVELOPMENTS

Effective February 15, 2005, we acquired the balance of Klaff’s rights to provide the above services and certain potential future revenue streams. The consideration for this acquisition was \$4.0 million in the form of 250,000 restricted Common OP Units, valued at \$16 per unit, which are convertible into our Common Shares on a one-for-one basis after a five year lock-up period. As part of this transaction we also assumed all operational and redevelopment responsibility for the Klaff Properties a year earlier than was contemplated in the January 2004 transaction.

BUSINESS OBJECTIVES AND STRATEGIES

Our primary business objective is to acquire and manage commercial retail properties that will provide cash for distributions to shareholders while also creating the potential for capital appreciation to enhance investor returns. We focus on the following fundamentals to achieve this objective:

- Own and operate a portfolio of community and neighborhood shopping centers and mixed-use properties with a retail component located in markets with strong demographics
- Maintain a strong and flexible balance sheet through conservative financial practices while ensuring access to sufficient capital to fund future growth
- Generate internal growth within the portfolio through aggressive redevelopment, re-anchoring and leasing activities
- Generate external growth through an opportunistic yet disciplined acquisition program. The emphasis is on targeting transactions with high inherent opportunity for the creation of additional value through redevelopment and leasing and/or transactions requiring creative capital structuring to facilitate the transactions

External Growth Strategy - Opportunistic Acquisition Platforms

In addition to our direct investments in real estate assets, we have also capitalized on our expertise in the acquisition, redevelopment, leasing and management of retail real estate by establishing joint ventures in which we earn, in addition to a return on our equity interest, fees for our services. To date we have launched two acquisition joint ventures, Acadia Strategic Opportunity Fund, LP (“Fund I”) and Acadia Strategic Opportunity Fund II, LLC (“Fund II”).

Fund I

In September 2001, we and four of our institutional shareholders formed a joint venture, whereby the investors committed \$70 million for the purpose of acquiring real estate assets. We committed an additional \$20 million to Fund I, as the general partner with a 22% interest. In addition to a pro-rata return on our invested equity, we are entitled to a profit participation based upon certain investment return thresholds. Cash flow is distributed pro-rata to the partners (including us) until they have received a 9% cumulative return on, and a return of all capital contributions. Thereafter, remaining cash flow is distributed 80% to the partners (including us) and 20% to us. We also earn a fee for asset management services equal to 1.5% of the allocated invested equity, as well as fees for property management, leasing and construction services.

Our acquisition program was executed exclusively through Fund I through June 2004. Fund I focused on targeting assets for acquisition that had superior in-fill locations, restricted competition due to high barriers of entry and in-place below-market anchor leases with the potential to create significant additional value through re-tenanting, timely capital improvements and property redevelopment. Fund I considered both single assets and portfolios in its acquisition program. Although our core properties are located primarily in the Northeast, Mid-Atlantic and Midwest region, and therefore Fund I focused on potential acquisitions within these geographic areas, Fund I considered portfolio acquisitions outside the geographic footprint.

On January 4, 2006, Fund I recapitalized a one million square foot retail portfolio located in Wilmington Delaware (“Brandywine Portfolio”) through a merger of interests with affiliates of GDC Properties (“GDC”). The Brandywine Portfolio was recapitalized through a “cash-out” merger of the 77.8% interest, which was previously held by the institutional investors in Fund I to GDC at a valuation of \$164 million. We, through a subsidiary, retained our existing 22.2% interest and will continue to operate the Brandywine Portfolio and earn fees for such services. At the closing, the Fund I investors received a return of all of their capital invested in Fund I and preferred return, thus triggering the payment to us of our additional 20% carried interest (“Promote”) in all future Fund I distributions. It is anticipated that up to \$38 million of additional proceeds will be distributed to our investors from this transaction following, among other things, the successful replacement of bridge financing provided by us and our investors. Additionally there are 32 assets comprising approximately 2 million square feet remaining in Fund I in which our interest in cash flow and income will increase from 22.2% to 37.8% as a result of the Promote.

Fund II

Following our success with Fund I, we formed a second, larger acquisition joint venture. In June of 2004, we launched Fund II, which includes all of the investors from Fund I as well as two additional institutional investors. With \$300 million of committed discretionary capital, Fund II expects to be able to acquire up to \$900 million of real estate assets on a leveraged basis. We are the managing member with a 20% interest in Fund II. The terms and structure of Fund II are substantially the same as Fund I with the exceptions that the Preferred Return is 8% and the asset management fee is calculated on committed equity of \$250 million for the first twelve months and then on the total committed equity of \$300 million thereafter.

As the demand for retail real estate has significantly increased in recent years, there has been a commensurate increase in selling prices. In an effort to generate superior risk-adjusted returns for our shareholders and joint venture investors, we have channeled our acquisition efforts through Fund II in two new opportunistic joint ventures launched during 2004 – the Retailer Controlled Property Venture and the New York Urban Infill Redevelopment Initiative.

Retailer Controlled Property Venture (the “RCP Venture”)

On January 27, 2004, through Funds I and II, we entered into the RCP Venture with Klaff and Klaff’s long time capital partner Lubert-Adler Management, Inc. (“Lubert-Adler”) for the purpose of making investments in surplus or underutilized properties owned by retailers. The initial size of the RCP Venture is expected to be approximately \$300 million in equity based on anticipated investments of approximately \$1 billion. Each participant in the RCP Venture has the right to opt out of any potential investment. Affiliates of Funds I and II have invested \$24.6 million in the RCP Venture to date. Fund II anticipates investing the remaining portion of the original 20% of the equity of the RCP Venture. Cash flow is to be distributed to the partners until they have received a 10% cumulative return and a full return of all contributions. Thereafter, remaining cash flow is to be distributed 20% to Klaff (“Klaff’s Promote”) and 80% to the partners (including Klaff). We will also earn market-rate fees for property management, leasing and construction services on behalf of the RCP Venture. Fund II seeks to invest opportunistically in the RCP Venture primarily in the following three ways:

- Working with financially healthy retailers to create value from their surplus real estate
- Acquiring properties, designation rights or other control of real estate or leases associated with retailers in bankruptcy
- Completing sale leasebacks with retailers in need of capital

During 2004, we made our first RCP Venture investment with our participation in the acquisition of Mervyn’s as discussed in “PROPERTY ACQUISITIONS” in Item 1 of this Form 10-K. The RCP Venture is also currently exploring additional investment opportunities.

New York Urban Infill Redevelopment Initiative

In September of 2004, we, through Fund II, launched our New York Urban Infill Redevelopment initiative. As retailers continue to recognize that many of the nation’s urban markets are underserved from a retail standpoint, Fund II is poised to capitalize on this trend by investing in redevelopment projects in dense urban areas where retail tenant demand has effectively surpassed the supply of available sites. During 2004, Fund II, together with an unaffiliated partner, P/A Associates, LLC (“P/A”), formed Acadia-P/A Holding Company, LLC (“Acadia-P/A”) for the purpose of acquiring, constructing, developing, owning, operating, leasing and managing certain retail real estate properties in the New York City metropolitan area. P/A has agreed to invest 10% of required capital up to a maximum of \$2.0 million and Fund II, the managing member, has agreed to invest the balance to acquire assets in which Acadia-P/A agrees to invest. Operating cash flow is generally to be distributed pro-rata to Fund II and P/A until they have received a 10% cumulative return and then 60% to Fund II and 40% to P/A. Distributions of net refinancing and net sales proceeds, as defined, follow the distribution of operating cash flow except that unpaid original capital is returned before the 60%/40% split between Fund II and P/A, respectively. Upon the liquidation of the last property investment of Acadia-P/A, to the extent that Fund II has not received an 18% internal rate of return (“IRR”) on all of its capital contributions, P/A is obligated to return a portion of its previous distributions, as defined, until Fund II has received an 18% IRR. To date, Fund II has, in conjunction with P/A, invested in six projects through Fund II as discussed further in “PROPERTY ACQUISITIONS” in this Item 1 of this Form 10-K.

Other Investments

We may also invest in preferred equity investments, mortgages, other real estate interests and other investments. The mortgages in which we invest in may be either first mortgages or mezzanine debt, where we believe the underlying value of the real estate collateral is in excess of its loan balance. In March of 2005, we invested \$20 million in a preferred equity position (“Preferred Equity”) in Levitz SL, L.L.C. (“Levitz SL”), the owner of 2.5 million square feet of fee and leasehold interests in 30 locations (the “Properties”), the majority of which are currently leased to Levitz Furniture Stores. Klaff is a managing member of Levitz SL. The Preferred Equity receives a return of 10%, plus a minimum return of capital of \$2 million per annum. At the end of 12 months, the rate of return will be reset to the six-month LIBOR plus 644 basis points. The Preferred Equity is redeemable at the option of Levitz SL at any time.

We also regularly engage in discussions with public and private entities regarding business combinations. Furthermore, we may consider either acquiring directly or engaging in additional joint ventures related to property acquisition and development. The requirements that acquisitions be accretive on a long-term basis based on our cost of capital, as well as increase the overall portfolio quality and value, are core to our acquisition program. As such, we constantly evaluate the blended cost of equity and debt and adjust the amount of acquisition activity to align the level of investment activity with capital flows.

Operating Strategy - Experienced Management Team with Proven Track Record

Our senior management team has an average of 8 years with us and our predecessors and 25 years in the real estate industry. During 2002, the management team successfully completed a multi-year portfolio repositioning initiative that significantly improved the quality of our portfolio and tenant base. We believe our management team has demonstrated the ability to create value internally through anchor recycling, property redevelopment and strategic non-core dispositions.

Operating functions such as leasing, property management, construction, finance and legal (collectively, the “Operating Departments”) are provided by our personnel, providing for fully integrated property management and development. By incorporating the Operating Departments in the acquisition process, acquisitions are appropriately priced giving effect to each asset’s specific risks and returns. Also, because of the Operating Departments involvement with, and corresponding understanding of, the acquisition process, transition time is minimized and management can immediately execute on its strategic plan for each asset.

We typically hold our properties for long-term investment. As such, we continuously review the existing portfolio and implement programs to renovate and modernize targeted centers to enhance the property’s market position. This in turn strengthens the competitive position of the leasing program to attract and retain quality tenants, increasing cash flow and consequently property value. We also periodically identify certain properties for disposition and redeploy the capital to existing centers or acquisitions with greater potential for capital appreciation. Our core portfolio consists primarily of neighborhood and community shopping centers, which are generally dominant centers in high barrier-to-entry markets. The anchors at these centers typically pay market or below-market rents and have low rent-to-sales ratios, which are, on average, less than 5%. Furthermore, supermarket and necessity-based retailers anchor the majority of our core portfolio. These attributes enable our properties to better withstand a weakening economy while also creating opportunities to increase rental income.

During 2004 and 2005 we sold two non-core properties and redeployed the capital to acquire two retail properties during 2005 as further discussed in “ASSET SALES” and PROPERTY ACQUISITIONS” in this Item 1 of this Form 10-K.

Financing Strategy

We intend to continue financing acquisitions and property redevelopment with sources of capital determined by management to be the most appropriate based on, among other factors, availability, pricing and other commercial and financial terms. The sources of capital may include cash on hand, bank and other institutional borrowing, the sale of properties and issuance of equity securities. We continually focus on maintaining a strong balance sheet when considering the sourcing of capital. We manage our interest rate risk primarily through the use of variable and fixed rate debt. We also utilize LIBOR swap agreements in managing our exposure to interest rate fluctuations. See Item 7A for a discussion on our market risk exposure related to our mortgage debt.

PROPERTY ACQUISITIONS

RCP Venture

In September 2004, we made our first RCP Venture investment with our participation in the acquisition of Mervyn’s. Affiliates of Fund I and Fund II, through separately organized, newly formed limited liability companies on a non-recourse basis, invested in the acquisition of Mervyn’s through the RCP Venture, which, as part of an investment consortium of Sun Capital and Cerberus, acquired Mervyn’s from Target Corporation. The total acquisition price was approximately \$1.2 billion subject to debt of approximately \$800.0 million. Our share of equity invested aggregated \$24.6 million on a non-recourse basis and was divided equally between affiliates of Funds I and II. As of the date of acquisition, Mervyn’s was a 257-store discount retailer with a very strong West Coast concentration. During 2005, the consortium sold a portion of the portfolio as well as refinanced existing mortgage debt and distributed cash to the investors, of which a total of \$42.7 million was distributed to affiliates of Fund I and Fund II of which our share amounted to \$10.2 million. In February of 2006, the consortium distributed additional cash of which a total of \$1.4 million was distributed to affiliates of Fund I and Fund II of which \$0.4 million was our share.

New York Urban/Infill Redevelopment Initiative

Liberty Avenue - On December 20, 2005, Acadia-P/A acquired the remaining 40-year term of a leasehold interest in land located at Liberty Avenue and 98th Street in Queens (Ozone Park), NY. The development plans for this property includes 30,000 square feet of retail anchored by a CVS drug store and a 98,500 square foot self-storage facility to be operated by Storage Post. Acadia-P/A will be a partner in the self-storage complex with Storage Post, which is anticipated to be a partner in future retail projects in New York City where self storage will be a potential component of the redevelopment. The total cost of the redevelopment is expected to be approximately \$13 million. The CVS 10,880 square foot lease has been executed and construction on this project has commenced.

New York Urban/Infill Redevelopment Initiative

216th Street - On December 1, 2005, Acadia-P/A acquired a 65,000 square foot parking garage located at 10th Avenue and 216th Street in the Inwood section of Manhattan for \$7 million. Acadia-P/A plans to redevelop the building into a 60,000 square foot office building and are finalizing a lease where it would relocate an agency of the City of New York, which is a current tenant at another of our Urban/Infill Redevelopment projects. Inclusive of acquisition costs, total costs for the project, which also includes a 100-space rooftop parking deck, are anticipated to be \$25 million.

161st Street - On August 5, 2005, Acadia-P/A purchased 244-268 161st Street located in the Bronx for \$49.3 million, inclusive of closing costs. In connection with the transaction, Acadia-P/A borrowed \$12.1 million from Bank of America as bridge financing. The loan carries variable-rate interest at LIBOR plus 1.5% with monthly payments of interest only. The loan matures March 31, 2006. The ultimate redevelopment plan for the property, a 100% occupied, 10-story office building, is to reconfigure the property so that approximately 50% of the income from the building will eventually be derived from retail tenants.

4650 Broadway - On April 6, 2005, Acadia-P/A acquired 4650 Broadway located in the Washington Heights/Inwood section of Manhattan. The property, a 140,000 square foot building, which is currently occupied by the City of New York and a commercial parking garage, was acquired for a purchase price of \$25 million. Acadia-P/A plans to redevelop the site to include retail, commercial and residential components totaling over 300,000 square feet. The retail and commercial (including office, 'Community Use' and parking) portion comprise approximately 50% of the project and the residential component comprises the other 50%. Redevelopment of the project is anticipated to commence during 2007 with completion expected 18 months thereafter. Expected costs to complete the retail and commercial component of the project are estimated at \$40 million before any potential sale of the residential air rights. In lieu of directly developing the residential portion of the project, the rights to this component may be sold while retaining ownership of the other portions of the project.

Pelham Manor - On October 1, 2004, Acadia-P/A entered into a 95-year, inclusive of extension options, ground lease to redevelop a 16-acre site in Pelham Manor, Westchester County, New York. The property is in an upper middle-income, infill neighborhood located approximately 10 miles from Manhattan with over 400,000 people in a three-mile radius. The redevelopment contemplates the demolition of the existing industrial and warehouse buildings, and replacing them with a multi-anchor community retail center. Acadia-P/A anticipates the redevelopment to cost between \$30 and \$33 million, with construction anticipated to commence during 2007. In the interim, the property will continue to be operated as an industrial and warehouse facility. Prior to commencement of the redevelopment process, the warehouse rents collected are projected to equal the ground rent payment.

Fordham Road - On September 29, 2004, Acadia-P/A purchased 400 East Fordham Road in the Bronx, NY. The property, a multi-level retail and commercial building, is located at the intersection of East Fordham Road and Webster Avenue, near Fordham University. Sears is the major tenant of the property, retailing on four levels. The redevelopment of the property is scheduled to commence in 2007 following the expiration of the Sears lease, which was originally signed in 1964. However, depending on current negotiations with both Sears and other potential anchors, the timeframe of the redevelopment may be accelerated. As part of the redevelopment, there is the potential for additional expansion of up to 85,000 square feet of space. The total cost of the redevelopment project, including the acquisition cost of \$30 million, is estimated to be between \$65 and \$70 million, depending on the ultimate scope of the project. On February 25, 2005, Acadia-P/A acquired vacant land adjacent to the 400 East Fordham Road property for \$867,000.

In addition to the above New York Urban/Infill projects, Fund II also acquired the following:

During July 2005, Fund II acquired for \$1.0 million, a 50% equity interest from its partner in the RCP Venture in the entity which has a leasehold interest in a former Levitz Furniture store located in Rockville, Maryland.

During November 2005, Fund II acquired a ground lease interest in a 112,000 square foot building occupied by Neiman Marcus. The property is located at Oakbrook Center, a super-regional Class A mall located in the Chicago Metro area. The ground lease was acquired for \$6.9 million, including closing and other acquisition costs.

Fund I

To date, Fund I has purchased a total of 35 assets totaling 2.7 million square feet. During January 2006, Fund I recapitalized the Brandywine Portfolio, representing two assets totaling approximately 1.0 million square feet, through a merger of interests with GDC as discussed further in "BUSINESS OBJECTIVES AND STRATEGIES" in this Item 1 of this Form 10-K. Following are the Fund I acquisitions:

2004 Acquisitions

On March 11, 2004, Fund I, in conjunction with our long-time investment partner, Hendon Properties ("Hendon"), purchased a \$9.6 million first mortgage loan from New York Life Insurance Company for \$5.5 million. The loan, which was secured by the Hitchcock Plaza in Aiken, South Carolina, was in default at acquisition. Fund I and Hendon acquired the loan with the intention of pursuing ownership of the property securing the debt. Fund I provided 90% of the equity capital and Hendon provided the remaining 10% of the equity capital used to acquire the loan. Hendon is entitled to receive profit participation in excess of its proportionate equity interest. Subsequent to the acquisition of the loan, Fund I and Hendon obtained fee title to this property and currently plan to redevelop and re-anchor the center. We provided \$3.2 million of mortgage financing to the project in connection with the purchase of the first mortgage loan. The note matured March 9, 2006, and bore interest at 7% for the first year and 6% for the second year. In addition to this loan, we invested \$0.9 million, primarily our pro-rata share of equity, as a partner in Fund I. In September 2004, Fund I and Hendon purchased the Pine Log Plaza for \$1.5 million. The 35,000 square foot center is located in front of and adjacent to Hitchcock Plaza. Related to this transaction, we provided an additional \$0.75 million mortgage loan to the project with a March 2006 maturity and interest at 7% for the first year and 6% for the second year.

During February 2006, Fund I finalized an agreement with Hendon whereby Fund I converted its common equity to a preferred equity position with a 15% preferred return. In connection with this agreement, Hendon assumed all operational, redevelopment and leasing responsibilities. Hendon also secured construction financing from which the first mortgage loans to us were repaid.

In May 2004, Fund I and an unaffiliated partner, each with a 50% interest, acquired a 35,000 square foot shopping center in Tarrytown, New York, for \$5.3 million. Related to this acquisition, we loaned \$2.0 million to Fund I which bears interest at the prime rate and matured May 2005. This loan has been converted to a demand note. The 35,000 square foot, Westchester, NY property (New York City MSA), was formerly anchored by a 25,000 square foot Grand Union supermarket. The redeveloped property includes a 15,000 square foot Walgreen's drugstore with the balance of space leased to shop tenants.

In May 2004, Fund I acquired a 50% interest in the Haygood Shopping Center and the Sterling Heights Shopping Center for an aggregate investment of \$3.2 million. These assets are part of the portfolio that we currently manage as a result of our January 2004 acquisition of certain management contracts from Klaff. The Haygood Shopping Center is a 165,000 square foot shopping center located in Virginia Beach, VA. It is currently 73% occupied and anchored by a Farmfresh supermarket and Eckerd Drug. The Sterling Heights Shopping Center, located in Sterling Heights, MI (suburb of Detroit), totals 141,000 square feet. The property is 55% occupied and is anchored by Burlington Coat Factory. Redevelopment activities include the complete renovation of the property and the re-leasing of the current vacancy to Rite-Aid.

2003 Acquisitions

Brandywine Portfolio - In January of 2003, Fund I acquired a major open-air retail complex located in Wilmington, Delaware. The approximately 1.0 million square foot value-based retail complex consists of the following two properties:

Market Square Shopping Center - A 103,000 square foot community shopping center (including a 15,000 square foot outparcel building) which is 100% leased and anchored by a T.J. Maxx and a Trader Joe's gourmet food market.

Brandywine Town Center - A two phase open-air value retail center. The first phase ("Phase I") is approximately 450,000 square feet and 100% occupied, with tenants including Lowe's, Bed Bath & Beyond, Regal Cinema, Michaels, Petsmart, Old Navy, Annie Sez, Thomasville Furniture and Dick's Sporting Goods. The second phase ("Phase II") consists of approximately 420,000 square feet of existing space, of which Target occupies 138,000 square feet and Bombay occupies 9,000 square feet. The balance of Phase II is currently not occupied.

The initial investment for this portfolio was approximately \$86.3 million, inclusive of closing and other related acquisition costs. Fund I will also pay additional amounts for the current vacant space in Phase II when and if it is leased and occupied (the "Earn-out"). To date, Fund I has incurred costs of \$30.3 million for Earn-out space.

During January of 2006, Fund I recapitalized this investment as further discussed in "BUSINESS OBJECTIVES AND STRATEGIES" in this Item 1 of this Form 10-K.

Kroger/Safeway Portfolio – In January of 2003, Fund I formed a joint venture (the “Kroger/Safeway JV”) with an affiliate of real estate developer and investor AmCap Incorporated (“AmCap”) for the purpose of acquiring a portfolio of twenty-five supermarket leases for \$48.9 million inclusive of the closing and other related acquisition costs. The portfolio, which aggregates approximately 1.0 million square feet, consists of 25 anchor-only leases with Kroger (12 leases) and Safeway supermarkets (13 leases). The majority of the properties are free-standing and all are triple-net leases. The Kroger/Safeway JV acquired the portfolio subject to long-term ground leases with terms, including renewal options, averaging in excess of 80 years, which are master leased to a non-affiliated entity. The rental options for the supermarket leases at the end of their primary lease term in approximately seven years (“Primary Term”) are at an average of \$5.13 per square foot. Although there is no obligation for the Kroger/Safeway JV to pay ground rent during the Primary Term, to the extent it exercises an option to renew a ground lease for a property at the end of the Primary Term, it will be obligated to pay an average ground rent of \$1.55 per square foot.

The following table sets forth more specific information with respect to the 25 supermarket leases:

Location	Tenant	Gross leasable area (“GLA”)	Current rent	Rent upon initial option commencement	Lease expiration year/ Last option expiration year
Great Bend, KS	Kroger Co. (1)	48,000	\$ 3.60	\$ 2.40	2009/2049
Cincinnati, OH	Kroger Co.	32,200	8.09	5.36	2009/2049
Conroe, TX	Kroger Co. (2)	75,000	6.95	4.60	2009/2049
Harahan, LA	Kroger Co. (2)	60,000	6.93	4.61	2009/2049
Indianapolis, IN	Kroger Co.	34,000	5.85	3.87	2009/2049
Irving, TX	Kroger Co.	43,900	6.53	4.32	2009/2049
Pratt, KS	Kroger Co. (1)	38,000	5.68	3.78	2009/2049
Roanoke, VA	Kroger Co.	36,700	13.02	8.62	2009/2049
Shreveport, LA	Kroger Co.	45,000	10.52	6.96	2009/2049
Wichita, KS	Kroger Co. (1)	50,000	11.23	7.48	2009/2049
Wichita, KS	Kroger Co. (1)	40,000	10.48	6.97	2009/2049
Atlanta, TX	Safeway (3)	31,000	7.35	3.98	2009/2049
Batesville, AR	Safeway (1)	29,000	10.55	5.72	2009/2049
Benton, AR	Safeway (1)	33,500	8.68	4.71	2009/2049
Carthage, TX	Safeway (1)	27,700	7.59	4.12	2009/2049
Little Rock, AR	Safeway (1)	36,000	12.15	6.58	2009/2049
Longview, WA	Safeway	48,700	8.27	4.48	2009/2049
Mustang, OK	Safeway (1)	30,200	7.66	4.15	2009/2049
Roswell, NM	Safeway (2)	36,300	10.96	5.94	2009/2049
Ruidoso, NM	Safeway (1)	38,600	11.01	5.97	2009/2049
San Ramon, CA	Safeway	54,000	9.16	4.96	2009/2049
Springerville, AZ	Safeway	30,500	8.92	4.83	2009/2049
Tucson, AZ	Safeway	41,800	8.64	4.68	2009/2049
Tulsa, OK	Safeway (1)	30,000	9.14	4.96	2009/2049
Cary, NC	Kroger Co. (3)	48,000	6.88	4.55	2009/2049
	Total	1,018,100			

Notes:

- (1) The tenant is obligated to pay rent pursuant to the lease and has sub-leased this location to a supermarket sub-tenant.
- (2) The tenant is obligated to pay rent pursuant to the lease and has sub-leased this location to a non-supermarket sub-tenant.
- (3) The tenant is currently not operating at this location although they continue to pay rent in accordance with the lease.

Ohio Portfolio – In September of 2002, Fund I acquired three supermarket-anchored shopping centers located in Cleveland and Columbus, Ohio for a total purchase price of \$26.7 million. Additional information on these properties is included in Item 2 of this Form 10-K.

ASSET SALES AND CAPITAL/ASSET RECYCLING

We periodically identify certain properties for disposition and redeploy the capital to existing centers or acquisitions with greater potential for capital appreciation. During July 2005, we sold the Berlin Shopping Center for \$4.0 million and in 2004, we disposed of the East End Centre, for \$12.4 million.

During July 2005 we purchased 4343 Amboy Road (“Amboy Road”) located in Staten Island, New York for \$16.6 million in cash and \$0.2 million in Common OP Units. The property, a 60,000 square foot neighborhood shopping center, is anchored by a Waldbaum’s supermarket and a Duane Reade drug store, and is subject to a 23-year ground lease.

During January 2006, we closed on a 20,000 square foot retail building in the Lincoln Park district in Chicago ("Clark/Diversey"). The property was acquired from an affiliate of Klaff for \$9.8 million. Tenants include Starbucks, Nine West, Vitamin Shoppe, The Body Shop, Papyrus and Cold Stone Creamery. Along with its strong location, the property has significant long-term growth potential.

Also during January 2006, we acquired a 60% interest in the A&P Shopping Plaza located in Boonton ("Boonton"), New Jersey. The property, which is 100% occupied and located in northeastern New Jersey, is a 63,000 square foot shopping center anchored by a 49,000 square foot A&P Supermarket. The remaining 40% interest is owned by a principal of P/A. The interest was acquired for \$3.2 million.

PROPERTY REDEVELOPMENT AND EXPANSION

Our redevelopment program focuses on selecting well-located neighborhood and community shopping centers and creating significant value through re-tenanting and property redevelopment. During 2005, we did not undertake any significant redevelopment projects within our core portfolio.

During 2004, we completed the redevelopment of the New Loudon Center, located in Latham, New York. A new anchor, The Bon Ton Department Store, opened for business during the fourth quarter of 2003 as part of the redevelopment of this shopping center. Occupying 66,000 square feet formerly occupied by an Ames department store, Bon Ton is paying base rent at a 15% increase over that of Ames. During 2004, Marshall's, an existing tenant at the center, expanded its current 26,000 square foot store to 37,000 square feet. We also installed a new 49,000 square foot Raymour and Flanigan Furniture store at this center during 2004. This community shopping center is now 100% occupied. Costs incurred for this project totaled \$418,000.

We also completed the redevelopment and re-anchoring of the Town Line Plaza, located in Rocky Hill, Connecticut during 2004. The former building, occupied by GU Markets, was demolished and replaced with a 66,000 square foot Super Stop & Shop. The new supermarket anchor is paying gross rent at a 33% increase over that of the former tenant with no interruption in rent payments. Costs to date for this project totaled \$1.7 million.

FINANCIAL INFORMATION ABOUT MARKET SEGMENTS

We have two reportable segments: retail properties and multi-family properties. The accounting policies of the segments are the same as those described in the notes to the consolidated financial statements appearing in Item 8 of this Annual Report on Form 10-K. We evaluate property performance primarily based on net operating income before depreciation, amortization and certain non-recurring items. The reportable segments are managed separately due to the differing nature of the leases and property operations associated with retail versus residential tenants. We do not have any foreign operations. See the consolidated financial statements and notes thereto included in Item 8 of this Annual Report on Form 10-K for certain information on industry segments as required by Item 1.

CORPORATE HEADQUARTERS AND EMPLOYEES

Our executive offices are located at 1311 Mamaroneck Avenue, Suite 260, White Plains, New York 10605, and our telephone number is (914) 288-8100. We have 158 employees, of which 94 are located at our executive office, 7 at the Pennsylvania regional office and the remaining property management personnel are located on-site at our properties.

COMPANY WEBSITE

All of our filings with the Securities and Exchange Commission, including our annual reports on Form 10-K, quarterly reports on Form 10-Q and current reports on Form 8-K and amendments to those reports filed or furnished pursuant to Section 13(a) or 15(d) of the Securities Exchange Act of 1934, are available free of charge at our website at www.acadiarealty.com, as soon as reasonably practicable after we electronically file such material with, or furnish it to, the Securities and Exchange Commission. These filings can also be accessed through the Securities and Exchange Commission's website at www.sec.gov. Alternatively, we will provide paper copies of our filings free of charge upon request.

CODE OF ETHICS AND WHISTLEBLOWER POLICIES

During 2003, our Board of Trustees adopted a Code of Ethics for Senior Financial Officers that applies to our Chief Executive Officer, Chief Financial Officer, Chief Accounting Officer, Controller and Assistant Controllers. The Board also adopted a Code of Business Conduct and Ethics applicable to all employees, as well as a "Whistleblower Policy". Copies of these documents are available in the Investor Information section of our website.

ITEM 1A. RISK FACTORS

If any of the following risks actually occur, our business, results of operations and financial condition would likely suffer. This section includes or refers to certain forward-looking statements. Refer to the explanation of the qualifications and limitations on such forward-looking statements discussed elsewhere in this Form 10-K.

We rely on revenues derived from major tenants.

We derive significant revenues from certain anchor tenants that occupy space in more than one center. We could be adversely affected in the event of the bankruptcy or insolvency of, or a downturn in the business of, any of our major tenants, or in the event that any such tenant does not renew its leases as they expire or renews at lower rental rates. Vacated anchor space not only would reduce rental revenues if not re-tenanted at the same rental rates but also could adversely affect the entire shopping center because of the loss of the departed anchor tenant's customer drawing power. Loss of customer drawing power also can occur through the exercise of the right that most anchors have to vacate and prevent re-tenanting by paying rent for the balance of the lease term, or the departure of an anchor tenant that owns its own property. In addition, in the event that certain major tenants cease to occupy a property, such an action may result in a significant number of other tenants having the right to terminate their leases, or pay a reduced rent based on a percentage of the tenant's sales, at the affected property, which could adversely affect the future income from such property.

Tenants may seek the protection of the bankruptcy laws, which could result in the rejection and termination of their leases and thereby cause a reduction in the cash flow available for distribution by us. Such reduction could be material if a major tenant files bankruptcy. See the discussion of bankruptcy risks under Risk Factors.

Limited control over joint venture investments.

Our joint venture investments may involve risks not otherwise present for investments made solely by us, including the possibility that our joint venture partner might have different interests or goals than we do. Other risks of joint venture investments include impasse on decisions, such as a sale, because neither we nor a joint venture partner would have full control over the joint venture. Also, there is no limitation under our organizational documents as to the amount of funds that may be invested in joint ventures.

Through our investments in joint ventures we have also invested in operating businesses that have operational risk in addition to the risks associated with real estate investments, including among other risks, human capital issues, adequate supply of product and material, and merchandising issues,

During 2005, our investment in joint ventures provided Promote income. There can be no assurance that the joint ventures will continue to operate profitably and thus provide additional Promote income in the future.

Under the terms of our Fund II joint venture, we are required to first offer to Fund II all of our opportunities to acquire retail shopping centers. Only if (i) our joint venture partner elects not to approve Fund II's pursuit of an acquisition opportunity; (ii) the ownership of the acquisition opportunity by Fund II would create a material conflict of interest for us; (iii) we require the acquisition opportunity for a "like-kind" exchange; or (iv) the consideration payable for the acquisition opportunity is our Common Shares, OP Units or other securities, may we pursue the opportunity directly. As a result, we may not be able to make attractive acquisitions directly and may only receive a minority interest in such acquisitions through Fund II.

We operate through a partnership structure, which could have an adverse effect on our ability to manage our assets.

Our primary property-owning vehicle is the Operating Partnership, of which we are the general partner. Our acquisition of properties through the Operating Partnership in exchange for interests in the Operating Partnership may permit certain tax deferral advantages to limited partners who contribute properties to the Operating Partnership. Since properties contributed to the Operating Partnership may have unrealized gain attributable to the difference between the fair market value and adjusted tax basis in such properties prior to contribution, the sale of such properties could cause adverse tax consequences to the limited partners who contributed such properties. Although we, as the general partner of the Operating Partnership, generally have no obligation to consider the tax consequences of our actions to any limited partner, there can be no assurance that the Operating Partnership will not acquire properties in the future subject to material restrictions designed to minimize the adverse tax consequences to the limited partners who contribute such properties. Such restrictions could result in significantly reduced flexibility to manage our assets.

There are risks relating to investments in real estate.

Value of Real Estate is Dependent on Numerous Factors. Real property investments are subject to varying degrees of risk. Real estate values are affected by a number of factors, including: changes in the general economic climate, local conditions (such as an oversupply of space or a reduction in demand for real estate in an area), the quality and philosophy of management, competition from other available space, the ability of the owner to provide adequate maintenance and insurance and to control variable operating costs. Shopping centers, in particular, may be affected by changing perceptions of retailers or shoppers regarding the safety, convenience and attractiveness of the shopping center and by the overall climate for the retail industry generally. Real estate values are also affected by such factors as government regulations, interest rate levels, the availability of financing and potential liability under, and changes in, environmental, zoning, tax and other laws. As substantially all of our income is derived from rental income from real property, our income and cash flow would be adversely affected if a significant number of our tenants were unable to meet their obligations, or if we were unable to lease on economically favorable terms a significant amount of space in our properties. In the event of default by a tenant, we may experience delays in enforcing, and incur substantial costs to enforce, our rights as a landlord. In addition, certain significant expenditures associated with each equity investment (such as mortgage payments, real estate taxes and maintenance costs) are generally not reduced when circumstances cause a reduction in income from the investment.

The bankruptcy of, or a downturn in the business of, any of our major tenants may adversely affect our cash flows and property values.

The bankruptcy of, or a downturn in the business of, any of our major tenants causing them to reject their leases, or not renew their leases as they expire, or renew at lower rental rates may adversely affect our cash flows and property values. Furthermore, the impact of vacated anchor space and the potential reduction in customer traffic may adversely impact the balance of tenants at the center.

Certain of our tenants have experienced financial difficulties and have filed for bankruptcy under Chapter 11 of the United States Bankruptcy Code ("Chapter 11 Bankruptcy"). Pursuant to bankruptcy law, tenants have the right to reject their leases. In the event the tenant exercises this right, the landlord generally has the right to file a claim for lost rent equal to the greater of either one year's rent (including tenant expense reimbursements) for remaining terms greater than one year, or 15% of the rent remaining under the balance of the lease term, but not to exceed three years rent. Actual amounts to be received in satisfaction of those claims will be subject to the tenant's final plan of reorganization and the availability of funds to pay its creditors.

Since January 1, 2003, there have been two significant tenant bankruptcies within our portfolio:

On May 30, 2003, The Penn Traffic Company ("Penn Traffic") filed for protection under Chapter 11 Bankruptcy. Penn Traffic operates in one location in our wholly-owned portfolio in 52,000 square feet. Rental revenues from this tenant at this location were \$0.4 million for the year ended December 31, 2005 and \$0.5 million for each of the years ended December 31, 2004 and 2003. Penn Traffic also operated in a location occupying 55,000 square feet at a property in which we, through Fund I, hold a 22% ownership interest. Our pro-rata share of rental revenues from the tenant at this location were \$0, \$22,000 and \$147,000 for the years ended December 31, 2005, 2004 and 2003, respectively. Penn Traffic continues to operate in our wholly-owned location and has assumed this lease. Penn Traffic rejected the lease at the joint venture location on February 20, 2004.

On January 14, 2004, KB Toys ("KB") filed for protection under Chapter 11 Bankruptcy. KB operated in five locations in our wholly-owned portfolio totaling approximately 41,000 square feet. Rental revenues from KB at these locations aggregated \$0.3 million, \$ 0.8 million and \$0.7 million for the years ended December 31, 2005, 2004 and 2003, respectively. KB also operated in a location occupying 20,000 square feet at a property in which we hold a 22% ownership interest through Fund I. Our pro-rata share of rental revenues from the tenant at this location were \$0, \$37,000 and \$87,000 for the years ended December 31, 2005, 2004 and 2003, respectively. KB rejected the lease at two of the locations and continues to operate in three of our wholly-owned locations but has neither assumed nor rejected these three leases. The tenant has rejected the lease at the Fund I property.

We could be adversely affected by poor market conditions where properties are geographically concentrated.

Our performance depends on the economic conditions in markets in which our properties are concentrated. We have significant exposure to the New York region, from which we derive 32% of the annual base rents within our wholly-owned portfolio. Our operating results could be adversely affected if market conditions, such as an oversupply of space or a reduction in demand for real estate, in this area becomes more competitive relative to other geographic areas.

Our ability to change our portfolio is limited because real estate investments are illiquid.

Equity investments in real estate are relatively illiquid and, therefore, our ability to change our portfolio promptly in response to changed conditions will be limited. Our board of trustees may establish investment criteria or limitations as it deems appropriate, but currently does not limit the number of properties in which we may seek to invest or on the concentration of investments in any one geographic region. We could change our investment, disposition and financing policies without a vote of our shareholders.

Market interest rates could have an adverse effect on our share price.

One of the factors that may influence the trading price of our Common Shares is the annual dividend rate on our Common Shares as a percentage of its market price. An increase in market interest rates may lead purchasers of our Common Shares to seek a higher annual dividend rate, which could adversely affect the market price of our Common Shares and our ability to raise additional equity in the public markets.

We could become highly leveraged, resulting in increased risk of default on our obligations and in an increase in debt service requirements which could adversely affect our financial condition and results of operations and our ability to pay distributions.

We have incurred, and expect to continue to incur, indebtedness in furtherance of our activities. Neither our Declaration of Trust nor any policy statement formally adopted by our board of trustees limits either the total amount of indebtedness or the specified percentage of indebtedness that we may incur. Accordingly, we could become more highly leveraged, resulting in increased risk of default on our obligations and in an increase in debt service requirements which could adversely affect our financial condition and results of operations and our ability to make distributions.

Our loan agreements contain customary representations, covenants and events of default. Certain loan agreements require us to comply with certain affirmative and negative covenants, including the maintenance of certain debt service coverage and leverage ratios. In addition, as of December 31, 2005, loans secured by five of our properties, totaling \$44.5 million, are subject to cross-collateralization and cross-default provisions and two loans, aggregating \$29.1 million, are also subject to cross-collateralization and cross-default provisions.

Interest expense on our variable debt as of December 31, 2005 would increase by \$0.2 million annually for a 100 basis point increase in interest rates. We may seek additional variable-rate financing if and when pricing and other commercial and financial terms warrant. As such, we would consider hedging against the interest rate risk related to such additional variable-rate debt through interest rate swaps and protection agreements, or other means.

We enter into interest-rate hedging transactions, including interest rate swaps and cap agreements, with counterparties. There can be no guarantee that the financial condition of these counterparties will enable them to fulfill their obligations under these agreements.

We may not be able to renew current leases and the terms of re-letting (including the cost of concessions to tenants) may be less favorable to us than current lease terms.

Upon the expiration of current leases for space located in our properties, we may not be able to re-let all or a portion of that space, or the terms of re-letting (including the cost of concessions to tenants) may be less favorable to us than current lease terms. If we are unable to re-let promptly all or a substantial portion of the space located in our properties or if the rental rates we receive upon re-letting are significantly lower than current rates, our net income and ability to make expected distributions to our shareholders will be adversely affected due to the resulting reduction in rent receipts. There can be no assurance that we will be able to retain tenants in any of our properties upon the expiration of their leases. See Item 2 – Properties – Lease Expirations in this Annual Report on Form 10-K for additional information as to the scheduled lease expirations in our portfolio.

Possible liability relating to environmental matters.

Under various federal, state and local environmental laws, statutes, ordinances, rules and regulations, as an owner of real property, we may be liable for the costs of removal or remediation of certain hazardous or toxic substances at, on, in or under our property, as well as certain other potential costs relating to hazardous or toxic substances (including government fines and penalties and damages for injuries to persons and adjacent property). These laws may impose liability without regard to whether we knew of, or were responsible for, the presence or disposal of those substances. This liability may be imposed on us in connection with the activities of an operator of, or tenant at, the property. The cost of any required remediation, removal, fines or personal or property damages and our liability therefore could exceed the value of the property and/or our aggregate assets. In addition, the presence of those substances, or the failure to properly dispose of or remove those substances, may adversely affect our ability to sell or rent that property or to borrow using that property as collateral, which, in turn, would reduce our revenues and ability to make distributions.

A property can also be adversely affected either through physical contamination or by virtue of an adverse effect upon value attributable to the migration of hazardous or toxic substances, or other contaminants that have or may have emanated from other properties. Although our tenants are primarily responsible for any environmental damages and claims related to the leased premises, in the event of the bankruptcy or inability of any of our tenants to satisfy any obligations with respect to the property leased to that tenant, we may be required to satisfy such obligations. In addition, we may be held directly liable for any such damages or claims irrespective of the provisions of any lease.

From time to time, in connection with the conduct of our business, and prior to the acquisition of any property from a third party or as required by our financing sources, we authorize the preparation of Phase I environmental reports and, when necessary, Phase II environmental reports, with respect to our properties. Based upon these environmental reports and our ongoing review of our properties, as of the date of this prospectus supplement, we are not aware of any environmental condition with respect to any of our properties that we believe would be reasonably likely to have a material adverse effect on us. There can be no assurance, however, that the environmental reports will reveal all environmental conditions at our properties or that the following will not expose us to material liability in the future:

- The discovery of previously unknown environmental conditions
- Changes in law
- Activities of tenants
- Activities relating to properties in the vicinity of our properties

Changes in laws increasing the potential liability for environmental conditions existing on properties or increasing the restrictions on discharges or other conditions may result in significant unanticipated expenditures or may otherwise adversely affect the operations of our tenants, which could adversely affect our financial condition or results of operations.

Competition may adversely affect our ability to purchase properties and to attract and retain tenants.

There are numerous commercial developers, real estate companies, financial institutions and other investors with greater financial resources than we have that compete with us in seeking properties for acquisition and tenants who will lease space in our properties. Our competitors include other REIT's, financial institutions, insurance companies, pension funds, private companies and individuals. This competition may result in a higher cost for properties that we wish to purchase.

In addition, retailers at our properties face increasing competition from outlet malls, discount shopping clubs, internet commerce, direct mail and telemarketing, which could (i) reduce rents payable to us; (ii) reduce our ability to attract and retain tenants at our properties; and (iii) lead to increased vacancy rates at our properties.

We have pursued, and may in the future continue to pursue extensive growth opportunities which may result in significant demands on our operational, administrative and financial resources.

We have pursued extensive growth opportunities. This expansion has placed significant demands on our operational, administrative and financial resources. The continued growth of our real estate portfolio can be expected to continue to place a significant strain on its resources. Our future performance will depend in part on our ability to successfully attract and retain qualified management personnel to manage the growth and operations of our business and to finance such acquisitions. In addition, acquired properties may fail to operate at expected levels due to the numerous factors which may affect the value of real estate. There can be no assurance that we will have sufficient resources to identify and manage acquired properties or otherwise be able to maintain our historic rate of growth.

Our inability to carry out our growth strategy could adversely affect our financial condition and results of operations.

Our growth strategy is based on the acquisition and development of additional properties, including acquisitions through co-investment programs such as joint ventures. In the context of our business plan, "development" generally means an expansion or renovation of an existing property. The consummation of any future acquisitions will be subject to satisfactory completion of our extensive valuation analysis and due diligence review and to the negotiation of definitive documentation. We cannot be sure that we will be able to implement our strategy because we may have difficulty finding new properties, negotiating with new or existing tenants or securing acceptable financing.

Acquisitions of additional properties entail the risk that investments will fail to perform in accordance with expectations, including operating and leasing expectations. Redevelopment is subject to numerous risks, including risks of construction delays, cost overruns or force majeure that may increase project costs, new project commencement risks such as the receipt of zoning, occupancy and other required governmental approvals and permits, and the incurrence of development costs in connection with projects that are not pursued to completion.

Our board of trustees may change our investment policy without shareholder approval.

Our board of trustees will determine our investment and financing policies, our growth strategy and our debt, capitalization, distribution, acquisition, disposition and operating policies. Our board of trustees may establish investment criteria or limitations as it deems appropriate, but currently does not limit the number of properties in which we may seek to invest or on the concentration of investments in any one geographic region. Although our board of trustees has no present intention to revise or amend our strategies and policies, it may do so at any time without a vote by our shareholders. Accordingly, our shareholders' control over changes in our strategies and policies is limited to the election of trustees, and changes made by our board of trustees may not serve the interests of all of our shareholders and could adversely affect our financial condition or results of operations, including our ability to distribute cash to shareholders or qualify as a REIT.

There can be no assurance we have qualified or will remain qualified as a REIT for federal income tax purposes.

We believe that we have met the requirements for qualification as a REIT for federal income tax purposes beginning with our taxable year ended December 31, 1993, and we intend to continue to meet these requirements in the future. However, qualification as a REIT involves the application of highly technical and complex provisions of the Internal Revenue Code, for which there are only limited judicial or administrative interpretations. No assurance can be given that we have qualified or will remain qualified as a REIT. The Internal Revenue Code provisions and income tax regulations applicable to REITs are more complex than those applicable to corporations. The determination of various factual matters and circumstances not entirely within our control may affect our ability to continue to qualify as a REIT. In addition, no assurance can be given that legislation, regulations, administrative interpretations or court decisions will not significantly change the requirements for qualification as a REIT or the federal income tax consequences of such qualification. If we do not qualify as a REIT, we would not be allowed a deduction for distributions to shareholders in computing our net taxable income. In addition, our income would be subject to tax at the regular corporate rates. We also could be disqualified from treatment as a REIT for the four taxable years following the year during which qualification was lost. Cash available for distribution to our shareholders would be significantly reduced for each year in which we do not qualify as a REIT. In that event, we would not be required to continue to make distributions. Although we currently intend to continue to qualify as a REIT, it is possible that future economic, market, legal, tax or other considerations may cause us, without the consent of the shareholders, to revoke the REIT election or to otherwise take action that would result in disqualification.

Distribution requirements imposed by law limit our operating flexibility.

To maintain our status as a REIT for federal income tax purposes, we are generally required to distribute to our shareholders at least 90% of our taxable income for that calendar year. Our taxable income is determined without regard to any deduction for dividends paid and by excluding net capital gains. To the extent that we satisfy the distribution requirement, but distribute less than 100% of our taxable income, we will be subject to federal corporate income tax on our undistributed income. In addition, we will incur a 4% nondeductible excise tax on the amount, if any, by which our distributions in any year are less than the sum of (i) 85% of our ordinary income for that year; (ii) 95% of our capital gain net income for that year and; (iii) 100% of our undistributed taxable income from prior years. We intend to continue to make distributions to our shareholders to comply with the distribution requirements of the Internal Revenue Code and to reduce exposure to federal income and nondeductible excise taxes. Differences in timing between the receipt of income and the payment of expenses in determining our income and the effect of required debt amortization payments could require us to borrow funds on a short-term basis in order to meet the distribution requirements that are necessary to achieve the tax benefits associated with qualifying as a REIT.

Uninsured losses or a loss in excess of insured limits could adversely affect our financial condition.

We carry comprehensive liability, fire, extended coverage and rent loss insurance on most of our properties, with policy specifications and insured limits customarily carried for similar properties. However, with respect to those properties where the leases do not provide for abatement of rent under any circumstances, we generally do not maintain rent loss insurance. In addition, there are certain types of losses, such as losses resulting from wars, terrorism or acts of God that generally are not insured because they are either uninsurable or not economically insurable. Should an uninsured loss or a loss in excess of insured limits occur, we could lose capital invested in a property, as well as the anticipated future revenues from a property, while remaining obligated for any mortgage indebtedness or other financial obligations related to the property. Any loss of these types would adversely affect our financial condition.

Limits on ownership of our capital shares.

For the Company to qualify as a REIT for federal income tax purposes, among other requirements, not more than 50% of the value of our capital shares may be owned, directly or indirectly, by five or fewer individuals (as defined in the Internal Revenue Code to include certain entities) during the last half of each taxable year after 1993, and such capital shares must be beneficially owned by 100 or more persons during at least 335 days of a taxable year of 12 months or during a proportionate part of a shorter taxable year (in each case, other than the first such year). Our Declaration of Trust includes certain restrictions regarding transfers of our capital shares and ownership limits that are intended to assist us in satisfying these limitations. These restrictions and limits may not be adequate in all cases, however, to prevent the transfer of our capital shares in violation of the ownership limitations. The ownership limit discussed above may have the effect of delaying, deferring or preventing someone from taking control of us.

Actual or constructive ownership of our capital shares in excess of the share ownership limits contained in our Declaration of Trust would cause the violative transfer or ownership to be null and void from the beginning and subject to purchase by us at a price equal to the lesser of (i) the price stipulated in the challenged transaction; and (ii) the fair market value of such shares (determined in accordance with the rules set forth in our declaration of trust). As a result, if a violative transfer were made, the recipient of the shares would not acquire any economic or voting rights attributable to the transferred shares. Additionally, the constructive ownership rules for these limits are complex and groups of related individuals or entities may be deemed a single owner and consequently in violation of the share ownership limits.

Adverse legislative or regulatory tax changes could have an adverse effect on us.

There are a number of issues associated with an investment in a REIT that are related to the federal income tax laws, including, but not limited to, the consequences of failing to continue to qualify as a REIT. At any time, the federal income tax laws governing REIT's or the administrative interpretations of those laws may be amended. Any of those new laws or interpretations may take effect retroactively and could adversely affect us or our shareholders. Recently enacted legislation reduces tax rates applicable to certain corporate dividends paid to most domestic noncorporate shareholders. REIT dividends generally would not be eligible for reduced rates because a REIT's income generally is not subject to corporate level tax. As a result, investment in non-REIT corporations may be viewed as relatively more attractive than investment in REIT's by domestic noncorporate investors. This could adversely affect the market price of the Company's shares.

Concentration of ownership by certain investors.

Six shareholders own more than 5% individually, and 45.7% in the aggregate, of our Common Shares. A significant concentration of ownership may allow an investor to exert a greater influence over our management and affairs and may have the effect of delaying, deferring or preventing a change in control of us.

Restrictions on a potential change of control.

Our Board of Trustees is authorized by our Declaration of Trust to establish and issue one or more series of preferred shares without shareholder approval. We have not established any series of preferred shares, however, the establishment and issuance of a series of preferred shares could make more difficult a change of control of us that could be in the best interest of the shareholders.

In addition, we have entered into an employment agreement with our Chief Executive Officer and severance agreements are in place with our senior vice presidents which provide that, upon the occurrence of a change in control of us, those executive officers would be entitled to certain termination or severance payments made by us (which may include a lump sum payment equal to defined percentages of annual salary and prior years' average bonuses, paid in accordance with the terms and conditions of the respective agreement), which could deter a change of control of us that could be in our best interest.

The loss of a key executive officer could have an adverse effect on us.

Our success depends on the contribution of key management members. The loss of the services of Kenneth F. Bernstein, President and Chief Executive Officer, or other key executive-level employees could have a material adverse effect on our results of operations. Although we have entered into an employment agreement with our President, Kenneth F. Bernstein, the loss of his services could have an adverse effect on our operations.

ITEM 1B. UNRESOLVED STAFF COMMENTS

None.

ITEM 2. PROPERTIES

SHOPPING CENTER PROPERTIES

The discussion and tables in Item 2 include properties held through joint ventures in which we own a partial interest ("Joint Venture Portfolio"). Except where noted, it does not include our partial interest in 25 anchor-only leases with Kroger and Safeway supermarkets as previously discussed in "PROPERTY ACQUISITIONS" in Item 1 of this Form 10-K, as the majority of these properties are free-standing and all are triple-net leases.

As of December 31, 2005, we owned and operated 46 shopping centers as part of our wholly-owned portfolio and the Joint Venture Portfolio, which included a mixed-use property (retail and residential), ten properties under redevelopment and one property under development. Our shopping centers, which total approximately 7.7 million square feet of gross leaseable area ("GLA"), are located in 15 states and are generally well-established, anchored community and neighborhood shopping centers. The operating properties are diverse in size, ranging from approximately 17,000 to 775,000 square feet with an average size of 199,000 square feet. As of December 31, 2005, our wholly-owned portfolio and the Joint Venture Portfolio (excluding properties under redevelopment) were 94.3% and 96.8% occupied, respectively. Our shopping centers are typically anchored by supermarkets or value-oriented retail.

We had approximately 671 leases as of December 31, 2005. Greater than 50% of our rental revenues were from national tenants. A majority of the income from the properties consists of rent received under long-term leases. Most of these leases provide for the payment of fixed minimum rent monthly in advance and for the payment by tenants of a pro-rata share of the real estate taxes, insurance, utilities and common area maintenance of the shopping centers. Minimum rents and expense reimbursements accounted for approximately 80% of our total revenues for the year ended December 31, 2005.

As of December 31, 2005, approximately 45% of our existing leases also provided for the payment of percentage rents either in addition to, or in place of, minimum rents. These arrangements generally provide for payment to us of a certain percentage of a tenant's gross sales in excess of a stipulated annual amount. Percentage rents accounted for approximately 1% of the total 2005 revenues of the Company.

Five of our shopping center properties are subject to long-term ground leases in which a third party owns and has leased the underlying land to us. We pay rent for the use of the land at four locations and are responsible for all costs and expenses associated with the building and improvements at all five locations.

No individual property contributed in excess of 10% of our total revenues for the years ended December 31, 2005, 2004 and 2003.

Reference is made to our consolidated financial statements in Item 8 of this Annual Report on form 10-K for information on the mortgage debt pertaining to our properties.

The following sets forth more specific information with respect to each of our shopping centers at December 31, 2005:

Shopping Center	Location	Year Constructed (C) Acquired(A)	Ownership Interest	GLA	Occupancy (1) % 12/31/05	Anchor Tenants Current Lease Expiration/ Lease Option Expiration
NEW YORK REGION						
<u>New York</u>						
Soundview Marketplace	Port Washington	1998 (A)	LI/Fee (5)	183,675	94%	King Kullen 2007/2022 Clearview Cinema 2010/2030
Village Commons Shopping Center	Smithtown	1998 (A)	Fee	87,306	100%	Daffy's 2008/2028 Walgreens 2021/none
Branch Shopping Plaza	Smithtown	1998 (A)	LI (5)	125,724	99%	Waldbaum's 2013/2028 CVS 2010/--
New Loudon Center	Latham	1982 (A)	Fee	255,826	100%	Price Chopper 2015/2035 Marshall's 2014/2029 Bon Ton 2014/2034 Raymore & Flanigan 2019/2034 AC Moore 2009/2014 Stop & Shop 2020/2040
Pacesetter Park Shopping Center	Pomona	1999 (A)	Fee	96,698	96%	Stop & Shop 2020/2040
Amboy Road	Staten Island	2005 (A)	LI (5)	59,979	100%	Waldbaum's 2028/-- Duane Reade 2008/2018
Bartow Avenue	Bronx	2005 (C)	Fee	14,694	51%	
<u>New Jersey</u>						
Elmwood Park Shopping Center	Elmwood Park	1998 (A)	Fee	149,085	98%	Pathmark 2017/2052 Walgreen's 2022/2062
Marketplace of Absecon	Absecon	1998 (A)	Fee	105,097	97%	Acme 2015/2055 Eckerd Drug 2020/2040
Ledgewood Mall	Ledgewood	1983 (A)	Fee	517,077	95%	Wal-Mart 2019/2049 Macy's 2010/2025 The Sports' Authority 2007/2037 Circuit City 2020/2040 Marshall's 2014/2034 Barnes & Noble 2010/2035 Ashley Furniture 2010/2030
NEW ENGLAND REGION						
<u>Connecticut</u>						
Town Line Plaza	Rocky Hill	1998 (A)	Fee	206,178(2)	96%	Stop & Shop 2023/2063 Wal-Mart(2)
239 Greenwich Avenue	Greenwich	1998 (A)	Fee	16,834(3)(4)	100%	Restoration Hardware 2015/2025 Coach 2016/2021
<u>Massachusetts</u>						
Methuen Shopping Center	Methuen	1998 (A)	LI/Fee (5)	130,238	92%	DeMoulas Market 2015/2020 Wal-Mart 2011/2051
Crescent Plaza	Brockton	1984 (A)	Fee	218,141	99%	Shaw's 2012/2042 Home Depot 2021/2056
<u>Rhode Island</u>						
Walnut Hill Plaza	Woonsocket	1998 (A)	Fee	283,235	99%	Shaw's 2013/2043 Sears 2008/2033 CVS 2009/2014
<u>Vermont</u>						
The Gateway Shopping Center	South Burlington	1999 (A)	Fee	101,792	99%	Shaw's 2024/2054

Shopping Center	Location	Year Constructed (C) Acquired(A)	Ownership Interest	GLA	Occupancy (1) % 12/31/05	Anchor Tenants Current Lease Expiration/ Lease Option Expiration
MIDWEST REGION						
<u>Illinois</u>						
Hobson West Plaza	Naperville	1998 (A)	Fee	99,044	99%	Bobak's Market & Restaurant 2007/2032
<u>Indiana</u>						
Merrillville Plaza	Merrillville	1998 (A)	Fee	235,605	94%	TJ Maxx 2009/2014 JC Penney 2008/2018 Office Max 2008/2028 Pier I 2009/-- David's Bridal 2010/2020 Toys R Us 2014/2039
<u>Michigan</u>						
Bloomfield Town Square	Bloomfield Hills	1998 (A)	Fee	214,866	97%	TJ Maxx 2009/-- Marshalls 2011/2026 Home Goods 2010/2025
<u>Ohio</u>						
Mad River Station	Dayton	1999 (A)	Fee	155,739(7)	82%	Babies 'R' Us 2010/2020 Office Depot 2010/-- Pier I 2010/--
MID-ATLANTIC REGION						
<u>Pennsylvania</u>						
Abington Towne Center	Abington	1998 (A)	Fee	216,355(6)	99%	TJ Maxx 2010/2020 Target (6)
Blackman Plaza	Wilkes-Barre	1968 (C)	Fee	121,341	92%	Kmart 2009/2049 Eckerd Drug 2006/--
Bradford Towne Centre	Towanda	1993 (C)	Fee	256,939	91%	P&C Foods 2014/2024 Kmart 2019/2069
Greenridge Plaza	Scranton	1986 (C)	Fee	191,755	79%	Giant Food 2021/2051
Luzerne Street Shopping Center	Scranton	1983 (A)	Fee	58,228	87%	Eckerd Drug 2009/2019 Price Rite/Wakefern 2015/2035
Mark Plaza	Edwardsville	1968 (C)	LI/Fee (5)	216,047	97%	Redner's Markets 2018/2028 Kmart 2009/2049
Pittston Plaza	Pittston	1994 (C)	Fee	79,494	96%	Redner's Markets 2018/2028
Plaza 422	Lebanon	1972 (C)	Fee	155,026	69%	Eckerd Drug 2006/2016 Home Depot 2028/2058
Route 6 Mall	Honesdale	1994 (C)	Fee	175,507	99%	Weis Markets (not owned) Kmart 2020/2070 Eckerd Drug 2011/2026 Fashion Bug 2006/--
Wholly-owned portfolio				4,727,525	94%	

PROPERTIES HELD IN JOINT VENTURES

NEW YORK REGION						
<u>New York</u>						
Crossroads Shopping Center	White Plains	1998(A)	JV (8)	310,644	100%	Waldbaum's 2007/2032 Kmart 2012/2022 B. Dalton 2012/2017 Modell's 2009/2019 Pier I 2007/2017 Pay Half 2018/--

Shopping Center	Location	Year Constructed (C) Acquired(A)	Ownership Interest	GLA	Occupancy (I) % 12/31/05	Anchor Tenants Current Lease Expiration/ Lease Option Expiration
MID-ATLANTIC REGION						
<u>Delaware</u>						
Brandywine Town Center	Wilmington	2003(A)	JV (10)	775,932	100%	Annie Sez (Big M) 2007/2022 Michaels 2011/2026 Old Navy (The Gap) 2011/2016 Petsmart 2017/2042 Thomasville Furniture 2011/2021 World Market 2015/-- Access Group 2015/2025 Bed, Bath & Beyond 2014/2029 Dick's Sporting Goods 2013/2028 Lowe's Home Centers 2018/2048 Regal Cinemas 2017/2037 Target 2018/2068 Kincaid Furniture 2010/-- Transunion Settlement 2013/2018 The Bombay Company 2015/2025 Lane Home Furnishings 2015/-- Tutor Time 2010/2025 Moe's 2015/-- MJM Designer 2015/-- New Balance Trader Joe's 2013/2028 TJ Maxx 2006/2016
Market Square Shopping Center	Wilmington	2003(A)	JV (10)	102,762	100%	
MIDWEST REGION						
<u>Ohio</u>						
Amherst Marketplace	Cleveland	2002(A)	JV (10)	79,937	100%	Giant Eagle 2021/2041 Riser Foods Company/Pharmacy 2012/2027 California Fitness 2017/2027
Granville Centre	Columbus	2002(A)	JV (10)	134,999	44%	
Sheffield Crossing	Cleveland	2002(A)	JV (10)	112,534	94%	Giant Eagle 2022/2042 Revco Drug 2012/2027
VARIOUS REGIONS						
Kroger/Safeway Portfolio	Various	2003 (A)	JV (10)	1,018,100	100%	25 Kroger/Safeway Supermarkets 2009/2049
JV REDEVELOPMENTS						
<u>Michigan</u>						
Sterling Heights Shopping Center	Detroit	2004(A)	JV (10)	154,838	55%	Burlington Coat Factory 2024/--
<u>New York</u>						
Tarrytown Shopping Center	Westchester	2004(A)	JV (10)	38,930	63%	Walgreen's 2080/--
400 E. Fordham Road	Bronx	2004(A)	JV (11)	117,355	100%	Sears 2007/--
Pelham Manor Shopping Plaza	Westchester/Bronx	2004(A)	JV (5)(11)	398,775	51%	
161st Street	Bronx	2005(A)	JV (11)	223,611	100%	City of New York 2006/--
Sherman Avenue	New York	2005(A)	JV (11)	134,773	100%	Pilot Garage 2007/--
<u>South Carolina</u>						
Hitchcock Plaza	Aiken	2004(A)	JV (10)	233,886	27%	
Pine Log Plaza	Aiken	2004(A)	JV (10)	35,064	91%	Farmer's Furniture 2009/2014
<u>Virginia</u>						
Haygood Shopping Center	Virginia Beach	2004(A)	JV (10)	153,999	73%	Eckerd Drug 2009/--
Joint Venture Portfolio				4,026,139	86%	

Notes:

- (1) Does not include space leased for which rent has not yet commenced.
- (2) Includes a 92,500 square foot Wal-Mart which is not owned us.
- (3) In addition to the 16,834 square feet of retail GLA, this property also has 21 apartments comprising 14,434 square feet.
- (4) Coach is a new tenant and executed an eleven year lease with one five-year option.
- (5) We are a ground lessee under a long-term ground lease.
- (6) Includes a 157,616 square foot Target Store that is not owned by the Company.
- (7) The GLA for this property includes 28,205 square feet of office space.
- (8) We have a 49% investment in this property.
- (9) Does not include 80,000 square feet of new space in Phase II of the Brandywine Town Center, which will be paid for by Fund I on an Earn-out basis only if, and when, it is leased.
- (10) We have invested in this asset through Fund I.
- (11) We have invested in this asset through Fund II.

MAJOR TENANTS

No individual retail tenant accounted for more than 5.5% of minimum rents for the year ended December 31, 2005 or 10.0% of total leased GLA as of December 31, 2005. The following table sets forth certain information for the 20 largest retail tenants based upon minimum rents in place as of December 31, 2005. The table includes leases related to our partial interest in 25 anchor-only leases with Kroger and Safeway supermarkets. The below amounts include our pro-rata share of GLA and annualized base rent for our partial ownership interest in properties (GLA and rent in thousands):

Retail Tenant	Number of Stores in Portfolio	Total GLA	Annualized Base Rent (1)	Percentage of Total Represented by Retail Tenant	
				Total Portfolio GLA (2)	Annualized Base Rent (2)
Albertson's (Shaw's, Acme)	4	221	\$ 3,013	4.0%	5.5%
Sears (Sears, Kmart)	7	553	2,156	10.0%	4.0%
T.J. Maxx (T.J. Maxx, Marshalls, A.J. Wrights)	10	296	2,132	5.4%	3.9%
A&P (Waldbaum's)	2	119	1,913	2.2%	3.5%
Ahold (Giant, Stop & Shop)	3	179	1,569	3.2%	2.9%
Wal-Mart	2	210	1,515	3.8%	2.8%
Brook's Drug	7	81	1,070	1.5%	2.0%
Home Depot	2	211	1,010	3.8%	1.9%
Pathmark	1	48	955	0.9%	1.8%
Redner's Supermarket	2	112	876	2.0%	1.6%
Restoration Hardware	1	9	697	0.2%	1.3%
Kroger (3)	12	132	722	2.4%	1.3%
Safeway (4)	13	104	722	1.9%	1.3%
Price Chopper	2	77	804	1.4%	1.5%
Clearview Cinema (5)	1	25	686	0.5%	1.3%
Federated (Macy's)	1	73	651	1.3%	1.2%
JC Penney	2	73	592	1.3%	1.1%
Walgreen's	2	24	589	0.4%	1.1%
King Kullen	1	48	563	0.9%	1.0%
Payless Shoes	10	38	601	0.7%	1.1%
Total	85	2,633	\$ 22,836	47.8%	42.1%

Notes:

- (1) Base rents do not include percentage rents (except where noted), additional rents for property expense reimbursements, and contractual rent escalations due after December 31, 2005.
- (2) Represents total GLA and annualized base rent for our retail properties including its pro-rata share of Joint Venture Properties.
- (3) Kroger has sub-leased four of these locations to supermarket tenants, two locations to a non-supermarket tenant and ceased operations at one other location. Kroger is obligated to pay rent through the full term of these leases which expire in 2009.
- (4) Safeway has sub-leased seven of these locations to supermarket tenants, one location to a non-supermarket tenant and ceased operations at one other location. Safeway is obligated to pay rent through the full term of all these leases which expire in 2009.
- (5) Subsidiary of Cablevision.

LEASE EXPIRATIONS

The following table shows scheduled lease expirations for retail tenants in place as of December 31, 2005, assuming that none of the tenants exercise renewal options. Leases related to our joint venture properties are shown separately below before our pro-rata share of annual base rent and GLA (GLA and rent in thousands):

Wholly-Owned Portfolio:

Leases maturing in	Number of Leases	Annualized Base Rent (1)		GLA	
		Current Annual Rent	Percentage of Total	Square Feet	Percentage of Total
2006	86	\$ 3,476	8%	288	7%
2007	66	4,386	10%	390	9%
2008	58	4,676	10%	338	8%
2009	66	4,716	10%	547	13%
2010	54	5,591	12%	509	12%
2011	23	2,340	5%	213	5%
2012	8	885	2%	66	2%
2013	15	2,295	5%	157	4%
2014	23	2,408	5%	307	7%
2015	19	3,678	8%	242	6%
Thereafter	33	11,071	25%	1,146	27%
Total	451	\$ 45,522	100%	4,203	100%

Joint Venture Portfolio:

Leases maturing in	Number of Leases	Annualized Base Rent (1)		GLA	
		Current Annual Rent	Percentage of Total	Square Feet	Percentage of Total
2006	51	\$ 6,497	16%	491	14%
2007	31	4,451	11%	476	14%
2008	23	1,565	4%	67	2%
2009	44	10,012	24%	1,132	33%
2010	11	705	2%	43	1%
2011	7	1,773	4%	76	2%
2012	6	1,377	3%	139	4%
2013	8	2,083	5%	119	3%
2014	13	2,172	5%	119	3%
Thereafter	26	10,621	26%	819	24%
Total	220	\$ 41,256	100%	3,481	100%

Notes:

- (1) Base rents do not include percentage rents, additional rents for property expense reimbursements, nor contractual rent escalations due after December 31, 2005.

GEOGRAPHIC CONCENTRATIONS

The following table summarizes our retail properties by region as of December 31, 2005. (GLA and rent in thousands):

Region	GLA (1)	Occupied % (2)	Annualized Base Rent (2)	Annualized Base Rent per Leased Square Foot	Percentage of Total Represented by Region	
					GLA	Annualized Base Rent
Wholly-Owned Portfolio:						
New York Region	734	97%	\$ 14,735	\$ 20.79	16%	32%
New England	1,195	98%	9,847	9.19	25%	22%
Midwest	705	93%	7,597	11.58	15%	17%
Mid-Atlantic	839	96%	7,023	10.79	18%	15%
Northeastern Pennsylvania	1,254	89%	6,320	5.67	26%	14%
Total Wholly-Owned Portfolio	4,727	94%	\$ 45,522	\$ 10.83	100%	100%
Joint Venture Portfolio:						
Operating Properties						
Midwest (3)	327	75%	\$ 2,619	\$ 10.67	22%	12%
Mid-Atlantic (3,4)	879	100%	13,961	15.89	58%	62%
New York Region (5)	311	100%	6,054	19.49	20%	26%
Total Operating Properties	1,517	94%	22,634	15.77	100%	100%
Redevelopment Properties:						
Midwest (6)	155	55%	427	5.02	11%	4%
Mid-Atlantic (6)	423	49%	1,524	7.36	28%	16%
New York Region (7)	913	77%	8,007	11.36	61%	80%
Total Redevelopment Properties	1,491	67%	9,958	9.99	100%	100%
Total Joint Venture Portfolio	3,008	81%	\$ 32,592	\$ 13.40	100%	100%

Notes:

- (1) Property GLA includes a total of 255 square feet which is not owned us. This square footage has been excluded for calculating annualized base rent per square foot.
- (2) The above occupancy and rent amounts do not include space which is currently leased, but for which rent payment has not yet commenced.
- (3) We have a 22% interest in Fund I which owns these properties.
- (4) Does not include 80,000 square feet of new space in Phase II of the Brandywine Town Center, which will be paid for by us on an "earn-out basis" only if, and when it is leased. Subsequent to December 31, 2005, the Brandywine portfolio was recapitalized through the conversion of the 77.8% interest previously held by institutional investors in Fund I to GDC Properties. We have retained our existing 22.2% interest.
- (5) We have a 49% interest in two partnerships which, together, own the Crossroads Shopping Center.
- (6) We have a 22% interest in Fund I which has interests ranging from 50% to 90% of these properties.
- (7) We have a 22% interest in Fund I which owns 50% of the Tarrytown Shopping Center and a 20% interest in Fund II which owns 97% of 400 East Fordham Road and Pelham Manor Shopping Plaza Sherman Avenue and 161st Street.

MULTI-FAMILY PROPERTIES

We own two multi-family properties located in the Mid-Atlantic and Midwest regions. The properties average 737 units and as of December 31, 2005, had an average occupancy rate of 98%. The following sets forth more specific information with respect to each of our multi-family properties at December 31, 2005:

Multi-Family Property	Location	Year Acquired	Ownership Interest	Units	% Occupied
Missouri (1) Gate House, Holiday House, Tiger Village and Colony Apartments	Columbia	1998	Fee	874	99%
North Carolina Village Apartments	Winston Salem	1998	Fee	600	96%
Totals				1,474	98%

Notes:

(1) We own four contiguous residential complexes in Columbia, Missouri which, although owned in two separate entities, are managed as a single property and therefore reflected as such.

ITEM 3. LEGAL PROCEEDINGS

We are involved in other various matters of litigation arising in the normal course of business. While we are unable to predict with certainty the amounts involved, management is of the opinion that, when such litigation is resolved, our resulting liability, if any, will not have a significant effect on our consolidated financial position or results of operations.

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

No matter was submitted to a vote of security holders through the solicitation of proxies or otherwise during the fourth quarter of 2005.

PART II**ITEM 5. MARKET FOR REGISTRANT'S COMMON EQUITY, RELATED SHAREHOLDER MATTERS AND ISSUER PURCHASES OF EQUITY SECURITIES**

(a) Market Information

The following table shows, for the period indicated, the high and low sales price for the Common Shares as reported on the New York Stock Exchange, and cash dividends paid during the two years ended December 31, 2005 and 2004:

Quarter Ended	High	Low	Dividend Per Share
2005			
March 31, 2005	\$ 16.60	\$ 15.60	\$ 0.1725
June 30, 2005	18.65	15.53	0.1725
September 30, 2005	19.89	17.45	0.1725
December 31, 2005	20.76	16.66	0.1850
2004			
March 31, 2004	\$ 15.00	\$ 12.36	\$ 0.1600
June 30, 2004	14.30	11.38	0.1600
September 30, 2004	15.11	13.03	0.1600
December 31, 2004	16.49	14.70	0.1725

At March 15, 2006, there were 349 holders of record of the Company's Common Shares.

(b) Dividends

We have determined that for 2005, 95% of the total dividends distributed to shareholders represented ordinary income, 3% represented unrecaptured section 1250 gain and 2% represented nontaxable return of capital. Our cash flow is affected by a number of factors, including the revenues received from rental properties, our operating expenses, the interest expense on its borrowings, the ability of lessees to meet their obligations to us and unanticipated capital expenditures. Future dividends paid by us will be at the discretion of the Trustees and will depend on our actual cash flows, our financial condition, capital requirements, the annual distribution requirements under the REIT provisions of the Code and such other factors as the Trustees deem relevant.

(c) Issuer purchases of equity securities

We have an existing share repurchase program that authorizes management, at its discretion, to repurchase up to \$20.0 million of our outstanding Common Shares. Through March 15, 2006, we had repurchased 2.1 million Common Shares at a total cost of \$11.7 million of which 2.0 million of these Common Shares have been subsequently reissued. The program may be discontinued or extended at any time and there is no assurance that we will purchase the full amount authorized. There were no Common Shares repurchased by us during the fiscal year ended December 31, 2005.

(d) Securities authorized for issuance under equity compensation plans

The following table provides information related to our 1999 Share Incentive Plan (the "1999 Plan") and 2003 Share Incentive Plan (the "2003 Plan") as of December 31, 2005:

Equity Compensation Plan Information					
	(a) Number of securities to be issued upon exercise of outstanding options, warrants and rights		(b) Weighted-average exercise price of outstanding options, warrants and rights	(c) Number of securities remaining available for future issuance under equity compensation plans (excluding securities reflected in column a)	
Equity compensation plans approved by security holders	477,242	\$	8.03	3,021,053	(1)
Equity compensation plans not approved by security holders	—		—	—	
Total	477,242	\$	8.03	3,021,053	(1)

Notes:

- (1) The 1999 and 2003 Plans authorize the issuance of options equal to up to a total of 12% of the total Common Shares outstanding from time to time on a fully diluted basis. However, not more than 4,000,000 of the Common Shares in the aggregate may be issued pursuant to the exercise of options and no participant may receive more than 5,000,000 Common Shares during the term of the 1999 and 2003 Plans. Remaining available is based on 31,542,942 outstanding Common Shares and 653,360 OP Units as of December 31, 2005, less the issuance of a total of 365,261 restricted shares granted through the same date.

ITEM 6. SELECTED FINANCIAL DATA

The following table sets forth, on a historical basis, our selected financial data. This information should be read in conjunction with our audited consolidated financial statements and Management's Discussion and Analysis of Financial Condition and Results of Operations appearing elsewhere in this Form 10-K.

	Years ended December 31,				
	2005	2004	2003	2002	2001
OPERATING DATA:					
Revenues	\$ 83,318	\$ 71,657	\$ 66,646	\$ 65,916	\$ 57,327
Operating expenses	38,958	33,774	33,361	29,737	27,959
Interest expense	11,423	10,436	9,896	9,545	10,800
Depreciation and amortization	16,763	15,470	17,195	14,040	12,983
Abandoned project costs	—	—	—	274	—
Gain in sale of land	—	932	1,187	1,530	—
Equity in earnings of unconsolidated partnerships	8,228	1,797	2,411	628	504
Minority interest	(695)	(1,190)	(1,399)	(2,994)	(1,372)
Income taxes	(2,140)	—	—	—	—
Income from continuing operations	21,567	13,516	8,393	11,484	4,717
(Loss) income from discontinued operations	(941)	6,069	(540)	7,915	5,234
Income before cumulative effect of a change in accounting principle	20,626	19,585	7,853	19,399	9,951
Cumulative effect of a change in accounting principle	—	—	—	—	(149)
Net income	\$ 20,626	\$ 19,585	\$ 7,853	\$ 19,399	\$ 9,802
Basic earnings per share:					
Income from continuing operations	\$ 0.68	\$ 0.46	\$ 0.32	\$ 0.45	\$ 0.16
(Loss) income from discontinued operations	(0.03)	0.21	(0.02)	0.32	0.20
Cumulative effect of a change in accounting principle	—	—	—	—	(0.01)
Basic earnings per share	\$ 0.65	\$ 0.67	\$ 0.30	\$ 0.77	\$ 0.35
Diluted earnings per share:					
Income from continuing operations	\$ 0.67	\$ 0.45	\$ 0.31	\$ 0.45	\$ 0.16
(Loss) income from discontinued operations	(0.03)	0.20	(0.02)	0.31	0.20
Cumulative effect of a change in accounting principle	—	—	—	—	(0.01)
Diluted earnings per share	\$ 0.64	\$ 0.65	\$ 0.29	\$ 0.76	\$ 0.35
Weighted average number of Common Shares outstanding					
- basic	31,949	29,341	26,640	25,321	28,313
- diluted (1)	32,214	29,912	27,232	25,806	—
Cash dividends declared per Common Share	\$ 0.7025	\$ 0.6525	\$ 0.61	\$ 0.52	\$ 0.48
BALANCE SHEET DATA:					
Real estate before accumulated depreciation	\$ 435,751	\$ 414,974	\$ 407,220	\$ 393,652	\$ 378,216
Total assets	499,058	405,647	388,184	410,935	493,939
Total mortgage indebtedness	238,448	153,361	173,070	181,690	190,462
Minority interest – Operating Partnership	9,204	5,743	7,875	22,745	37,387
Total equity	220,576	216,924	169,734	161,323	179,098
OTHER:					
Funds from Operations (2)	\$ 35,842	\$ 30,004	\$ 27,664	\$ 30,162	\$ 13,487
Cash flows provided by (used in):					
Operating activities	23,959	25,468	20,118	30,008	21,039
Investing activities	(59,478)	(16,371)	(20,940)	47,553	(11,717)
Financing activities	61,632	(9,757)	(30,187)	(66,531)	(7,047)

Notes:

- (1) For 2001, the weighted average number of shares outstanding on a diluted basis is not presented as the inclusion of additional shares was anti-dilutive.
- (2) The Company considers funds from operations (“FFO”) as defined by the National Association of Real Estate Investment Trusts (“NAREIT”) to be an appropriate supplemental disclosure of operating performance for an equity REIT due to its widespread acceptance and use within the REIT and analyst communities. FFO is presented to assist investors in analyzing the performance of the Company. It is helpful as it excludes various items included in net income that are not indicative of the operating performance, such as gains (losses) from sales of depreciated property and depreciation and amortization. However, the Company’s method of calculating FFO may be different from methods used by other REITs and, accordingly, may not be comparable to such other REIT’s. FFO does not represent cash generated from operations as defined by generally accepted accounting principles (“GAAP”) and is not indicative of cash available to fund all cash needs, including distributions. It should not be considered as an alternative to net income for the purpose of evaluating the Company’s performance or to cash flows as a measure of liquidity. Consistent with the NAREIT definition, the Company defines FFO as net income (computed in accordance with GAAP), excluding gains (losses) from sales of depreciated property, plus depreciation and amortization, and after adjustments for unconsolidated partnerships and joint ventures. See Management’s Discussion and Analysis of Financial Condition and Results of Operations – Funds from Operations for the reconciliation of net income to FFO.

ITEM 7. MANAGEMENTS DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS

The following discussion should be read in conjunction with our consolidated financial statements (including the related notes thereto) appearing elsewhere in this Form 10-K. Certain statements contained in this Annual Report on Form 10-K may contain forward-looking statements within the meaning of Section 27A of the Securities Act of 1933 and Section 21E of the Securities and Exchange Act of 1934 and as such may involve known and unknown risks, uncertainties and other factors which may cause our actual results, performance or achievements to be materially different from future results, performance or achievements expressed or implied by such forward-looking statements. Forward-looking statements, which are based on certain assumptions and describe our future plans, strategies and expectations are generally identifiable by use of the words “may,” “will,” “should,” “expect,” “anticipate,” “estimate,” “believe,” “intend” or “project” or the negative thereof or other variations thereon or comparable terminology. Factors which could have a material adverse effect on our operations and future prospects include, but are not limited to those set forth under the heading “Risk Factors” in this Annual Report on Form 10-K. These risks and uncertainties should be considered in evaluating any forward-looking statements contained or incorporated by reference herein.

OVERVIEW

We currently operate 71 properties, which we own or have an ownership interest in, consisting of 69 neighborhood and community shopping centers and two multi-family properties, which are located primarily in the Northeast, Mid-Atlantic and Midwestern regions of the United States. We receive income primarily from the rental revenue from our properties, including recoveries from tenants, offset by operating and overhead expenses.

We focus on three primary areas in executing our business plan as follows:

- Focus on maximizing the return on our existing portfolio through leasing and property redevelopment activities. Our redevelopment program is a significant and ongoing component of managing our existing portfolio and focuses on selecting well-located neighborhood and community shopping centers and creating significant value through re-tenanting and property redevelopment.
- Pursue above-average returns through a disciplined and opportunistic acquisition program. The primary conduits for our acquisition program are through our existing acquisition joint venture, Acadia Strategic Opportunity Fund II, LLC (“Fund II”), as well as the Retailer Controlled Property Venture (“RCP Venture”) established to invest in surplus or underutilized properties owned or controlled by retailers and the New York Urban Infill Redevelopment initiative which focuses on investing in redevelopment projects in urban, dense areas where retail tenant demand has effectively surpassed the supply of available sites.
- Maintain a strong balance sheet, which provides us with the financial flexibility to fund both property redevelopment and acquisition opportunities.

RESULTS OF OPERATIONS

Comparison of the year ended December 31, 2005 (“2005”) to the year ended December 31, 2004 (“2004”)

Revenues:	2005	2004	Change	
			\$	%
Minimum rents	\$ 52.7	\$ 50.7	\$ 2.0	4%
Percentage rents	0.7	0.9	(0.2)	(22)%
Expense reimbursements	14.0	13.0	1.0	8%
Other property income	0.8	0.6	0.2	33%
Management fee income	11.5	4.8	6.7	140%
Interest income	3.6	1.5	2.1	140%
Other	—	0.2	(0.2)	(100)%
Total revenues	\$ 83.3	\$ 71.7	\$ 11.6	16%

The increase in minimum rents was attributable to additional rents following the purchase of Amboy Road shopping center in July 2005, re-tenanting activities as well as increased occupancy across the portfolio.

Real estate tax reimbursements increased \$0.5 million primarily as a result of general increases in real estate taxes as well as re-tenanting activities throughout the portfolio. CAM expense reimbursements increased \$0.5 million as a result of increased tenant reimbursements of higher snow removal costs in 2005.

Management fee income increased as a result of additional leasing fees from Fund I of \$0.9 million, increased asset management fees of \$2.2 million from Fund II (which was formed in June 2004), a \$2.6 million increase in management fees related to the acquisition of certain management contract rights in January 2004 and February 2005 and promote income on the Mervyns investment in 2005 of \$1.0 million.

The increase in interest income was a combination of additional interest income on our advances and notes receivable originated in 2004 and 2005 and additional interest income earned following our preferred equity investment in Levitz in 2005.

Operating Expenses:	2005	2004	Change	
			\$	%
Property operating	\$ 14.3	\$ 14.5	\$ (0.2)	(1)%
Real estate taxes	9.2	8.8	0.4	5%
General and administrative	15.4	10.4	5.0	48%
Depreciation and amortization	16.8	15.5	1.3	8%
Total operating expenses	\$ 55.7	\$ 49.2	\$ 6.5	13%

The decrease in property operating expenses was primarily a result of the recovery of \$0.5 million in 2005 related to the settlement of our insurance claim in connection with the flood damage incurred at Mark Plaza. A non-recurring charge of approximately \$0.7 million related to this flood damage was recorded in 2004. This decrease was partially offset by higher snow removal costs in 2005.

Real estate taxes increased as a result of general increases in real estate taxes experienced across the portfolio.

The increase in general and administrative expense was attributable to increased compensation expense and other overhead expenses following the expansion of our infrastructure related to increased investment activity in fund assets and asset management services.

Depreciation expense increased \$0.3 million in 2005 which was primarily attributable to increased depreciation expense related to capitalized tenant installation costs in 2004 and 2005. Amortization expense increased \$1.0 million primarily as a result of the write-off of certain Klaff management contracts following the disposition of these assets.

Other:	2005	2004	Change	
			\$	%
Equity in earnings of unconsolidated partnerships	\$ 8.2	\$ 1.8	\$ 6.4	356%
Interest Expense	(11.4)	(10.4)	(1.0)	(10)%
Gain on Sale	—	0.9	(0.9)	(100)%
Minority Interest	(0.7)	(1.2)	0.5	42%
Income Taxes	(2.1)	—	(2.1)	(100)%
(Loss) income from discontinued operations	(0.9)	6.1	(7.0)	(115)%

Equity in earnings of unconsolidated partnerships increased primarily as a result of our \$5.0 million share of gain, through our investment funds, from the sale of certain Mervyn's locations and our share of bankruptcy proceeds from Penn Traffic through Fund I of \$0.2 million.

The increase in interest expense was attributable to higher average outstanding balances in 2005 of \$0.8 million and higher average interest rates on the portfolio mortgage debt in 2005.

The gain on sale of land in 2004 was related to a prior year sale of a contract to purchase land to the Target Corporation. We received additional sales proceeds of \$0.9 million which were being held in escrow pending the completion of certain site work by the buyer. Of these proceeds, \$0.5 million were distributed to our joint venture partner in the sale and are a component of minority interest in the accompanying financial statements.

Income taxes in 2005 relate to our share of the income taxes on gain, through our investment funds, from the sale of certain Mervyn's locations during the third and fourth quarters of 2005.

Income (loss) from discontinued operations represents activity related to properties sold during 2004 and 2005.

Comparison of the year ended December 31, 2004 ("2004") to the year ended December 31, 2003 ("2003")

Revenues:	2004	2003	Change	
			\$	%
Minimum rents	\$ 50.7	\$ 48.1	\$ 2.6	5%
Percentage rents	0.9	1.0	(0.1)	(10)%
Expense reimbursements	13.0	12.8	0.2	2%
Other property income	0.6	0.7	(0.1)	(14)%
Management fee Income	4.8	2.0	2.8	140%
Interest income	1.5	0.8	0.7	88%
Other	0.2	1.2	(1.0)	(83)%
Total revenues	\$ 71.7	\$ 66.6	\$ 5.1	7.7%

The increase in minimum rents was attributable to an increase in rents following the redevelopment of the Gateway shopping center in 2003 and an increase in rents from re-tenanting activities as well as increased occupancy across the portfolio.

Real estate tax reimbursements increased \$0.5 million primarily as a result of general increases in real estate taxes as well as re-tenanting activities throughout the portfolio. CAM expense reimbursements decreased \$0.3 million primarily from tenant reimbursements of lower snow removal costs in 2004 offset by increased tenant reimbursements following re-tenanting activities across the portfolio.

Management fee income increased as a result of asset management fees from Fund II of \$1.7 million and an increase in management fees \$0.9 million related to the acquisition of certain management contract rights in 2004.

Other income decreased primarily due to a lump sum additional rent payment of \$1.2 million received from a former tenant during 2003 in connection with the re-anchoring of the Branch Plaza.

Operating Expenses:	2004	2003	Change	
			\$	%
Property operating	\$ 14.5	\$ 14.4	\$ 0.1	1%
Real estate taxes	8.8	8.2	0.6	7%
General and administrative	10.4	10.7	(0.3)	(3)%
Depreciation and amortization	15.5	17.2	(1.7)	(10)%
Total operating expenses	\$ 49.2	\$ 50.5	\$ (1.3)	(3)%

Property operating expenses increased primarily due to the result of a non-recurring charge of approximately \$0.7 million related to flood damage at the Mark Plaza in 2004 offset by higher snow removal costs during 2003.

Real estate taxes increased primarily due to a real estate tax refund received in 2003 related to the appeal of taxes paid in prior years at the Greenridge Plaza and higher real estate taxes throughout the portfolio in 2004.

General and administrative expense decreased primarily as the result of certain employee termination costs in 2003 and our capitalization of certain internal leasing costs in 2004 offset by additional professional fees related to Sarbanes-Oxley compliance in 2004.

Depreciation expense decreased \$2.5 million. This was a result of the write-off of \$2.7 million of unamortized tenant improvement costs related to the buyout and termination of the former anchor at the Town Line Plaza redevelopment project in 2003. This decrease was offset by increased depreciation expense in 2004 following the Gateway redevelopment project being placed in service during the second quarter of 2003. Amortization expense increased \$0.8 million primarily as a result of the amortization of investment in management contracts in 2004.

Other	2004	2003	Change	
			\$	%
Equity in earnings of unconsolidated partnerships	\$ 1.8	\$ 2.4	\$ (0.6)	(25)%
Interest expense	(10.4)	(9.9)	(0.5)	5%
Gain on sale	0.9	1.2	(0.3)	(25)%
Minority interest	(1.2)	(1.4)	0.2	(14)%
Operating loss from discontinued operations	(0.6)	(0.6)	0.0	—
Discontinued operations - gain on sale of properties	6.7	0.0	6.7	100%

Interest expense increase was primarily attributable to an increase of \$0.4 million as a result of higher average interest rates on the portfolio debt for 2004 and a decrease of \$0.1 million in capitalized interest in 2004.

Income from discontinued operations increased \$6.7 million due to a property sale in 2004.

Funds from Operations

We consider funds from operations (“FFO”) as defined by the National Association of Real Estate Investment Trusts (“NAREIT”) to be an appropriate supplemental disclosure of operating performance for an equity REIT due to its widespread acceptance and use within the REIT and analyst communities. FFO is presented to assist investors in analyzing our performance. It is helpful as it excludes various items included in net income that are not indicative of the operating performance, such as gains (losses) from sales of depreciated property and depreciation and amortization. However, our method of calculating FFO may be different from methods used by other REIT’s and, accordingly, may not be comparable to such other REIT’s. FFO does not represent cash generated from operations as defined by generally accepted accounting principles (“GAAP”) and is not indicative of cash available to fund all cash needs, including distributions. It should not be considered as an alternative to net income for the purpose of evaluating our performance or to cash flows as a measure of liquidity.

Consistent with the NAREIT definition, we define FFO as net income (computed in accordance with GAAP), excluding gains (losses) from sales of depreciated property, plus depreciation and amortization, and after adjustments for unconsolidated partnerships and joint ventures. The reconciliations of net income to FFO for the years ended December 31, 2005, 2004, 2003, 2002 and 2001 are as follows:

Reconciliation of Net Income to Funds from Operations

	For the Years Ended December 31,				
	2005	2004	2003	2002	2001
Net income	\$ 20,626	\$ 19,585	\$ 7,853	\$ 19,399	\$ 9,802
Depreciation of real estate and amortization of leasing costs:					
Wholly owned and consolidated partnerships	14,092	14,411	16,957	15,305	18,422
Unconsolidated partnerships	3,330	2,329	2,107	662	627
Income attributable to minority interest in operating partnership (1)	416	375	747	2,928	2,221
(Gain) loss on sale of properties	(2,622)	(6,696)	—	(8,132)	(17,734)
Cumulative effect of change in accounting principle	—	—	—	—	149
Funds from operations	\$ 35,842	\$ 30,004	\$ 27,664	\$ 30,162	\$ 13,487

Notes:

(1) Represents income attributable to Common Operating Partnership Units and does not include distributions paid to Series A and B Preferred OP Unitholders.

LIQUIDITY AND CAPITAL RESOURCES**USES OF LIQUIDITY**

Our principal uses of liquidity are expected to be for distributions to our shareholders and OP unit holders, debt service and loan repayments, and property investment which include the funding of our joint venture commitments, acquisition, redevelopment, expansion and re-tenanting activities.

Distributions

In order to qualify as a REIT for Federal income tax purposes, we must currently distribute at least 90% of our taxable income to our shareholders. For the first three quarters during 2005, we paid a quarterly dividend of \$0.1725 per Common Share and Common OP Unit. In November of 2005, our Board of Trustees approved and declared a 7.2% increase in our quarterly dividend to \$0.1850 per Common Share and Common OP Unit for the fourth quarter of 2005 which was paid January 13, 2006.

Acadia Strategic Opportunity Fund, LP (“Fund I”)

In September 2001, we committed \$20.0 million to a newly formed joint venture with four of our institutional shareholders, who committed \$70.0 million, for the purpose of acquiring a total of approximately \$300.0 million of community and neighborhood shopping centers on a leveraged basis. As of December 31, 2005, we have contributed \$19.2 million to Fund I.

We are the manager and general partner of Fund I with a 22% interest. In addition to a pro-rata return on our invested equity, we are entitled to a profit participation based upon certain investment return thresholds. Cash flow is to be distributed pro-rata to the partners (including us) until they have received a 9% cumulative return on, and a return of all capital contributions. Thereafter, remaining cash flow is to be distributed 80% to the partners (including us) and 20% to us. We also earn a fee for asset management services equal to 1.5% of the allocated equity in the remaining Fund I assets, as well as market-rate fees for property management, leasing and construction services.

As of December 31, 2005, Fund I has purchased a total of 35 properties totaling 2.8 million square feet as further discussed in "PROPERTY ACQUISITIONS" in Item 1 of this Form 10-K.

Acadia Strategic Opportunity Fund II, LLC ("Fund II")

On June 15, 2004, we closed our second acquisition fund, Fund II, which includes all of the investors from Fund I as well as two additional institutional investors. With \$300 million of committed discretionary capital, Fund II expects to be able to acquire up to \$900 million of real estate assets on a leveraged basis. We are the managing member with a 20% interest in the joint venture. The terms and structure of Fund II are substantially the same as Fund I with the exceptions that the preferred return is 8% and the asset management fee is calculated on committed equity of \$250 million through June 15, 2005 and then on the total committed equity of \$300 million thereafter. As of December 31, 2005, we have contributed \$67.0 million to Fund II.

Fund II has invested in the RCP Venture and the New York Urban/Infill Redevelopment initiatives and other investments as further discussed in "PROPERTY ACQUISITIONS" in Item 1 of this Form 10-K .

Other Investments

During 2004 and 2005, we made the following other investments as further discussed in "PROPERTY ACQUISITIONS" in Item 1 of this Form 10-K:

- i) \$20.0 million in Levitz SL,
- ii) \$16.8 million in Amboy Road,
- iii) \$8.0 million for Klaff's management rights,
- iv) \$3.2 million for Boonton and
- v) \$9.8 million for Clark/Diversey.

Property Development, Redevelopment and Expansion

During 2005, we completed the development of the Bartow Avenue Center, located in Bronx, New York. A new anchor, Sleepy's, opened for business during the second quarter. This store occupies 6,430 square feet of formerly vacant space. Costs incurred to date for this project totaled \$7.5 million.

Our redevelopment program focuses on selecting well-located neighborhood and community shopping centers and creating significant value through re-tenanting and property redevelopment. During 2005, we did not undertake any significant redevelopment projects within our core portfolio.

Additionally, for the year ending December 31, 2006, we currently estimate that capital outlays of approximately \$5.0 million to \$7.0 million will be required for tenant improvements, related renovations and other property improvements.

Share Repurchase

Repurchases of our Common Shares is an additional use of liquidity as discussed in Item 5 of this Form 10-K.

SOURCES OF LIQUIDITY

We intend on using Fund II as the primary vehicle for our future acquisitions, including investments in the RCP Venture and New York Urban/Infill Redevelopment initiative. Sources of capital for funding our joint venture commitments, other property acquisitions, redevelopment, expansion and re-tenanting, as well as future repurchases of Common Shares are expected to be obtained primarily from issuance of public equity or debt instruments, cash on hand, additional debt financings and future sales of existing properties. As of December 31, 2005, we had a total of approximately \$48.4 million of additional capacity under existing debt facilities, cash and cash equivalents on hand of \$39.6 million, and 9 properties that are unencumbered and available as potential collateral for future borrowings. We anticipate that cash flow from operating activities will continue to provide adequate capital for all of our debt service payments, recurring capital expenditures and REIT distribution requirements.

Issuance of Equity

During November 2004, we issued 1,890,000 Common Shares (the "Offering"). The Offering was made under shelf registration statements filed under the Securities Act of 1933, as amended, and previously declared effective by the Securities and Exchange Commission. The \$28.3 million in proceeds from the Offering, net of related costs, were used to retire above-market, fixed-rate indebtedness as well as to invest in real estate assets. Following this transaction, we have \$46.7 million of remaining capacity to issue equity under our primary shelf registration statement.

Financing and Debt

At December 31, 2005, mortgage notes payable aggregated \$238.4 million and were collateralized by 20 properties and related tenant leases. Interest rates on our outstanding mortgage indebtedness ranged from 5.0% to 7.6% with maturities that ranged from July 2007 to November 2015. Taking into consideration \$92.4 million of notional principal under variable to fixed-rate swap agreements currently in effect, \$216.8 million of the portfolio, or 91%, was fixed at a 5.8% weighted average interest rate and \$21.6 million, or 9% was floating at a 5.8% weighted average interest rate. There is no debt maturing in 2005 and 2006. In 2007, \$17.5 million is scheduled to mature at a weighted average interest rate of 5.9%. As we do not anticipate having sufficient cash on hand to repay such indebtedness, we will need to refinance this indebtedness or select other alternatives based on market conditions at that time.

The following summarizes the financing and refinancing transactions since December 31, 2004:

On February 25, 2005, we drew down \$20.0 million under an existing revolving facility, which bears interest at LIBOR plus 150 basis points. The proceeds from this drawdown were utilized for the Preferred Equity investment with Levitz SL, LLC.

During April 2005, we borrowed \$7.4 million under an existing secured revolving facility which was repaid in May 2005.

On May 26, 2005, we closed on a \$65.0 million cross-collateralized revolving facility which is collateralized by five of our properties. The facility bears interest at LIBOR plus 130 basis points and matures June 1, 2010. At closing, the lender advanced \$12.0 million, of which \$7.4 million was used to refinance an existing facility with the same lender. On June 27, 2005, an additional \$20.0 million was drawn on this line. On October 21, 2005, \$10.0 million was repaid on this line resulting in \$22.0 million outstanding under this facility as of December 31, 2005.

On August 31, 2005, we closed on a \$17.6 million loan, which bears interest at a fixed rate of 4.98%. This loan, which matures September 2015, requires the payment of interest only until October 2010, and thereafter interest and principal based on 30 year amortization. The proceeds from this loan were in part used to pay down \$15.0 million on an existing line.

On October 17, 2005, we closed on a \$12.5 million loan, which bears interest at a fixed rate of 5.12%. This loan, which matures November 2015, requires the payment of interest only until November 2008, and thereafter interest and principal until maturity. The proceeds from this loan were in part used to pay down \$10.0 million on the aforementioned \$65.0 million revolving facility.

On December 9, 2005, we closed on a \$34.6 million loan, which bears interest at a fixed rate of 5.53%. This loan, which matures January 2016, requires the payment of interest only until January 2010, and thereafter interest and principal until maturity.

Asset Sales

Asset sales are an additional source of liquidity for us. During 2005 and 2004, we sold the Berlin Shopping Center and East End Centre as discussed in "ASSET SALES AND CAPITAL/ASSET RECYCLING" in Item 1 of this Form 10-K.

CONTRACTUAL OBLIGATIONS AND OTHER COMMITMENTS

At December 31, 2005, maturities on our mortgage notes ranged from July 2007 to January 2016. In addition, we have non-cancelable ground leases at four of our shopping centers. We also lease space for our White Plains corporate office for a term expiring in 2010. The following table summarizes our debt maturities and obligations under non-cancelable operating leases of December 31, 2005:

	(amounts in millions)				
	Payments due by period				
Contractual obligation	Total	Less than 1 year	1 to 3 years	3 to 5 years	More than 5 years
Future debt maturities	\$ 238.4	\$ 2.1	\$ 28.8	\$ 43.7	\$ 163.8
Interest obligations on debt	86.4	13.6	37.6	18.5	16.7
Operating lease obligations	38.2	1.8	3.8	3.6	29.0
Total	\$ 363.0	\$ 17.5	\$ 70.2	\$ 65.8	\$ 209.5

OFF BALANCE SHEET ARRANGEMENTS

We have investments in three joint ventures for the purpose of investing in operating properties as follows:

We own a 49% interest in two partnerships which own the Crossroads Shopping Center ("Crossroads"). We account for the investment in Crossroads using the equity method of accounting as we have a non-controlling investment in Crossroads, but exercise significant influence. As such, our financial statements reflect our share of income from, but not the assets and liabilities of, Crossroads. Our pro rata share of Crossroads mortgage debt as of December 31, 2005 was \$31.4 million. This fixed-rate debt bears interest at 5.4% and matures in December 2014.

Reference is made to the discussion of Funds I and II under "Uses of Liquidity" in this Item 7 for additional detail related to our investment in and commitments to Funds I and II. As of December 31, 2005, we own a 22% interest in Fund I and 20% in Fund II for which we also use the equity method of accounting. Our pro rata share of Funds I and II fixed-rate mortgage debt as of December 31, 2005 was \$24.4 million at a weighted average interest rate of 6.2%. Our pro rata share of Funds I and II variable-rate mortgage debt as of December 31, 2005 was \$14.3 million at a weighted average interest rate of 5.8%. Maturities on these loans range from March 2006 to January 2023.

HISTORICAL CASH FLOW

The following discussion of historical cash flow compares our cash flow for the year ended December 31, 2005 ("2005") with our cash flow for the year ended December 31, 2004 ("2004").

Cash and cash equivalents were \$39.6 million and \$13.5 million at December 31, 2005 and 2004, respectively. The increase of \$26.1 million was a result of the following increases and decreases in cash flows:

(amounts in millions)	Years Ended December 31,		
	2005	2004	Variance
Net cash provided by operating activities	\$ 24.0	\$ 25.5	\$ (1.5)
Net cash used in investing activities	(59.5)	(16.4)	(43.1)
Net cash provided by (used in) financing activities	61.6	(9.8)	71.4

The variance in net cash provided by operating activities resulted from an increase of \$2.4 million in operating income before non-cash expenses in 2005, which was primarily due to an increase in asset management and service fee income from our fund investments, additional fee income from the acquisition of certain management contracts rights in January 2004 and February 2005, promote income on the Mervyn's investment in 2005, and additional interest income resulting from our preferred equity investment in 2005 and a decrease in distributions received from unconsolidated partnerships. These increases were offset by additional general and administrative costs due to increased compensation and other overhead expenses following the expansion of our infrastructure. In addition, a net decrease in cash provided by operating assets and liabilities of \$3.9 million resulted primarily from an increase in receivables related to third party construction cost reimbursements offset by an increase in income taxes payable related to the Company's share of the gain realized by Mervyn's.

The increase in net cash used in investing activities resulted primarily from a \$19.0 million Preferred Equity investment in 2005, an \$18.5 million increase in expenditures for real estate acquisitions, development and tenant installation during 2005 and a decrease of \$16.8 million of distributions received from unconsolidated partnerships. These decreases were offset by a \$3.7 million decrease in investments in and advances to unconsolidated partnerships in 2005 and \$3.9 million of proceeds received from the sale of a property in 2005.

The increase in net cash provided by financing activities resulted from the following:

Debt repayment in 2004	\$ 100.9
Debt repayment in 2005	(39.0)
Additional borrowings in 2005	47.8
Proceeds from issuance of Common Shares in 2004	(28.3)
Proceeds of exercise of Stock Options in 2004	(9.0)
Miscellaneous	(1.0)
Total variance	\$ (71.4)

CRITICAL ACCOUNTING POLICIES

Management's discussion and analysis of financial condition and results of operations is based upon our consolidated financial statements, which have been prepared in accordance with GAAP. The preparation of these consolidated financial statements requires management to make estimates and judgments that affect the reported amounts of assets, liabilities, revenues and expenses. We base our estimates on historical experience and assumptions that are believed to be reasonable under the circumstances, the results of which form the basis for making judgments about carrying value of assets and liabilities that are not readily apparent from other sources. Actual results may differ from these estimates under different assumptions or conditions. We believe the following critical accounting policies affect the significant judgments and estimates used by us in the preparation of our consolidated financial statements.

Valuation of Property Held for Use and Sale

On a quarterly basis, we review the carrying value of both properties held for use and for sale. We record impairment losses and reduce the carrying value of properties when indicators of impairment are present and the expected undiscounted cash flows related to those properties are less than their carrying amounts. In cases where we do not expect to recover our carrying costs on properties held for use, we reduce our carrying cost to fair value, and for properties held for sale, we reduce our carrying value to the fair value less costs to sell. For the year ended December 31, 2005, an impairment loss of \$0.8 million was recognized related to a property that was sold in July of 2005. Management does not believe that the value of any properties in its portfolio was impaired as of December 31, 2005 or 2004.

Bad Debts

We maintain an allowance for doubtful accounts for estimated losses resulting from the inability of tenants to make payments on arrearages in billed rents, as well as the likelihood that tenants will not have the ability to make payment on unbilled rents including estimated expense recoveries and straight-line rent. As of December 31, 2005, we had recorded an allowance for doubtful accounts of \$2.8 million. If the financial condition of our tenants were to deteriorate, resulting in an impairment of their ability to make payments, additional allowances may be required.

INFLATION

Our long-term leases contain provisions designed to mitigate the adverse impact of inflation on our net income. Such provisions include clauses enabling us to receive percentage rents based on tenants' gross sales, which generally increase as prices rise, and/or, in certain cases, escalation clauses, which generally increase rental rates during the terms of the leases. Such escalation clauses are often related to increases in the consumer price index or similar inflation indexes. In addition, many of our leases are for terms of less than ten years, which permits us to seek to increase rents upon re-rental at market rates if current rents are below the then existing market rates. Most of our leases require the tenants to pay their share of operating expenses, including common area maintenance, real estate taxes, insurance and utilities, thereby reducing our exposure to increases in costs and operating expenses resulting from inflation.

RECENTLY ISSUED ACCOUNTING PRONOUNCEMENTS

Reference is made to the Notes to Consolidated Financial Statements included in Item 8 of this Form 10-K.

ITEM 7A. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK

Our primary market risk exposure is to changes in interest rates related to our mortgage debt. See the consolidated financial statements and notes thereto included in this Annual Report on Form 10-K for certain quantitative details related to our mortgage debt.

Currently, we manage our exposure to fluctuations in interest rates primarily through the use of fixed-rate debt and interest rate swap agreements. As of December 31, 2005, we had total mortgage debt of \$238.4 million of which \$216.8 million, or 91% was fixed-rate, inclusive of interest rate swaps, and \$21.6 million, or 9%, was variable-rate based upon LIBOR plus certain spreads. As of December 31, 2005, we were a party to five interest rate swap transactions to hedge our exposure to changes in interest rates with respect to \$92.4 million of LIBOR based variable-rate debt. We also have three forward-starting interest rate swaps which commence during 2006, and 2007 and mature from 2010 to 2012 that will hedge our exposure to changes in interest rates with respect to \$24.5 million of refinanced LIBOR-based variable rate debt with the matching maturities.

The following table sets forth information as of December 31, 2005 concerning our long-term debt obligations, including principal cash flows by scheduled maturity and weighted average interest rates of maturing amounts (amounts in millions):

Consolidated mortgage debt:

Year	Scheduled amortization	Maturities	Total	Weighted average interest rate
2006	\$ 2.1	\$ —	\$ 2.1	n/a
2007	3.9	12.5	16.4	6.5%
2008	4.4	8.0	12.4	5.7%
2009	5.3	—	5.3	n/a
2010	1.7	36.7	38.4	6.4%
Thereafter	48.0	115.8	163.8	5.6%
	\$ 65.4	\$ 173.0	\$ 238.4	

Mortgage debt in unconsolidated partnerships (at our pro rata share):

Year	Scheduled amortization	Maturities	Total	Weighted average interest rate
2006	\$ 1.0	\$ 3.3	\$ 4.3	4.2%
2007	1.4	8.4	9.8	5.4%
2008	1.5	11.5	13.0	4.7%
2009	1.5	—	1.5	n/a
2010	0.7	1.4	2.1	5.5%
Thereafter	4.6	34.8	39.4	5.7%
	\$ 10.7	\$ 59.4	\$ 70.1	

Of our total outstanding debt, \$12.5 million will become due in 2007. As we intend on refinancing some or all of such debt at the then-existing market interest rates which may be greater than the current interest rate, our interest expense would increase by approximately \$0.1 million annually if the interest rate on the refinanced debt increased by 100 basis points. Interest expense on our variable debt as of December 31, 2005 would not increase materially as we only have \$21.6 million of floating rate debt after taking into account the effect of interest rate swaps hedging \$92.4 million of notional principal. We may seek additional variable-rate financing if and when pricing and other commercial and financial terms warrant. As such, we would consider hedging against the interest rate risk related to such additional variable-rate debt through interest rate swaps and protection agreements, or other means.

ITEM 8. FINANCIAL STATEMENTS AND SUPPLEMENTARY DATA

The financial statements and supplementary data listed in items 15(a) (1) and 15(a) (2) hereof are incorporated herein by reference.

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

On October 6, 2005, the Audit Committee of our Board of Directors agreed, by resolution, not to continue the engagement of our independent registered public accounting firm, Ernst and Young, LLP (“Ernst and Young”). The Audit committee further resolved to engage the accounting firm, BDO Seidman, LLP (“BDO”) effective immediately. The decision was based primarily on the Audit Committee’s efforts to reduce our costs for accounting services. We have not had any disagreements with Ernst and Young during the interim period from January 1, 2005 through the date of disengagement, nor any disagreements related to any prior years’ audits.

ITEM 9A. CONTROLS AND PROCEDURES

(i) Disclosure Controls and Procedures

We conducted an evaluation, under the supervision and with the participation of management including our Chief Executive Officer and Chief Financial Officer, of the effectiveness of our disclosure controls and procedures. Based on that evaluation, the Chief Executive Officer and Chief Financial Officer concluded that the our disclosure controls and procedures were effective as of December 31, 2005.

(ii) Internal Control Over Financial Reporting

(a) Management's Annual Report on Internal Control Over Financial Reporting

Management of Acadia Realty Trust is responsible for establishing and maintaining adequate internal control over financial reporting, as such term is defined in the Securities Exchange Act of 1934 Rule 13a-15(f). Under the supervision and with the participation of our management, including our principal executive officer and principal financial officer, we conducted an evaluation of the effectiveness of our internal control over financial reporting as of December 31, 2005 as required by the Securities Exchange Act of 1934 Rule 13a-15(c). In making this assessment, we used the criteria set forth in the framework in *Internal Control–Integrated Framework* issued by the Committee of Sponsoring Organizations of the Treadway Commission. Based on our evaluation under the framework in *Internal Control–Integrated Framework*, our management concluded that our internal control over financial reporting was effective as of December 31, 2005.

BDO Seidman, LLP, an independent registered public accounting firm that audited our Financial Statements included in this Annual Report, has issued an attestation report on our management's assessment of the effectiveness of our internal control over financial reporting as of December 31, 2005 which appears in this item 9A.

Acadia Realty Trust

White Plains, New York
March 15, 2006

(b) Attestation report of the independent registered public accounting firm

The Shareholders and Trustees of
Acadia Realty Trust

We have audited management's assessment, included in the accompanying Management's Report on Internal Control Over Financial Reporting, that Acadia Realty Trust and subsidiaries maintained effective internal control over financial reporting as of December 31, 2005, based on criteria established in Internal Control—Integrated Framework issued by the Committee of Sponsoring Organizations of the Treadway Commission (the COSO criteria). Acadia Realty Trust and subsidiaries' management is responsible for maintaining effective internal control over financial reporting and for its assessment of the effectiveness of internal control over financial reporting. Our responsibility is to express an opinion on management's assessment and an opinion on the effectiveness of the company's internal control over financial reporting based on our audit.

We conducted our audit in accordance with the standards of the Public Company Accounting Oversight Board (United States). Those standards require that we plan and perform the audit to obtain reasonable assurance about whether effective internal control over financial reporting was maintained in all material respects. Our audit included obtaining an understanding of internal control over financial reporting, evaluating management's assessment, testing and evaluating the design and operating effectiveness of internal control, and performing such other procedures as we considered necessary in the circumstances. We believe that our audit provides a reasonable basis for our opinion.

A company's internal control over financial reporting is a process designed to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles. A company's internal control over financial reporting includes those policies and procedures that (1) pertain to the maintenance of records that, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the assets of the company; (2) provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with generally accepted accounting principles, and that receipts and expenditures of the company are being made only in accordance with authorizations of management and directors of the company; and (3) provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use, or disposition of the company's assets that could have a material effect on the financial statements.

Because of its inherent limitations, internal control over financial reporting may not prevent or detect misstatements. Also, projections of any evaluation of effectiveness to future periods are subject to the risk that controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies or procedures may deteriorate.

In our opinion, management's assessment that Acadia Realty Trust and subsidiaries maintained effective internal control over financial reporting as of December 31, 2005, is fairly stated, in all material respects, based on the COSO criteria. Also, in our opinion, Acadia Realty Trust maintained, in all material respects, effective internal control over financial reporting as of December 31, 2005, based on the COSO criteria.

We also have audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States), the consolidated balance sheets of Acadia Realty Trust and subsidiaries as of December 31, 2005 and the related consolidated statements of income, shareholders' equity, and cash flows for the year ended December 31, 2005 and our report dated March 8, 2006 expressed an unqualified opinion thereon.

BDO Seidman, LLP

New York, New York
March 8, 2006

(c) Changes in internal control over financial reporting.

There was no change in our internal control over financial reporting during our fourth fiscal quarter ended December 31, 2005 that has materially affected, or is reasonably likely to materially affect, our internal control over financial reporting.

PART III

ITEM 9B. OTHER INFORMATION

None

ITEM 10. DIRECTORS AND EXECUTIVE OFFICERS OF THE COMPANY

This item is incorporated by reference from the definitive proxy statement for the 2006 Annual Meeting of Shareholders presently scheduled to be held May 15, 2006, to be filed pursuant to Regulation 14A.

ITEM 11. EXECUTIVE COMPENSATION

This item is incorporated by reference from the definitive proxy statement for the 2006 Annual Meeting of Shareholders presently scheduled to be held May 15, 2006, to be filed pursuant to Regulation 14A.

ITEM 12. SECURITY OWNERSHIP OF CERTAIN BENEFICIAL OWNERS AND MANAGEMENT

This item is incorporated by reference from the definitive proxy statement for the 2006 Annual Meeting of Shareholders presently scheduled to be held May 15, 2006, to be filed pursuant to Regulation 14A.

ITEM 13. CERTAIN RELATIONSHIPS AND RELATED TRANSACTIONS

This item is incorporated by reference from the definitive proxy statement for the 2006 Annual Meeting of Shareholders presently scheduled to be held May 15, 2006, to be filed pursuant to Regulation 14A.

ITEM 14. PRINCIPAL ACCOUNTANT FEES AND SERVICES

This item is incorporated by reference from the definitive proxy statement for the 2006 Annual Meeting of Shareholders presently scheduled to be held May 15, 2006, to be filed pursuant to Regulation 14A.

ITEM 15. EXHIBITS, FINANCIAL STATEMENTS SCHEDULES

(a) Financial Statements – Form 10-K. The following consolidated financial information is included as a separate section of this Form 10-K

Report of Registered Public Accounting Firm for the year ended December 31, 2005	F-2
Report of Registered Public Accounting Firm for the years ended December 31, 2004 and 2003	F-3
Consolidated Balance Sheets as of December 31, 2005 and 2004	F-4
Consolidated Statements of Income for the years ended December 31, 2005, 2004 and 2003	F-5
Consolidated Statements of Shareholders' Equity for the years ended December 31, 2005, 2004 and 2003	F-6
Consolidated Statements of Cash Flows for the years ended December 31, 2005, 2004 and 2003	F-7
Notes to Consolidated Financial Statements	F-9
Schedule III – Real Estate and Accumulated Depreciation	F-37

All other schedules are omitted since the required information is not present or is not present in amounts sufficient to require submission of the schedule.

Exhibit No.	Description
3.1	Declaration of Trust of the Company, as amended (1)
3.2	Fourth Amendment to Declaration of Trust (4)
3.3	Amended and Restated By-Laws of the Company (22)
4.1	Voting Trust Agreement between the Company and Yale University dated February 27, 2002 (14)
10.1	1999 Share Option Plan (8) (20)
10.2	2003 Share Option Plan (16) (20)
10.3	Form of Share Award Agreement (17) (21)
10.4	Form of Registration Rights Agreement and Lock-Up Agreement (18)
10.5	Registration Rights and Lock-Up Agreement (RD Capital Transaction) (11)
10.6	Registration Rights and Lock-Up Agreement (Pacesetter Transaction) (11)
10.7	Contribution and Share Purchase Agreement dated as of April 15, 1998 among Mark Centers Trust, Mark Centers Limited Partnership, the Contributing Owners and Contributing Entities named therein, RD Properties, L.P. VI, RD Properties, L.P. VIA and RD Properties, L.P. VIB (9)
10.8	Agreement of Contribution among Acadia Realty Limited Partnership, Acadia Realty Trust and Klaff Realty, LP and Klaff Realty, Limited (18)
10.9	Employment agreement between the Company and Kenneth F. Bernstein (6) (21)
10.11	Amendment to employment agreement between the Company and Kenneth F. Bernstein (18) (21)
10.12	First Amendment to Employment Agreement between the Company and Kenneth Bernstein dated as of January 1, 2001 (12) (21)
10.14	Letter of employment offer between the Company and Michael Nelsen, Sr. Vice President and Chief Financial Officer dated February 19, 2003 (15) (21)
10.15	Severance Agreement between the Company and Joel Braun, Sr. Vice President, dated April 6, 2001 (13) (21)
10.16	Severance Agreement between the Company and Joseph Hogan, Sr. Vice President, dated April 6, 2001 (13) (21)
10.17	Severance Agreement between the Company and Joseph Napolitano, Sr. Vice President dated April 6, 2001 (18) (21)
10.18	Severance Agreement between the Company and Robert Masters, Sr. Vice President and General Counsel dated January 2001 (18) (21)
10.19	Severance Agreement between the Company and Michael Nelsen, Sr. Vice President and Chief Financial Officer dated February 19, 2003 (15) (21)
10.20	Secured Promissory Note between RD Absecon Associates, L.P. and Fleet Bank, N.A. dated February 8, 2000 (7)
10.21	Promissory Note between 239 Greenwich Associates, L.P. and Greenwich Capital Financial Products, Inc. dated May 30, 2003 (18)
10.22	Open-End Mortgage, Assignment of Leases and Rents, and Security Agreement between 239 Greenwich Associates, L.P. and Greenwich Capital Financial Products, Inc. dated May 30, 2003 (18)
10.23	Promissory Note between Merrillville Realty, L.P. and Sun America Life Insurance Company dated July 7, 1999 (7)
10.24	Secured Promissory Note between Acadia Town Line, LLC and Fleet Bank, N.A. dated March 21, 1999 (7)
10.25	Promissory Note between RD Village Associates Limited Partnership and Sun America Life Insurance Company Dated September 21, 1999 (7)
10.26	Amended and Restated Mortgage Note between Port Bay Associates, LLC and Fleet Bank, N.A. dated July 19, 2000 (3)
10.27	Mortgage and Security Agreement between Port Bay Associates, LLC and Fleet Bank, N.A. dated July 19, 2000 (10)
10.28	Mortgage Note between Port Bay Associates, LLC and Fleet Bank, N.A. dated December 1, 2003 (18)
10.29	Mortgage and Security Agreement, and Assignment of Leases and Rents between Port Bay Associates, LLC and Fleet Bank, N.A. dated December 1, 2003 (18)
10.30	Note Modification Agreement between Port Bay Associates, LLC and Fleet Bank, N.A. dated December 1, 2003 (18)
10.31	Amended and Restated Promissory Note between Acadia Realty L.P. and Metropolitan Life Insurance Company for \$25.2 million dated October 13, 2000 (10)
10.32	Amended and Restated Mortgage, Security Agreement and Fixture Filing between Acadia Realty L.P. and Metropolitan Life Insurance Company dated October 13, 2000 (10)
10.33	Term Loan Agreement between Acadia Realty L.P. and The Dime Savings Bank of New York, dated March 30, 2000 (10)
10.34	Mortgage Agreement between Acadia Realty L.P. and The Dime Savings Bank of New York, dated March 30, 2000 (10)
10.35	Promissory Note between RD Whitegate Associates, L.P. and Bank of America, N.A. dated December 22, 2000 (10)
10.36	Promissory Note between RD Columbia Associates, L.P. and Bank of America, N.A. dated December 22, 2000 (10)
10.37	Term Loan Agreement dated as of December 28, 2001, among Fleet National Bank and RD Branch Associates, L.P., et al (13)
10.38	Term Loan Agreement dated as of December 21, 2001, among RD Woonsocket Associates Limited Partnership, et al. and The Dime Savings Bank of New York, FSB (13)

Exhibit No.	Description
10.39	Option Extension of Term Loan as of December 19, 2003 between RD Woonsocket Associates Limited Partnership, et al. and Washington Mutual Bank, FA (18)
10.40	Revolving Loan Promissory Note dated as of November 22, 2002, among RD Elmwood Associates, L.P. and Washington Mutual Bank, FA (15)
10.41	Revolving Loan Agreement dated as of November 22, 2002, among RD Elmwood Associates, L.P. and Washington Mutual Bank, FA (15)
10.42	Mortgage Agreement dated as of November 22, 2002, among RD Elmwood Associates, L.P. and Washington Mutual Bank, FA (15)
10.43	Note Modification Agreement between RD Elmwood Associates, L.P. and Washington Mutual Bank, FA dated December 19, 2003 (18)
10.44	Prospectus Supplement Regarding Options Issued under the Acadia Realty Trust 1999 Share Incentive Plan and 2003 Share Incentive Plan (19) (21)
10.45	Acadia Realty Trust 1999 Share Incentive Plan and 2003 Share Incentive Plan Deferral and Distribution Election Form (19) (21)
10.46	Amended, Restated And Consolidated Promissory Note between Acadia New Loudon, LLC and Greenwich Capital Financial Products, Inc. dated August 13, 2004 (19)
10.47	Amended, Restated And Consolidated Mortgage, Assignment Of Leases And Rents And Security Agreement between Acadia New Loudon, LLC and Greenwich Capital Financial Products, Inc. dated August 13, 2004 (19)
10.48	Amended and Restated Term Loan Agreement between Fleet National Bank and Heathcote Associates, L.P., Acadia Town Line, LLC, RD Branch Associates, L.P., RD Abington Associates Limited Partnership, And RD Methuen Associates Limited Partnership dated September 30, 2004 (19)
10.49	Mortgage Modification Agreement between Fleet National Bank and Acadia Town Line, LLC dated September 30, 2004 (19)
10.49a	Mortgage Modification Agreement between Fleet National Bank and Heathcote Associates, L.P. dated September 30, 2004 (19)
10.49b	Mortgage Modification Agreement between Fleet National Bank and RD Branch Associates dated September 30, 2004 (19)
10.49c	Mortgage Modification Agreement between Fleet National Bank and RD Methuen Associates dated September 30, 2004 (19)
10.49d	Mortgage Modification Agreement between Fleet National Bank and RD Abington Associates Limited Partnership dated September 30, 2004 (19)
10.50	Revolving Loan Agreement between Fleet National Bank and The Bank of China and RD Absecon Associates, L.P., RD Bloomfield Associates, L.P., RD Hobson Associates, L.P., RD Village Associates, L.P., and RD Woonsocket Associates L.P. dated May 26, 2005 (22)
10.51	Mortgage, Assignment of Leases and Rents and Security Agreement between Acadia Crescent Plaza, LLC and Greenwich Capital Financial Products, Inc. dated August 31, 2005 (22)
10.52	Mortgage, Assignment of Leases and Rents and Security Agreement between Pacesetter/Ramapo Associates and Greenwich Capital Financial Products, Inc. dated October 17, 2005 (22)
10.53	Loan Agreement between RD Elmwood Associates, L.P. and Bear Stearns Commercial Finance Mortgage, Inc. dated December 9, 2005 (22)
10.54	Mortgage and Security Agreement between RD Elmwood Associates, L.P. and Bear Stearns Commercial Finance Mortgage, Inc. dated December 9, 2005 (22)
21	List of Subsidiaries of Acadia Realty Trust (22)
23.1	Consent of Registered Public Accounting Firm to Form S-3 and Form S-8 (22)
23.2	Consent of former Registered Public Accounting Firm to Form S-3 and Form S-8 (22)
31.1	Certification of Chief Executive Officer pursuant to rule 13a-14(a)/15d-14(a) of the Securities Exchange Act of 1934, as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002 (22)
31.2	Certification of Chief Financial Officer pursuant to rule 13a-14(a)/15d-14(a) of the Securities Exchange Act of 1934, as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002 (22)
32.1	Certification of Chief Executive Officer pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002 (22)
32.2	Certification of Chief Financial Officer pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002 (22)
99.1	Amended and Restated Agreement of Limited Partnership of the Operating Partnership (11)
99.2	First and Second Amendments to the Amended and Restated Agreement of Limited Partnership of the Operating Partnership (11)
99.3	Third Amendment to Amended and Restated Agreement of Limited Partnership of the Operating Partnership (18)
99.4	Fourth Amendment to Amended and Restated Agreement of Limited Partnership of the Operating Partnership (18)
99.5	Certificate of Designation of Series A Preferred Operating Partnership Units of Limited Partnership Interest of Acadia Realty Limited Partnership (2)
99.6	Certificate of Designation of Series B Preferred Operating Partnership Units of Limited Partnership Interest of Acadia Realty Limited Partnership (18)

Notes:

- (1) Incorporated by reference to the copy thereof filed as an Exhibit to the Company's Annual Report on Form 10-K filed for the fiscal Year ended December 31, 1994
- (2) Incorporated by reference to the copy thereof filed as an Exhibit to Company's Quarterly Report on Form 10-Q filed for the quarter ended June 30, 1997
- (3) Incorporated by reference to the copy thereof filed as an Exhibit to Company's Quarterly Report on Form 10-Q filed for the quarter ended September 30, 1998
- (4) Incorporated by reference to the copy thereof filed as an Exhibit to Company's Quarterly Report on Form 10-Q filed for the quarter ended September 30, 1998
- (5) Incorporated by reference to the copy thereof filed as an Exhibit to the Company's Registration Statement on Form S-11 (File No.33-60008)
- (6) Incorporated by reference to the copy thereof filed as an Exhibit to the Company's Annual Report on Form10-K filed for the fiscal year ended December 31, 1998
- (7) Incorporated by reference to the copy thereof filed as an Exhibit to the Company's Annual Report on Form10-K filed for the fiscal year ended December 31, 1999
- (8) Incorporated by reference to the copy thereof filed as an Exhibit to the Company's Registration Statement on Form S-8 filed September 28, 1999
- (9) Incorporated by reference to the copy thereof filed as an Exhibit to the Company's Form 8-K filed on April 20, 1998
- (10) Incorporated by reference to the copy thereof filed as an Exhibit to the Company's Form 10-K filed for the fiscal year ended December 31, 2000
- (11) Incorporated by reference to the copy thereof filed as an Exhibit to the Company's Registration Statement on Form S-3 filed on March 3, 2000
- (12) Incorporated by reference to the copy thereof filed as an Exhibit to Company's Quarterly Report on Form 10-Q filed for the quarter ended September 30, 2001
- (13) Incorporated by reference to the copy thereof filed as an Exhibit to the Company's Annual Report on Form 10-K filed for the fiscal year ended December 31, 2001
- (14) Incorporated by reference to the copy thereof filed as an Exhibit to Yale University's Schedule 13D filed on September 25, 2002
- (15) Incorporated by reference to the copy thereof filed as an Exhibit to the Company's Annual Report on Form 10-K filed for the fiscal year ended December 31, 2002
- (16) Incorporated by reference to the copy thereof filed as an Exhibit to the Company's Definitive Proxy Statement on Schedule 14A filed April 29, 2003.
- (17) Incorporated by reference to the copy thereof filed as an Exhibit to the Company's Current Report on Form 8-K filed on July 2, 2003
- (18) Incorporated by reference to the copy thereof filed as an Exhibit to the Company's Annual Report on Form 10-K filed for the fiscal year ended December 31, 2003
- (19) Incorporated by reference to the copy thereof filed as an Exhibit to the Company's Annual Report on Form 10-K filed for the fiscal year ended December 31, 2004.
- (20) Incorporated by reference to the copy thereof filed as an Exhibit to the Company's Annual Report on Form 10-K filed for the fiscal year ended December 31, 2004.
- (21) Management contract or compensatory plan or arrangement.
- (22) Filed herewith.

SIGNATURES

Pursuant to the requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934, the Registrant has duly caused this report to be signed on its behalf by the undersigned, thereto duly authorized.

**ACADIA REALTY TRUST
(Registrant)**

By: /s/ Kenneth F. Bernstein

Kenneth F. Bernstein
Chief Executive Officer,
President and Trustee

By: /s/ Michael Nelsen

Michael Nelsen
Sr. Vice President and
Chief Financial Officer

By: /s/ Jonathan W. Grisham

Jonathan W. Grisham
Vice President and
Chief Accounting Officer

Dated: March 15, 2006

Pursuant to the requirements of the Securities Exchange Act of 1934, this report has been signed below by the following persons on behalf of the Registrant and in the capacities and on the dates indicated.

Signature	Title	Date
/s/ Kenneth F. Bernstein <hr/> (Kenneth F. Bernstein)	Chief Executive Officer, President and Trustee (Principal Executive Officer)	March 15, 2006
/s/ Michael Nelsen <hr/> (Michael Nelsen)	Senior Vice President and Chief Financial Officer (Principal Financial Officer)	March 15, 2006
/s/ Jonathan W. Grisham <hr/> (Jonathan W. Grisham)	Vice President and Chief Accounting Officer (Principal Accounting Officer)	March 15, 2006
/s/ Douglas Crocker II <hr/> Douglas Crocker II	Trustee	March 15, 2006
/s/ Alan S. Forman <hr/> (Alan S. Forman)	Trustee	March 15, 2006
/s/ Suzanne Hopgood <hr/> (Suzanne Hopgood)	Trustee	March 15, 2006
/s/ Lorrence T. Kellar <hr/> Lorrence T. Kellar	Trustee	March 15, 2006
/s/ Wendy Luscombe <hr/> (Wendy Luscombe)	Trustee	March 15, 2006
/s/ Lee S. Wielansky <hr/> (Lee S. Wielansky)	Trustee	March 15, 2006

EXHIBIT INDEX

The following is an index to all exhibits filed with the Annual Report on Form 10-K other than those incorporated by reference herein:

Exhibit No.	Description
3.3	Amended and Restated By-Laws of the Company
10.50	Revolving Loan Agreement between Fleet National Bank and The Bank of China and RD Absecon Associates, L.P., RD Bloomfield Associates, L.P., RD Hobson Associates, L.P., RD Village Associates, L.P., and RD Woonsocket Associates L.P. dated May 26, 2005
10.51	Mortgage, Assignment of Leases and Rents and Security Agreement between Acadia Crescent Plaza, LLC and Greenwich Capital Financial Products, Inc. dated August 31, 2005
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23.1	Consent of Registered Public Accounting Firm to Form S-3 and Form S-8
23.2	Consent of former Registered Public Accounting Firm to Form S-3 and Form S-8
31.1	Certification of Chief Executive Officer pursuant to rule 13a – 14(a)/15d-14(a) of the Securities Exchange Act of 1934, as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002
31.2	Certification of Chief Financial Officer pursuant to rule 13a – 14(a)/15d-14(a) of the Securities Exchange Act of 1934, as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002
32.1	Certification of Chief Executive Officer pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002
32.2	Certification of Chief Financial Officer pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002

ACADIA REALTY TRUST AND SUBSIDIARIES
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Report of Independent Registered Public Accounting Firm

The Shareholders and Trustees of
Acadia Realty Trust

We have audited the accompanying consolidated balance sheet of Acadia Realty Trust and subsidiaries (the "Company") as of December 31, 2005 and the related consolidated statements of income, stockholders' equity, and cash flows for the year then ended. Our audits also included the financial statement schedule listed in the Index at Item 15(a). These financial statements and schedule are the responsibility of the Company's management. Our responsibility is to express an opinion on these financial statements and schedule based on our audits.

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

In our opinion, the financial statements referred to above present fairly, in all material respects, the consolidated financial position of Acadia Realty Trust and subsidiaries at December 31, 2005 and the consolidated results of their operations and their cash flows for the year then ended, in conformity with U.S. generally accepted accounting principles. Also, in our opinion, the related financial statement schedule, when considered in relation to the basic financial statements taken as a whole, present fairly in all material respects the information set forth therein.

We also have audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States), the effectiveness of Acadia Realty Trust and subsidiaries' internal control over financial reporting as of December 31, 2005, based on criteria established in Internal Control—Integrated Framework issued by the Committee of Sponsoring Organizations of the Treadway Commission and our report dated March 8, 2006 expressed an unqualified opinion thereon.

BDO Seidman, LLP

New York, New York
March 8, 2006

Report of Independent Registered Public Accounting Firm

The Shareholders and Trustees of
Acadia Realty Trust

We have audited the accompanying consolidated balance sheet of Acadia Realty Trust and subsidiaries (the "Company") as of December 31, 2004, and the related consolidated statements of income, shareholders' equity, and cash flows for each of the two years in the period ended December 31, 2004. These financial statements are the responsibility of the Company's management. Our responsibility is to express an opinion on these financial statements based on our audits.

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

In our opinion, the financial statements referred to above present fairly, in all material respects, the consolidated financial position of Acadia Realty Trust and subsidiaries at December 31, 2004, and the consolidated results of their operations and their cash flows for each of the two years in the period ended December 31, 2004, in conformity with U.S. generally accepted accounting principles.

Ernst & Young LLP

New York, New York
March 10, 2005, except for Note 2B, as to which the date is March 15, 2006

Part I. Financial Information**Item 1. Financial Statements**

ACADIA REALTY TRUST AND SUBSIDIARIES
CONSOLIDATED BALANCE SHEETS
(dollars in thousands, except per share amounts)

	December 31,	
	2005	2004
ASSETS		
Real estate:		
Land	\$ 54,963	\$ 52,472
Buildings and improvements	380,053	356,908
Construction in progress	735	5,594
	435,751	414,974
Less: accumulated depreciation	118,309	105,278
	317,442	309,696
Cash and cash equivalents	39,612	13,499
Restricted cash	512	612
Cash in escrow	5,396	4,467
Investment in management contracts, net of accumulated amortization of \$1,938	3,178	3,422
Preferred equity investment	19,000	—
Investments in and advances to unconsolidated partnerships	47,021	27,684
Rents receivable, net	11,880	10,485
Notes receivable	15,733	10,087
Prepaid expenses	3,057	2,994
Deferred charges, net	15,880	12,624
Acquired lease intangibles	4,638	—
Other assets	15,709	4,809
Assets of discontinued operations	—	5,268
	\$ 499,058	\$ 405,647
LIABILITIES AND SHAREHOLDERS' EQUITY		
Mortgage notes payable	\$ 238,448	\$ 153,361
Accounts payable and accrued expenses	7,319	7,627
Dividends and distributions payable	6,088	5,597
Derivative instruments	180	2,136
Share of distributions in excess of share of income and investment in unconsolidated partnerships	10,315	9,304
Other liabilities	5,396	3,096
Liabilities of discontinued operations	—	51
	267,746	181,172
Total liabilities	267,746	181,172
Minority interest in Operating Partnership	9,204	5,743
Minority interests in majority- owned partnerships	1,532	1,808
	10,736	7,551
Total minority interests	10,736	7,551
Shareholders' equity:		
Common shares, \$.001 par value, authorized 100,000,000 shares, issued and outstanding 31,542,942 and 31,340,637 shares, respectively	31	31
Additional paid-in capital	223,199	222,715
Accumulated other comprehensive loss	(12)	(3,180)
Deficit	(2,642)	(2,642)
	220,576	216,924
Total shareholders' equity	220,576	216,924
	\$ 499,058	\$ 405,647

The accompanying notes are an integral part of these consolidated financial statements

ACADIA REALTY TRUST AND SUBSIDIARIES
CONSOLIDATED STATEMENTS OF INCOME
(dollars in thousands, except per share amounts)

	Years ended December 31,		
	2005	2004	2003
Revenues			
Minimum rents	\$ 52,737	\$ 50,667	\$ 48,100
Percentage rents	747	948	988
Expense reimbursements	13,980	12,983	12,833
Other property income	780	620	748
Management fee income from related parties	11,492	4,763	1,971
Interest income	3,582	1,466	788
Other	—	210	1,218
Total revenues	83,318	71,657	66,646
Operating Expenses			
Property operating	14,323	14,544	14,419
Real estate taxes	9,253	8,762	8,208
General and administrative	15,382	10,468	10,734
Depreciation and amortization	16,763	15,470	17,195
Total operating expenses	55,721	49,244	50,556
Operating income	27,597	22,413	16,090
Equity in earnings of unconsolidated partnerships	8,228	1,797	2,411
Interest expense	(11,423)	(10,436)	(9,896)
Gain on sale of land	—	932	1,187
Minority interest	(695)	(1,190)	(1,399)
Income from continuing operations before income taxes	23,707	13,516	8,393
Income taxes	(2,140)	—	—
Income from continuing operations	21,567	13,516	8,393
Discontinued operations:			
Operating (loss) income from discontinued operations	(138)	(504)	(592)
Impairment of real estate	(770)	—	—
(Loss) gain on sale of properties	(50)	6,696	—
Minority interest	17	(123)	52
(Loss) income from discontinued operations	(941)	6,069	(540)
Net income	\$ 20,626	\$ 19,585	\$ 7,853
Basic earnings per share			
Income from continuing operations	\$ 0.68	\$ 0.46	\$ 0.32
(Loss) income from discontinued operations	(0.03)	0.21	(0.02)
Basic earnings per share	\$ 0.65	\$ 0.67	\$ 0.30
Diluted earnings per share			
Income from continuing operations	\$ 0.67	\$ 0.45	\$ 0.31
(Loss) income from discontinued operations	(0.03)	0.20	(0.02)
Diluted earnings per share	\$ 0.64	\$ 0.65	\$ 0.29

The accompanying notes are an integral part of these consolidated financial statements

ACADIA REALTY TRUST AND SUBSIDIARIES
CONSOLIDATED STATEMENTS OF SHAREHOLDERS' EQUITY
(Dollars in thousands, except per share amounts)

	Common Shares		Additional Paid-in Capital	Accumulated Other Comprehensive Loss	Deficit	Total Shareholders' Equity
	Shares	Amount				
Balance at December 31, 2002	25,257	\$ 25	\$ 170,851	\$ (6,874)	\$ (2,679)	\$ 161,323
Conversion of 2,058,804 OP Units to Common Shares by limited partners of the Operating Partnership	2,059	2	14,898	—	—	14,900
Conversion of 632 Series A Preferred OP Units to Common Shares by limited partners of the Operating Partnership	84	—	632	—	—	632
Employee restricted share award	8	—	410	—	—	410
Settlement of vested options	—	—	(750)	—	—	(750)
Dividends declared (\$0.595 per Common Share)	—	—	(8,160)	—	(7,853)	(16,013)
Employee exercise of 250 options	—	—	2	—	—	2
Unrealized gain on valuation of swap agreements	—	—	—	1,369	—	1,369
Common Shares purchased under Employee Stock Purchase Plan	1	—	8	—	—	8
Net income	—	—	—	—	7,853	7,853
Balance at December 31, 2003	27,409	27	177,891	(5,505)	(2,679)	169,734
Conversion of 746,762 OP Units to Common Shares by limited partners of the Operating Partnership	747	1	6,395	—	—	6,396
Shares issued to trustees and employees	5	—	443	—	—	443
Employee restricted	22	—	394	—	—	394

share award								
Settlement of vested options	—	—	(67)	—	—	(67)		
Dividends declared (\$0.6525 per Common Share)	—	—	—	—	(19,548)	(19,548)		
Employee and trustee exercise of 1,262,000 options	1,262	1	9,265	—	—	9,266		
Unrealized gain on valuation of swap agreements	—	—	—	2,325	—	2,325		
Common Shares issued under Employee Stock Purchase Plan	6	—	84	—	—	84		
Issuance of 1,890,000 Common Shares, net of issuance costs	1,890	2	28,310	—	—	28,312		
Net income	—	—	—	—	19,585	19,585		
Balance at December 31, 2004	31,341	31	222,715	(3,180)	(2,642)	216,924		
Conversion of 796 Series A Preferred OP Units to Common Shares by limited partners of the Operating Partnership	92	—	696	—	—	696		
Employee restricted share awards	52	—	1,030	—	—	1,030		
Dividends declared (\$0.69 per Common Share)	—	—	(1,691)	—	(20,626)	(22,317)		
Employee and trustee exercise of 51,200 options	51	—	345	—	—	345		
Unrealized gain on valuation of swap agreements	—	—	—	3,168	—	3,168		
Common Shares issued under Employee Stock Purchase Plan	7	—	104	—	—	104		
Net income	—	—	—	—	20,626	20,626		
Balance at December 31, 2005	31,543	\$ 31	\$ 223,199	\$ (12)	\$ (2,642)	\$ 220,576		

The accompanying notes are an integral part of these consolidated financial statements



ACADIA REALTY TRUST AND SUBSIDIARIES
CONSOLIDATED STATEMENTS OF CASH FLOWS
(dollars in thousands, except per share amounts)

	Years ended December 31,		
	2005	2004	2003
CASH FLOWS FROM OPERATING ACTIVITIES:			
Net income	\$ 20,626	\$ 19,585	\$ 7,853
Adjustments to reconcile net income to net cash provided by operating activities:			
Depreciation and amortization	16,853	16,077	17,909
Gain on sale of land	—	(932)	(1,187)
(Loss) gain on sale of property	50	(6,696)	—
Impairment of real estate	770	—	—
Minority interests	678	1,313	1,347
Equity in earnings of unconsolidated partnerships	(8,228)	(1,797)	(2,411)
Distributions of operating income from unconsolidated partnerships	596	1,645	1,540
Amortization of derivative settlement included in interest expense	440	99	—
Provision for bad debts	481	783	523
Amortization of FAS 141 above-market rent	217	—	—
Changes in assets and liabilities:			
Restricted cash	100	(108)	(504)
Funding of escrows, net	(929)	(1,125)	105
Rents receivable	(1,517)	(1,288)	(3,958)
Prepaid expenses	(29)	99	(1,085)
Other assets	(9,087)	(3,004)	(891)
Accounts payable and accrued expenses	646	2,464	218
Due to/from related parties	—	(974)	(126)
Other liabilities	2,292	(673)	785
Net cash provided by operating activities	23,959	25,468	20,118
CASH FLOWS FROM INVESTING ACTIVITIES:			
Expenditures for real estate and improvements	(25,629)	(7,139)	(13,531)
Payments of accrued expense related to redevelopment project	—	—	(2,488)
Investment in and advances to unconsolidated partnerships	(12,711)	(16,422)	(6,032)
Return of capital from unconsolidated partnerships	1,011	15,136	62
Collection of notes receivable	1,868	3,929	3,232
Payment of deferred leasing costs	(1,034)	(2,378)	(2,183)
Advances of notes receivable	(7,914)	(10,429)	—
Preferred equity investment	(19,000)	—	—
Proceeds from sale of land	—	932	—
Proceeds from sale of property	3,931	—	—
Net cash used in investing activities	(59,478)	(16,371)	(20,940)

ACADIA REALTY TRUST AND SUBSIDIARIES
CONSOLIDATED STATEMENTS OF CASH FLOWS
(dollars in thousands, except per share amounts)

CASH FLOWS FROM FINANCING ACTIVITIES:			
Principal payments on mortgage notes payable	(39,014)	(100,928)	(32,917)
Proceeds received on mortgage notes payable	124,100	76,251	21,000
Payment of deferred financing and other costs	(1,193)	(1,630)	(241)
Dividends paid	(21,869)	(18,507)	(14,896)
Distributions to minority interests in Operating Partnership	(380)	(416)	(1,207)
Distributions on preferred Operating Partnership Units	(342)	(283)	(199)
Distributions to minority interests in majority-owned partnerships	(119)	(606)	(985)
Common Shares issued under Employee Stock Purchase Plan	104	84	8
Settlement of options to purchase Common Shares	—	(67)	(750)
Exercise of options to purchase Common Shares	345	9,340	—
Termination of derivative instrument	—	(1,307)	—
Issuance of Common Shares	—	28,312	—
	61,632	(9,757)	(30,187)
Increase (decrease) in cash and cash equivalents	26,113	(660)	(31,009)
Cash and cash equivalents, beginning of period	13,499	14,159	45,168
Cash and cash equivalents, end of period	\$ 39,612	\$ 13,499	\$ 14,159
Supplemental disclosure of cash flow information:			
Cash paid during the period for interest	\$ 11,456	\$ 11,777	\$ 11,645
Supplemental disclosure of non-cash investing and financing activities:			
Acquisition of management contract rights through issuance of Common and Preferred Operating Partnership Units	\$ 4,000	\$ 4,000	—
Acquisition of property through issuance of Preferred Operating Partnership Units	\$ 200	\$ —	\$ —

The accompanying notes are an integral part of these consolidated financial statements.

ACADIA REALTY TRUST AND SUBSIDIARIES
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS
(Dollars in thousands, except per share amounts)

1. Organization, Basis of Presentation and Summary of Significant Accounting Policies

Acadia Realty Trust (the “Company”) is a fully integrated, self-managed and self-administered equity real estate investment trust (“REIT”) focused primarily on the ownership, acquisition, redevelopment and management of retail properties, including neighborhood and community shopping centers and mixed-use properties with retail components.

All of the Company’s assets are held by, and all of its operations are conducted through, Acadia Realty Limited Partnership (the “Operating Partnership”) and its majority owned partnerships. As of December 31, 2005, the Company controlled 98% of the Operating Partnership as the sole general partner. As the general partner, the Company is entitled to share, in proportion to its percentage interest, in the cash distributions and profits and losses of the Operating Partnership. The limited partners represent entities or individuals who contributed their interests in certain properties or partnerships to the Operating Partnership in exchange for common or preferred units of limited partnership interest (“Common or Preferred OP Units”). Limited partners holding Common OP Units are generally entitled to exchange their units on a one-for-one basis for common shares of beneficial interest of the Company (“Common Shares”). This structure is commonly referred to as an umbrella partnership REIT or “UPREIT”.

As of December 31, 2005, the Company operated 71 properties, which it owns or has an ownership interest in, principally located in the Northeast, Mid-Atlantic and Midwest regions of the United States.

Principles of Consolidation

The consolidated financial statements include the consolidated accounts of the Company and its majority owned partnerships, including the Operating Partnership. All significant intercompany balances and transactions have been eliminated in consolidation. Investments in partnerships for which the Company has the ability to exercise significant influence over, but does not have financial or operating control, are accounted for using the equity method of accounting. Accordingly, the Company’s share of the earnings (or loss) of these partnerships are included in consolidated net income.

Variable interest entities within the scope of Financial Accounting Standards Board (“FASB”) Interpretation No. 46, “Consolidation of Variable Interest Entities” (“FIN 46-R”) are required to be consolidated by their primary beneficiary. The primary beneficiary of a variable interest entity is determined to be the party that absorbs a majority of the entity’s expected losses, receives a majority of its expected returns, or both. Management has evaluated the applicability of FIN 46-R to its investments in certain joint ventures and determined that these joint ventures do not meet the requirements of a variable interest entity and, therefore, consolidation of these ventures is not required. Accordingly, these investments are accounted for using the equity method.

Use of Estimates

Accounting principles generally accepted in the United States of America (“GAAP”) require the Company’s management to make estimates and assumptions that affect the amounts reported in the financial statements and accompanying notes. The most significant assumptions and estimates relate to the valuation of real estate, depreciable lives, revenue recognition and the collectability of trade accounts receivable. Application of these assumptions requires the exercise of judgment as to future uncertainties and, as a result, actual results could differ from these estimates.

Real Estate

Real estate assets are stated at cost less accumulated depreciation. Expenditures for acquisition, development, construction and improvement of properties, as well as significant renovations are capitalized. Interest costs are capitalized until construction is substantially complete. Construction in progress includes costs for significant shopping center expansion and redevelopment. Depreciation is computed on the straight-line basis over estimated useful lives of 30 to 40 years for buildings and the shorter of the useful life or lease term for improvements, furniture, fixtures and equipment. Expenditures for maintenance and repairs are charged to operations as incurred.

ACADIA REALTY TRUST AND SUBSIDIARIES
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS
(dollars in thousands, except per share amounts)

1. Organization, Basis of Presentation and Summary of Significant Accounting Policies, continued

Upon acquisitions of real estate, the Company assesses the fair value of acquired assets (including land, buildings and improvements, and identified intangibles such as above and below market leases and acquired in-place leases and customer relationships) and acquired liabilities in accordance with Statement of Financial Accounting Standards ("SFAS") No. 141, "Business Combinations" and SFAS No. 142, "Goodwill and Other Intangible Assets", and allocates purchase price based on these assessments. The Company assesses fair value based on estimated cash flow projections that utilize appropriate discount and capitalization rates and available market information. Estimates of future cash flows are based on a number of factors including the historical operating results, known trends, and market/economic conditions that may affect the property.

The Company reviews its long-lived assets used in operations for impairment when there is an event, or change in circumstances that indicates impairment in value. The Company records impairment losses and reduces the carrying value of properties when indicators of impairment are present and the expected undiscounted cash flows related to those properties are less than their carrying amounts. In cases where the Company does not expect to recover its carrying costs on properties held for use, the Company reduces its carrying cost to fair value, and for properties held for sale, the Company reduces its carrying value to the fair value less costs to sell. During the year ended December 31, 2005, an impairment loss of \$770 was recognized related to a property that was sold in July of 2005. Management does not believe that the values of its properties within the portfolio are impaired as of December 31, 2005.

Deferred Costs

Fees and costs paid in the successful negotiation of leases have been deferred and are being amortized on a straight-line basis over the terms of the respective leases. Fees and costs incurred in connection with obtaining financing have been deferred and are being amortized over the term of the related debt obligation.

Management Contracts

Income from management contracts, net of submanagement fees of \$303 and \$1,591 for the years ended December 31, 2005 and 2004, respectively, is recognized on an accrual basis as such fees are earned. The initial acquisition cost of the management contracts is being amortized over the estimated lives of the contracts acquired.

Revenue Recognition and Accounts Receivable

Leases with tenants are accounted for as operating leases. Minimum rents are recognized on a straight-line basis over the term of the respective leases. As of December 31, 2005 and 2004 unbilled rents receivable relating to straight-lining of rents were \$6,988 and \$6,506, respectively. Certain of these leases also provide for percentage rents based upon the level of sales achieved by the tenant. Percentage rents are recognized in the period when the tenants' sales breakpoint is met. In addition, leases typically provide for the reimbursement to the Company of real estate taxes, insurance and other property operating expenses. These reimbursements are recognized as revenue in the period the expenses are incurred.

The Company makes estimates of the uncollectability of its accounts receivable related to base rents, expense reimbursements and other revenues. An allowance for doubtful accounts has been provided against certain tenant accounts receivable that are estimated to be uncollectible. Once the amount is ultimately deemed to be uncollectible, it is written off. Rents receivable at December 31, 2005 and 2004 are shown net of an allowance for doubtful accounts of \$2,843 and \$2,841, respectively.

Interest income from notes receivable is recognized on an accrual basis based on the contractual terms of the notes.

Cash and Cash Equivalents

The Company considers all highly liquid investments with an original maturity of three months or less when purchased to be cash equivalents.

Restricted Cash and Cash in Escrow

Restricted cash and cash in escrow consists principally of cash held for real estate taxes, property maintenance, insurance, minimum occupancy and property operating income requirements at specific properties as required by certain loan agreements.

ACADIA REALTY TRUST AND SUBSIDIARIES
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS
(dollars in thousands, except per share amounts)

1. Organization, Basis of Presentation and Summary of Significant Accounting Policies, continued

Income Taxes

The Company has made an election to be taxed, and believes it qualifies as a REIT under Sections 856 through 860 of the Internal Revenue Code of 1986, as amended (the "Code"). To maintain REIT status for Federal income tax purposes, the Company is generally required to distribute to its stockholders at least 90% of its REIT taxable income as well as comply with certain other requirements as defined by the Code. Accordingly, the Company is not subject to federal corporate income tax to the extent that it distributes 100% of its REIT taxable income each year.

Although it may qualify for REIT status for Federal income tax purposes, the Company is subject to state income or franchise taxes in certain states in which some of its properties are located. In addition, taxable income from non-REIT activities managed through the Company's taxable REIT subsidiaries ("TRS") are subject to Federal, state and local income taxes.

TRS income taxes are accounted for under the asset and liability method as required SFAS No. 109, "Accounting for Income Taxes". Under the asset and liability method, deferred income taxes are recognized for the temporary differences between the financial reporting basis and the tax basis of the TRS assets and liabilities.

Stock-based Compensation

Prior to 2002, the Company accounted for stock options under Accounting Principles Board Opinion No. 25, "Accounting for Stock Issued to Employees" and related interpretations. Effective June 30, 2005, the Company adopted the fair value method of recording stock-based compensation contained in SFAS No. 123R, "Share-Based Payment". As such, all stock options granted after December 31, 2001 are reflected as compensation expense in the Company's consolidated financial statements over their vesting period based on the fair value at the date the stock-based compensation was granted. As provided for in SFAS No. 123, the Company elected the "prospective method" for the adoption of the fair value basis method of accounting for employee stock options. Under this method, the recognition provisions have been applied to all employee awards granted, modified or settled after January 1, 2002.

The following table illustrates the effect on net income and earnings per share if the Company had applied the fair value based method of accounting for stock-based employee compensation for vested stock options granted prior to January 1, 2002. See Note 11 – "Share Incentive Plan" for the assumptions utilized in valuing the below vested stock options:

	Years ended December 31,	
	2004	2003
Net income:		
As reported	\$ 19,585	\$ 7,853
Pro forma	\$ 19,561	\$ 7,829
Basic earnings per share:		
As reported	\$ 0.67	\$ 0.30
Pro forma	\$ 0.67	\$ 0.29
Diluted earnings per share:		
As reported	\$ 0.65	\$ 0.29
Pro forma	\$ 0.65	\$ 0.29

Recent Accounting Pronouncements

On December 16, 2004, the FASB issued SFAS No. 153, "Exchanges of Nonmonetary Assets - An Amendment of APB Opinion No. 29". The amendments made by SFAS No. 153 are based on the principle that exchanges of nonmonetary assets should be measured based on the fair value of the assets exchanged. Further, the amendments eliminate the narrow exception for nonmonetary exchanges of similar productive assets and replace it with a broader exception for exchanges of nonmonetary assets that do not have "commercial substance." SFAS No. 153 is effective for nonmonetary asset exchanges occurring in fiscal periods beginning after June 15, 2005. The adoption of SFAS No. 153 on its effective date did not have a material effect on the Company's consolidated financial statements.

ACADIA REALTY TRUST AND SUBSIDIARIES
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS
(dollars in thousands, except per share amounts)

1. Organization, Basis of Presentation and Summary of Significant Accounting Policies, continued

Recent Accounting Pronouncements, continued

On December 16, 2004, the FASB issued SFAS No. 123R (Revised 2004), "Share-Based Payment". SFAS 123R replaces SFAS No. 123, which the Company adopted on January 1, 2003. SFAS No. 123R requires that the compensation cost relating to share-based payment transactions be recognized in financial statements and be measured based on the fair value of the equity or liability instruments issued. SFAS No. 123R is effective as of the first interim or annual reporting period that begins after June 15, 2005. The Company does not believe that the adoption of SFAS No. 123R will have a material effect on the Company's consolidated financial statements.

In May 2005, the FASB issued SFAS No. 154, "Accounting Changes and Error Corrections – A Replacement of APB Opinion No. 20 and SFAS No. 3". SFAS No. 154 changes the requirements for the accounting and reporting of a change in accounting principle by requiring that a voluntary change in accounting principle be applied retrospectively with all prior periods' financial statements presented on the new accounting principle, unless it is impracticable to do so. SFAS No. 154 also requires that a change in depreciation or amortization for long-lived, non-financial assets be accounted for as a change in accounting estimate effected by a change in accounting principle and corrections of errors in previously issued financial statements should be termed a "restatement". SFAS No. 154 is effective for accounting changes and corrections of errors made in fiscal years beginning after December 15, 2005. The Company believes that the adoption of SFAS No. 154 will not have a material effect on its consolidated financial statements.

In 2005, the Emerging Issues Task Force ("EITF") reached a consensus that the general partners in a limited partnership should determine whether they control a limited partnership based on the application of the framework as discussed in EITF 04-5, "Determining Whether a General Partner, or the General Partners as a Group, Controls a Limited Partnership or Similar Entity When the Limited Partners Have Certain Rights". Under EITF 04-5, the general partners in a limited partnership are presumed to control that limited partnership regardless of the extent of the general partners' ownership interest in the limited partnership. The assessment of whether the rights of the limited partners should overcome the presumption of control by the general partners is a matter of judgment that depends on facts and circumstances. If the limited partners have either (a) the substantive ability to dissolve (liquidate) the limited partnership or otherwise remove the general partners without cause or (b) substantive participating rights, the general partners do not control the limited partnership. EITF 04-5 was effective immediately for new partnerships formed and existing limited partnerships for which the partnership agreements are modified on or after June 29, 2005, and, for all other partnerships, EITF 04-5 would be effective no later than the beginning of the first reporting period in fiscal years beginning after December 15, 2005. The provisions of EITF 04-5 may be initially applied through either one of two methods: (1) similar to a cumulative effect of a change in accounting principle or (2) retrospective application. The Company is currently assessing the impact of EITF 04-5 as it relates to the method of accounting utilized for its investments in Funds I and II (note 4), which are currently accounted for under the equity method of accounting. There would be no impact on net income or shareholders' equity for any of the reported periods in the accompanying consolidated financial statements if the Company were to consolidate these investments. If the Company was required to consolidate these investments, total assets, total liabilities and minority interest as of December 31, 2005 and December 31, 2004 would be as follows:

	December 31,	
	2005	2004
Total assets	\$ 816,732	\$ 624,387
Total liabilities	\$ 484,473	\$ 343,741
Minority interest	\$ 111,683	\$ 63,722

In February 2006, the FASB issued SFAS No. 155, "Accounting for Certain Hybrid Financial Instruments – an amendment of FASB Statements No. 133 and No. 14". This Statement amends SFAS No. 133, "Accounting for Derivative Instruments and Hedging Activities", and SFAS No. 140, "Accounting for Transfers and Servicing of Financial Assets and Extinguishments of Liabilities" and resolves issues addressed in SFAS No. 133 Implementation Issue No. D1, "Application of SFAS No. 133 to Beneficial Interests in Securitized Financial Assets." This Statement (a) permits fair value remeasurement for any hybrid financial instrument that contains an embedded derivative that otherwise would require bifurcation, (b) clarifies which interest-only strips and principal-only strips are not subject to the requirements of SFAS No. 133, (c) establishes a requirement to evaluate interests in securitized financial assets to identify interests that are freestanding derivatives or that are hybrid financial instruments that contain an embedded derivative requiring bifurcation, (d) clarifies that concentrations of credit risk in the form of subordination are not embedded derivatives and (e) amends SFAS No. 140 to eliminate the prohibition on a qualifying special-purpose entity from holding a derivative financial instrument that pertains to a beneficial interest other than another derivative financial instrument. This Statement is effective for all financial instruments acquired or issued after the beginning of an entity's first fiscal year that begins after September 15, 2006. The Company believes that the adoption of SFAS No. 155 will not have a material effect on its consolidated financial statements.

ACADIA REALTY TRUST AND SUBSIDIARIES
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS
(dollars in thousands, except per share amounts)

1. Organization, Basis of Presentation and Summary of Significant Accounting Policies, continued

Comprehensive income

The following table sets forth comprehensive income for the years ended December 31, 2005, 2004 and 2003:

	Years ended December 31,		
	2005	2004	2003
Net income	\$ 20,626	\$ 19,585	\$ 7,853
Other comprehensive income (1)	3,168	2,325	1,369
Comprehensive income	\$ 23,794	\$ 21,910	\$ 9,222

Notes:

(1) Relates to the changes in the fair value of derivative instruments accounted for as cash flow hedges.

The following table sets forth the change in accumulated other comprehensive loss for the years ended December 31, 2005, 2004 and 2003:

	Years ended December 31,		
	2005	2004	2003
Beginning balance	\$ 3,180	\$ 5,505	\$ 6,874
Unrealized gain on valuation of derivative instruments	(3,168)	(2,325)	(1,369)
Ending balance	\$ 12	\$ 3,180	\$ 5,505

Reclassifications

Certain 2004 and 2003 amounts were reclassified to conform to the 2005 presentation.

2. Acquisition and Disposition of Properties and Discontinued Operations

A. Acquisitions and Dispositions of Properties

Currently the primary vehicle for the Company's acquisitions is through its acquisition joint ventures (Note 4).

Dispositions relate to the sale of shopping centers and land. Gains from these sales are recognized in accordance with the provisions of SFAS No. 66, "Accounting for Sales of Real Estate".

Acquisitions

During July of 2005, the Company purchased 4343 Amboy Road located in Staten Island, New York for \$16,635 in cash and \$200 in Common OP Units.

Dispositions

On July 7, 2005, the Company sold the Berlin Shopping Center for \$4,000. An impairment loss of \$770 was recognized for the year ended December 31, 2005, to reduce the carrying value of this asset to fair value less costs to sell.

On November 22, 2004, the company disposed of the East End Centre, a 308,000 square foot shopping center in Wilkes-Barre, Pennsylvania, for approximately \$12,405 resulting in a \$6,696 gain on the sale.

On November 8, 2002, the Company and an unaffiliated joint venture partner completed the sale of a contract to purchase land in Bethel, Connecticut, to the Target Corporation for \$1,540 after closing and other related costs. The joint venture received a \$1,632 note receivable for the net purchase price and additional reimbursements due from the buyer and deferred recognition of the gain on sale in accordance with SFAS No. 66. The note was paid in full on January 10, 2003, and as such, the Company's share of the deferred gain, or \$634, was recognized in 2003. Additional amounts held in escrow from the closing of \$932 were released to the Company during 2004 and recognized as additional gain. Of this amount, \$466 was attributable to the Company's joint venture partner and reflected in minority interest in the Company's consolidated statement of income.

ACADIA REALTY TRUST AND SUBSIDIARIES
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS
(dollars in thousands, except per share amounts)

2. Acquisition and Disposition of Properties and Discontinued Operations, continued

B. Discontinued Operations

Discontinued Operations

SFAS No. 144 requires discontinued operations presentation for disposals of a "component" of an entity. In accordance with SFAS No. 144, for all periods presented, the Company reclassified its consolidated statements of income to reflect income and expenses for properties which became held for sale subsequent to December 31, 2001, as discontinued operations and reclassified its consolidated balance sheets to reflect assets and liabilities related to such properties as assets and liabilities related to discontinued operations.

The combined results of operations of either sold properties or properties held for sale are reported separately as discontinued operations for the years ended December 31, 2005, 2004 and 2003. These are related to the Berlin Shopping Center, which was sold on July 7, 2005 and the East End Centre, which was sold on November 22, 2004.

The combined results of operations and assets and liabilities of the properties classified as discontinued operations are summarized as follows:

ASSETS	December 31, 2004
Net real estate	\$ 4,827
Rents receivable, net	406
Prepaid expenses	35
Total Assets	\$ 5,268
LIABILITIES AND CAPITAL	
Accounts payable and accrued expenses	\$ 13
Other liabilities	38
Total liabilities	51
Capital	5,217
Total liabilities and capital	\$ 5,268

	Years ended December 31,		
	2005	2004	2003
Total revenues	\$ 438	\$ 2,554	\$ 2,799
Total expenses	576	3,058	3,391
Impairment of real estate	(138)	(504)	(592)
(Loss) gain on sale of properties	(770)	—	—
Minority interest	(50)	6,696	—
(Loss) income from discontinued operations	17	(123)	52
(Loss) income from discontinued operations	\$ (941)	\$ 6,069	\$ (540)

ACADIA REALTY TRUST AND SUBSIDIARIES
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS
(dollars in thousands, except per share amounts)

3. Segment Reporting

The Company has two reportable segments: retail properties and multi-family properties. The accounting policies of the segments are the same as those described in the summary of significant accounting policies. The Company evaluates property performance primarily based on net operating income before depreciation, amortization and certain nonrecurring items. The reportable segments are managed separately due to the differing nature of the leases and property operations associated with the retail versus residential tenants. The following table sets forth certain segment information for the Company, reclassified for discontinued operations, as of and for the years ended December 31, 2005, 2004, and 2003 (does not include unconsolidated partnerships):

2005

	Retail Properties	Multi-Family Properties	All Other	Total
Revenues	\$ 61,540	\$ 7,688	\$ 14,090	\$ 83,318
Property operating expenses and real estate taxes	19,323	4,253	—	23,576
Other Expenses	2,141	267	12,974	15,382
Net property income before depreciation and amortization	\$ 40,076	\$ 3,168	\$ 1,116	\$ 44,360
Depreciation and amortization	\$ 14,847	\$ 1,465	\$ 451	\$ 16,763
Interest expense	\$ 10,068	\$ 1,355	\$ —	\$ 11,423
Real estate at cost	\$ 394,118	\$ 41,633	\$ —	\$ 435,751
Total assets	\$ 413,158	\$ 37,295	\$ 48,605	\$ 499,058
Expenditures for real estate and improvements	\$ 19,759	\$ 1,018	\$ —	\$ 20,777
Revenues				
Total revenues for reportable segments	\$ 87,389			
Elimination of intersegment management fee income	(1,514)			
Elimination of intersegment asset management fee income	(1,143)			
Elimination of intersegment service fees and interest income	(878)			
Elimination of promote fee income	(536)			
Total consolidated revenues	\$ 83,318			
Property operating expenses and real estate taxes				
Total property operating expenses and real estate taxes for reportable segments	\$ 25,191			
Elimination of intersegment management fee expense	(1,273)			
Elimination of intersegment interest expense	(342)			
Total consolidated expenses	\$ 23,576			
Reconciliation to net income				
Net property income before depreciation and amortization	\$ 44,360			
Depreciation and amortization	(16,763)			
Equity in earnings of unconsolidated partnerships	8,228			
Interest expense	(11,423)			
Gain on sale of property	—			
Loss from discontinued operations	(941)			
Income taxes	(2,140)			
Minority interest	(695)			
Net income	\$ 20,626			

ACADIA REALTY TRUST AND SUBSIDIARIES
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS
(dollars in thousands, except per share amounts)

3. Segment Reporting, continued2004

	Retail Properties	Multi-Family Properties	All Other	Total
Revenues	\$ 57,600	\$ 7,596	\$ 6,461	\$ 71,657
Property operating expenses and real estate taxes	19,172	4,134	—	23,306
Other expenses	3,733	490	6,245	10,468
Net property income before depreciation and amortization	\$ 34,695	\$ 2,972	\$ 216	\$ 37,883
Depreciation and amortization	\$ 13,709	\$ 1,433	\$ 328	\$ 15,470
Interest expense	\$ 8,918	\$ 1,518	\$ —	\$ 10,436
Real estate at cost	\$ 374,359	\$ 40,615	\$ —	\$ 414,974
Total assets	\$ 348,026	\$ 36,872	\$ 20,749	\$ 405,647
Expenditures for real estate and improvements	\$ 6,314	\$ 842	\$ —	\$ 7,156
Revenues				
Total revenues for reportable segments	\$ 73,784			
Elimination of intersegment management fee income	(1,290)			
Elimination of intersegment asset management fee income	(708)			
Elimination of intersegment service fees and interest income	(129)			
Total consolidated revenues	\$ 71,657			
Property operating expenses and real estate taxes				
Total property operating expenses and real estate taxes for reportable segments	\$ 24,432			
Elimination of intersegment management fee expense	(1,126)			
Total consolidated expense	\$ 23,306			
Reconciliation to net income				
Net property income before depreciation and amortization	\$ 37,883			
Depreciation and amortization	(15,470)			
Equity in earnings of unconsolidated partnerships	1,797			
Interest expense	(10,436)			
Gain on sale of land	932			
Income from discontinued operations	6,069			
Minority interest	(1,190)			
Net income	\$ 19,585			

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ACADIA REALTY TRUST AND SUBSIDIARIES
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS
(dollars in thousands, except per share amounts)

3. Segment Reporting, continued2003

	Retail Properties	Multi-Family Properties	All Other	Total
Revenues	\$ 55,351	\$ 7,318	\$ 3,977	\$ 66,646
Property operating expenses and real estate taxes	18,440	4,187	—	22,627
Other expenses	7,892	1,005	1,837	10,734
Net property income before depreciation and amortization	\$ 29,019	\$ 2,126	\$ 2,140	\$ 33,285
Depreciation and amortization	\$ 15,538	\$ 1,336	\$ 321	\$ 17,195
Interest expense	\$ 8,366	\$ 1,530	\$ —	\$ 9,896
Real estate at cost	\$ 367,446	\$ 39,774	\$ —	\$ 407,220
Total assets	\$ 337,724	\$ 36,830	\$ 13,630	\$ 388,184
Expenditures for real estate and improvements	\$ 11,971	\$ 1,378	\$ —	\$ 13,349
Revenues				
Total revenues for reportable segments	\$ 68,286			
Elimination of intersegment management fee income	(1,340)			
Elimination of intersegment asset management fee income	(300)			
Total consolidated revenues	\$ 66,646			
Property operating expenses and real estate taxes				
Total property operating expenses and real estate taxes for reportable segments	\$ 23,784			
Elimination of intersegment management fee expense	(1,157)			
Total consolidated expense	\$ 22,627			
Reconciliation to net income				
Net property income before depreciation and amortization	\$ 33,285			
Depreciation and amortization	(17,195)			
Equity in earnings of unconsolidated partnerships	2,411			
Interest expense	(9,896)			
Gain on sale of land	1,187			
Loss from discontinued operations	(540)			
Minority interest	(1,399)			
Net income	\$ 7,853			

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ACADIA REALTY TRUST AND SUBSIDIARIES
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS
(dollars in thousands, except per share amounts)

4. Investments in Unconsolidated Partnerships

Crossroads

The Company owns a 49% interest in the Crossroads Joint Venture and Crossroads II Joint Venture (collectively, "Crossroads") which collectively own a 311,000 square foot shopping center in White Plains, New York. The Company accounts for its investment in Crossroads using the equity method. Summary financial information of Crossroads and the Company's investment in and share of income from Crossroads follows:

	December 31,	
	2005	2004
Balance Sheets		
Assets:		
Rental property, net	\$ 6,458	\$ 6,939
Other assets	5,543	6,129
Total assets	\$ 12,001	\$ 13,068
Liabilities and partners' equity		
Mortgage note payable	\$ 64,000	\$ 64,000
Other liabilities	2,359	2,481
Partners' equity	(54,358)	(53,413)
Total liabilities and partners' equity	\$ 12,001	\$ 13,068
Company's investment	\$ (10,315)	\$ (9,304)

	Years Ended December 31,		
	2005	2004	2003
Statements of Income			
Total revenue	\$ 8,772	\$ 8,160	\$ 8,324
Operating and other expenses	2,581	2,707	2,465
Interest expense	3,632	2,740	2,542
Depreciation and amortization	654	778	570
Net income	\$ 1,905	\$ 1,935	\$ 2,747
Company's share of net income	\$ 988	\$ 1,112	\$ 1,377
Amortization of excess investment (See below)	392	392	392
Income from partnerships	\$ 596	\$ 720	\$ 985

The unamortized excess of the Company's investment over its share of the net equity in Crossroads at the date of acquisition was \$19,580. The portion of this excess attributable to buildings and improvements are being amortized over the life of the related property.

Acadia Strategic Opportunity Fund, LP ("Fund I")

In 2001, the Company formed a joint venture, Fund I, with four of its institutional investors for the purpose of acquiring real estate assets. The Company is the sole general partner with 22% interest in the joint venture and is also entitled to a profit participation in excess of its invested capital based on certain investment return thresholds. The Company also earns market-rate fees for asset management as well as for property management, construction and leasing services. Decisions made by the general partner as it relates to purchasing, financing and disposition of properties are subject to the unanimous disapproval of the Advisory Committee, which is comprised of representatives from each of the four institutional investors.

ACADIA REALTY TRUST AND SUBSIDIARIES
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS
(dollars in thousands, except per share amounts)

4. Investments in Unconsolidated Partnerships, continued

As of December 31, 2005, Fund I owns or has an ownership interest in ten shopping centers and twenty-five anchor-only super market leases comprising 2.7 million square feet. Acquisitions completed during 2004 and 2003 were as follows:

On March 11, 2004, Fund I, in conjunction with the Company's long-time investment partner, Hendon Properties ("Hendon"), purchased a \$9,600 first mortgage loan from New York Life Insurance Company for \$5,500. The loan, which was secured by the Hitchcock Plaza in Aiken, South Carolina, was in default at acquisition. Fund I and Hendon acquired the loan with the intention of pursuing ownership of the property securing the debt. Fund I provided 90% of the equity capital and Hendon provided the remaining 10% of the equity capital used to acquire the loan. Hendon is entitled to receive profit participation in excess of its proportionate equity interest. Subsequent to the acquisition of the loan, Fund I and Hendon obtained fee title to this property. The Company provided \$3,150 of mortgage financing to the project in connection with the purchase of the first mortgage loan. The note matures March 9, 2006, and bears interest at 7% for the first year and 6% for the second year. In addition to this loan, the Company invested approximately \$900, primarily its pro-rata share of equity as a partner in Fund I. In September 2004, Fund I and Hendon purchased the Pine Log Plaza for \$1,500. The 35,000 square foot center is located in front of and adjacent to Hitchcock Plaza. Related to this transaction, the Company provided an additional \$750 mortgage loan to the project with a March 2006 maturity and interest at 7% for the first year and 6% for the second year.

During May 2004, Fund I acquired a 50% interest in Haygood Shopping Center and Sterling Heights Shopping Center for an aggregate investment of \$3,184. These assets are part of the portfolio that the Company currently manages as a result of its January 2004 acquisition of certain management contracts (note 7).

During May 2004, Fund I and an unaffiliated partner, each with a 50% interest, acquired a 35,000 square foot shopping center in Tarrytown, New York, for approximately \$5,300. Related to this acquisition, the Company loaned \$2,000 to Fund I which bears interest at the prime rate and matured May 2005. This loan has been converted to a demand note.

During January 2003, Fund I and an unaffiliated joint venture party acquired a one million square foot supermarket portfolio consisting of twenty-five anchor-only leases with either Kroger or Safeway supermarkets ("Kroger/Safeway Portfolio"). The portfolio was acquired through long-term ground leases with terms, including renewal options, averaging in excess of 80 years, which are master leased to a non-affiliated entity. The purchase price of \$48,900 (inclusive of closing and other related acquisition costs) included the assumption of \$34,450 of existing fixed-rate debt which bears interest at a weighted-average rate of 6.6%. The mortgage debt fully amortizes through 2009, which is coterminous with the primary lease term of the supermarket leases. Fund I invested \$11,250 of the equity capitalization of which the Company's share was \$2,500.

Also during January 2003, Fund I acquired a one million square foot portfolio for an initial purchase price of \$86,287, inclusive of closing and other related acquisition costs. The portfolio consists of two shopping centers located in Wilmington, Delaware ("Brandywine Portfolio"). A portion of one of the properties is currently unoccupied, which Fund I will pay for on an "earn-out" basis only when it is leased. To date, Fund I has incurred costs of \$30,302 for Earn-out space. At closing, Fund I assumed \$38,082 of fixed-rate debt which bears interest at a weighted-average rate of 6.2% as well as obtained an additional fixed-rate loan of \$30,000 which bears interest at 4.7%. Fund I invested equity of \$19,270 in the acquisition, of which the Company's share was \$4,282. On January 4, 2006, the Company recapitalized the Brandywine Portfolio (note 21).

ACADIA REALTY TRUST AND SUBSIDIARIES
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS
(dollars in thousands, except per share amounts)

4. Investments in Unconsolidated Partnerships, continued

The Company accounts for its investment in Fund I using the equity method. Summary financial information of Fund I and the Company's investment in and share of income from Fund I is as follows:

	December 31,	
	2005	2004
Balance Sheets		
Assets:		
Rental property, net	\$ 189,188	\$ 187,046
Other assets	20,835	13,077
Total assets	\$ 210,023	\$ 200,123
Liabilities and partners' equity		
Mortgage note payable	\$ 113,888	\$ 120,188
Other liabilities	16,756	24,060
Partners' equity	79,379	55,875
Total liabilities and partners' equity	\$ 210,023	\$ 200,123
Company's investment	\$ 17,072	\$ 12,115

	Years Ended December 31,		
	2005	2004	2003
Statements of Income			
Total revenue	\$ 30,605	\$ 26,664	\$ 26,008
Operating and other expenses	5,282	5,807	5,017
Management and other fees	2,284	2,106	2,171
Interest expense	6,568	6,673	6,399
Depreciation and amortization	9,166	8,731	8,055
Minority interest	284	166	157
Equity in earnings (loss) in unconsolidated subsidiary	(235)	207	—
Provision for income taxes	53	—	—
Net income	\$ 7,203	\$ 2,974	\$ 4,209
Company's share of net income	\$ 2,228	\$ 1,170	\$ 1,426

ACADIA REALTY TRUST AND SUBSIDIARIES
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS
(dollars in thousands, except per share amounts)

4. Investments in Unconsolidated Partnerships, continued

Acadia Strategic Opportunity Fund II, LLC ("Fund II")

In June of 2004, the Company formed a joint venture, Fund II, with the investors from Fund I as well as two new institutional investors for the purpose of acquiring real estate assets. The Company is the sole managing member with 20% interest in the joint venture and is also entitled to a profit participation in excess of its invested capital based on certain investment return thresholds. The Company also earns market-rate fees for asset management as well as for property management, construction, legal and leasing services. Decisions made by the managing member as it relates to purchasing, financing and disposition of properties are subject to the unanimous disapproval of the Advisory Committee, which is comprised of representatives from each of the six institutional investors.

On September 29, 2004, in conjunction with an investment partner, P/A Associates, LLC ("P/A"), Fund II, through Acadia-P/A Holding Company, LLC ("Acadia-P/A"), purchased 400 East Fordham Road in the Bronx, NY for \$30,197, inclusive of closing and other related acquisition costs. The Company had provided a bridge loan of \$18,000 to Fund II in connection with this acquisition. Subsequent to the acquisition, Fund II repaid this loan from the Company with \$18,000 of proceeds from a new loan from a bank which bears interest at LIBOR plus 175 basis points and matures November 2007. On February 25, 2005, Acadia-P/A purchased a parcel of land adjacent to 400 E. Fordham Road for \$867, inclusive of closing and related acquisition costs.

On October 1, 2004, Acadia-P/A entered into a 95-year ground lease to redevelop a 16-acre site in Pelham Manor, Westchester County, New York.

On April 6, 2005, Acadia-P/A purchased a 140,000 square foot building located in the Washington Heights section of Manhattan, NY. The building was acquired for a purchase price of \$25,000. In September 2005, Acadia-P/A obtained a mortgage loan of \$19,000 secured by this property which requires monthly payments of interest only at a fixed interest rate of 5.26% and matures September 2007.

During July 2005, Fund II, in conjunction with its partners in the Retailer Controlled Property Venture, invested \$1,000 for a 50% interest in a leasehold located in Rockville, Maryland.

On August 5, 2005, Acadia-P/A purchased 260 East 161st Street in the Bronx, NY for \$49,374, inclusive of closing and other related acquisition costs. Concurrent with the closing, Acadia-P/A obtained a short term loan of \$12,066 which bears interest at LIBOR plus 150 basis points and matures March 2006.

On November 3, 2005, Fund II acquired a 36-year ground lease interest for a 112,000 square foot building located at Oakbrook Center in the Chicago Metro Area for \$6,906, including closing and other acquisition costs. The term of the ground lease expires in July 2017 with three 10-year-options. The current tenant's lease expires in October 2006 with five 5-year-options at the current rent plus one 15-year option at fair market value. The tenant has exercised the first 5-year option which expires in October 2011.

In December 2005, Acadia-P/A acquired a 65,000 square foot parking garage located at 10th Avenue in Manhattan, New York. The purchase price was \$5,310, including closing and other acquisition costs. Concurrent with the closing, Acadia-P/A obtained a \$4,900 short term loan which matures on March 31, 2006 and bears interest at LIBOR plus 125 basis points.

Also in December 2005, Acadia-P/A acquired the remaining 40-year term of a leasehold interest on land located at Liberty Avenue in Queens, New York for \$308.

During the year of 2005, Fund II drew down a total of \$24,400 (net of \$10,000 of repayments) under an existing subscription credit facility, which bears interest at LIBOR plus 75 basis points. The line proceeds were utilized for various acquisitions during the year of 2005.

ACADIA REALTY TRUST AND SUBSIDIARIES
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS
(dollars in thousands, except per share amounts)

4. Investments in Unconsolidated Partnerships, continued

The Company accounts for its investment in Fund II using the equity method. Summary financial information of Fund II and the Company's investment in and share of income from Fund II as follows:

	December 31,	
	2005	2004
Balance Sheets		
Assets:		
Rental property, net	\$ 117,389	\$ 29,058
Other assets	16,662	4,434
Total assets	\$ 134,051	\$ 33,492
Liabilities and partners' equity		
Mortgage notes payable	\$ 78,366	\$ 18,000
Other liabilities	7,717	321
Partners' equity	47,968	15,171
Total liabilities and partners' equity	\$ 134,051	\$ 33,492
Company's investment in Fund II	\$ 9,328	\$ 2,760
	Year Ended December 31, 2005	Period from June 15, 2004 (inception) to December 31, 2004
Statements of Operations		
Total revenue	\$ 4,685	\$ 885
Operating and other expenses	2,388	935
Management and other fees	4,286	2,039
Interest expense	2,124	262
Depreciation and amortization	1,972	248
Minority interest	(65)	(27)
Equity in earning of unconsolidated partnership	318	—
Net loss	\$ (6,338)	\$ (2,572)
Company's share of net loss (1)	\$ (390)	\$ (93)

Notes:

(1) The Company's pro-rata share of net income is before Management and other fees as these amounts are paid to the Company.

Retailer Controlled Property Venture

On January 27, 2004, the Company entered into the Retailer Controlled Property Venture ("RCP Venture") with Klaff Realty, L.P. ("Klaff") and Klaff's long-time capital partner Lubert-Adler Management, Inc. for the purpose of making investments in surplus or underutilized properties owned by retailers. On September 2, 2004, affiliates of Fund I and Fund II, through, newly formed limited liability companies, invested, on a non-recourse basis, in the acquisition of Mervyn's through the RCP Venture, which, as part of an investment consortium of Sun Capital Partners, Inc. and Cerberus Capital Management L.P., acquired Mervyn's from Target Corporation. The total acquisition price was \$1,175,000, with such affiliates' combined \$23,520 share of the investment divided equally between them. The Company's share of the acquisition totaled \$4,965. During the year ended December 31, 2005, affiliates of Funds I and II contributed an additional total of \$1,040 into the Mervyn's investment, of which the Company's share was \$220. During the year ended December 31, 2005, the Company recognized \$5,793 of income from the Mervyn's investment representing its share of net income from this investment. In addition, the Company recognized \$979 as a result of its 20% carried interest in the Mervyn's investment, which is included in Management Fee Income in the Consolidated Statements of Income.

ACADIA REALTY TRUST AND SUBSIDIARIES
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS
(dollars in thousands, except per share amounts)

4. Investments in Unconsolidated Partnerships, continued

Preferred Equity Investment

In March of 2005, the Company invested \$20,000 in a preferred equity position ("Preferred Equity") with Levitz SL, L.L.C. ("Levitz SL"), the owner of 2.5 million square feet of fee and leasehold interests in 30 locations (the "Properties"), the majority of which are currently leased to Levitz Furniture Stores. Klaff Realty L.P. ("Klaff") is a managing member of Levitz SL. The Preferred Equity receives a return of 10%, plus a minimum return of capital of \$2,000 per annum. At the end of 12 months, the rate of return will be reset to the six-month LIBOR plus 644 basis points. The Preferred Equity is redeemable at the option of Levitz SL at any time, although if redeemed during the first 12 months, the redemption price is equal to the outstanding amount of the Preferred Equity, plus the return calculated for the remainder of the 12-month period. In October 2005, Levitz Furniture filed for bankruptcy under Chapter 11. The Company has a preferred equity investment of \$19,000 at December 31, 2005. Levitz was in arrears in minimum return of capital by \$0.5 million. This investment was not made based on Levitz remaining as a tenant, but rather based on the underlying value of the real estate, which management believes is sufficient to recover our equity investment and the return attributable thereto. Accordingly, no reserve is required at December 31, 2005.

5. Deferred Charges

Deferred charges consist of the following as of December 31, 2005 and 2004:

	December 31,	
	2005	2004
Deferred financing costs	\$ 6,537	\$ 7,263
Deferred leasing and other costs	20,815	16,889
	27,352	24,152
Accumulated amortization	(11,472)	(11,528)
	\$ 15,880	\$ 12,624

6. Mortgage Loans

At December 31, 2005, mortgage notes payable aggregated \$238,448 and were collateralized by 20 properties and related tenant leases. Interest rates ranged from 5.0% to 7.6%. Mortgage payments are due in monthly installments of principal and/or interest and mature on various dates through 2016. Certain loans are cross-collateralized and cross-defaulted. The loan agreements contain customary representations, covenants and events of default. Certain loan agreements require the Company to comply with certain affirmative and negative covenants, including the maintenance of certain debt service coverage and leverage ratios.

On February 25, 2005, the Company drew down \$20,000 under an existing revolving facility, which bears interest at LIBOR plus 150 basis points. The proceeds from this drawdown were utilized for the Preferred Equity investment (Note 4).

During April 2005, the company borrowed \$7,400 under an existing secured revolving facility.

On May 26, 2005, the Company closed on a \$65,000 cross-collateralized revolving facility which is collateralized by five of the Company's properties. The facility bears interest at LIBOR plus 130 basis points and matures June 1, 2010. At closing, the lender advanced \$12,000, of which \$7,400 was used to refinance an existing facility with the same lender. On June 27, 2005, an additional \$20,000 was drawn on this line. On October 21, 2005, \$10,000 was repaid on this line resulting in \$22,000 outstanding under this facility as of December 31, 2005.

On August 31, 2005, the company closed on a \$17,600 loan, which bears interest at a fixed rate of 4.98%. This loan, which matures September 2015, requires the payment of interest only until October 2010, and thereafter interest and principal based on 30 year amortization. The proceeds from this loan were in part used to pay down \$15,000 on an existing line.

On October 17, 2005, the Company closed on a \$12,500 loan, which bears interest at a fixed rate of 5.12%. This loan, which matures November 2015, requires the payment of interest only until November 2008, and thereafter interest and principal until maturity. The proceeds from this loan were in part used to pay down \$10,000 on the aforementioned \$65,000 revolving facility.

On December 9, 2005, the Company closed on a \$34,600 loan, which bears interest at a fixed rate of 5.53%. This loan, which matures January 2016, requires the payment of interest only until January 2010, and thereafter interest and principal until maturity.

ACADIA REALTY TRUST AND SUBSIDIARIES
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6. Mortgage Loans, continued

The following table summarizes the Company's mortgage indebtedness (exclusive of mortgage debt of discontinued operations) as of December 31, 2005 and 2004:

	December 31, 2005	December 31, 2004	Interest Rate at December 31, 2005	Maturity	Properties Encumbered	Payment Terms
Mortgage notes payable – variable rate						
Washington Mutual Bank, FA	\$ 29,131	\$ 29,900	5.89% (LIBOR + 1.50%)	04/01/11	(1)	(13)
Bank of America, NA	44,485	44,485	5.79% (LIBOR + 1.40%)	06/29/12	(2)	(14)
Bank of America, NA	10,082	10,252	5.79% (LIBOR + 1.40%)	06/29/12	(3)	(13)
Bank of America, NA	8,338	8,473	5.79% (LIBOR + 1.40%)	12/01/08	(4)	(13)
Bank of America, NA	22,000	—	5.69% (LIBOR + 1.30%)	06/01/10	(5)	(17)
Interest rate swaps	(92,376)	(86,156)				
Total variable-rate debt	21,660	6,954				
Mortgage notes payable – fixed rate						
Bank of America, N.A.	15,882	16,062	7.55%	01/01/11	(6)	(13)
RBS Greenwich Capital	15,000	15,000	5.64%	09/06/14	(7)	(12)
RBS Greenwich Capital	15,894	16,000	5.19%	06/01/13	(8)	(15)
SunAmerica Life Insurance Company	12,936	13,189	6.46%	07/01/07	(9)	(13)
RBS Greenwich Capital	17,600	—	4.98%	09/06/15	(10)	(13)
RBS Greenwich Capital	12,500	—	5.12%	11/06/15	(11)	(18)
Bear Stearns Commercial Mortgage, Inc.	34,600	—	5.53%	01/01/16	(12)	(19)
Fleet National Bank – Interest Rate						
Interest rate swaps	92,376	86,156	5.77%	(16)		
Total fixed-rate debt	216,788	146,407				
	\$ 238,448	\$ 153,361				

Notes:

- | | |
|---|--|
| <p>(1) Bradford Towne Centre
Ledgewood Mall</p> <p>(2) Branch Shopping Center
Abington Towne Center
Methuen Shopping Center</p> <p>(3) Smithtown Shopping Center</p> <p>(4) Soundview Marketplace; there is additional capacity of \$5,000 on this facility</p> <p>(5) Bloomfield Town Square
Walnut Hill Plaza
Hobson West Plaza
Marketplace of Absecon
Village Apartments
There is additional capacity of \$43,000 on this facility</p> <p>(6) GHT Apartments/Colony</p> <p>(7) New Loudon Center</p> <p>(8) 239 Greenwich Avenue</p> | <p>(9) Merrillville Plaza</p> <p>(10) Crescent Plaza</p> <p>(11) Pacesetter Park Shopping Plaza</p> <p>(12) Elmwood Park Shopping Center</p> <p>(13) Monthly principal and interest</p> <p>(14) Annual principal and monthly interest</p> <p>(15) Interest only until 5/05; monthly principal and interest thereafter</p> <p>(16) Maturing between 10/1/06 and 1/1/11</p> <p>(17) Interest only monthly</p> <p>(18) Interest only until 11/08; monthly principal and interest thereafter</p> <p>(19) Interest only until 1/10; monthly principal and interest thereafter</p> |
|---|--|

ACADIA REALTY TRUST AND SUBSIDIARIES
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS
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6. Mortgage Loans, continued

The scheduled principal repayments of all mortgage indebtedness as of December 31, 2005 are as follows:

2006	\$ 2,141
2007	16,383
2008	12,447
2009	5,328
2010	38,445
Thereafter	163,704
	<hr/>
	\$ 238,448

7. Shareholders' Equity and Minority Interests*Common Shares*

In March of 2004, a secondary public offering was completed for a total of 5,750,000 Common Shares. The selling shareholders, Yale University and its affiliates ("Yale") and Ross Dworman, a former trustee, sold 4,191,386 and 1,558,614 Common Shares, respectively. The Company did not sell any Common Shares in the offering and did not receive any proceeds from the offering.

During November 2004, the Company issued 1,890,000 Common Shares (the "Offering"). The \$28,312 in proceeds from the Offering, net of related costs, was used to retire above-market, fixed-rate indebtedness as well as to invest in real estate assets. Yale and Kenneth F. Bernstein, the Company's Chief Executive Officer, also sold 1,000,000, and 110,000 Common Shares, respectively, in connection with this transaction. Mr. Bernstein sold 110,000 Common Shares in connection with his exercise of options to purchase 150,000 Common Shares.

In October 2005, the Board of Trustees approved a resolution permitting one of its institutional shareholders, which at the time owned approximately 3.8% of the Company's outstanding Common Shares, to acquire additional shares through open market purchases. This waiver of the Company's share ownership limitation permitted this shareholder to acquire up to an additional 6% of the Company's shares through December 31, 2005, or an aggregate of up to 9.8% of the Company's Common Shares.

Through December 31, 2005, the Company had repurchased 2,051,605 Common Shares at a total cost of \$11,650 (of which 2,009,509 of these Common Shares have been subsequently reissued) under its share repurchase program that allows for the repurchase of up to \$20,000 of its outstanding Common Shares. The repurchased shares are reflected as a reduction of par value and additional paid-in capital.

Minority Interests

Minority interest in the Operating Partnership represents (i) the limited partners' interest of 653,360 and 392,255 Common OP Units at December 31, 2005 and 2004, respectively, (ii) 884 and 1,580 Series A Preferred OP Units at December 31, 2005 and 2004, respectively, with a nominal value of \$1,000 per unit, which are entitled to a preferred quarterly distribution of the greater of (a) \$22.50 per unit (9% annually) per Series A Preferred OP Unit or (b) the quarterly distribution attributable to a Series A Preferred OP Unit if such unit were converted into a Common OP Unit, and (iii) 4,000 Series B Preferred OP Units at both December 31, 2005 and 2004 with a nominal value of \$1,000 per unit, which are entitled to a preferred quarterly distribution of the greater of (a) \$13.00 (5.2% annually) per unit or (b) the quarterly distribution attributable to a Series B Preferred OP Unit if such unit were converted into a Common OP Unit. Minority interests in majority-owned partnerships represent third-party interests in three partnerships in which the Company has a majority ownership position.

During July 2005, the Company issued to a third party 11,105 Restricted Common OP Units valued at \$18.01 per unit in connection with the purchase of 4343 Amboy Road. The holder of the Common OP Units was restricted from selling these for six months from the date of the transaction.

ACADIA REALTY TRUST AND SUBSIDIARIES
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7. Shareholders' Equity and Minority Interests, continued

In February 2005, the Company issued \$4,000 (250,000 Restricted Common OP Units valued at \$16.00 each) of Restricted Common OP Units to Klaff in consideration for the 25% balance of certain management contract rights as well as the rights to 25% of certain potential future revenue streams. This followed the acquisition of 75% of the management contract rights and 75% of certain potential future revenue streams from Klaff in January 2004 as reflected below. The Restricted Common OP Units are convertible into the Company's Common Shares on a one-for-one basis after a five-year lock-up period. \$1,116 of the purchase price was allocated to investment in management contracts in the consolidated balance sheet and is being amortized over the estimated remaining life of the contracts. The remainder of the purchase price has been allocated to deferred charges in the consolidated balance sheet and will be allocated to future revenue streams as identified.

During 2005 and 2004, various limited partners converted a total of 746,762 and 2,058,804 Common OP Units into Common Shares on a one-for-one basis, respectively. Mr. Dworman, a trustee of the Company, received 34,841 of Common OP Units through various affiliated entities during 2003 (Note 8).

The Series A Preferred OP Units were issued on November 16, 1999 in connection with the acquisition of all the partnership interests of the limited partnership which owns the Pacesetter Park Shopping Center. Certain Series A Preferred OP Unit holders converted 696 Series A Preferred OP Units into 92,800 Common OP Units and then into Common Shares during 2005. The Series A Preferred OP Units are currently convertible into Common OP Units based on the stated value divided by \$7.50. After the seventh anniversary following their issuance, either the Company or the holders can call for the conversion of the Series A Preferred OP Units at the lesser of \$7.50 or the market price of the Common Shares as of the conversion date.

The Series B Preferred OP Units were issued to Klaff Realty LP ("Klaff") in January 2004 in consideration for the acquisition of certain management contract rights. The Preferred OP Units are convertible into Common OP Units based on the stated value of \$1,000 divided by \$12.82 at any time. Additionally, Klaff may redeem them at par for either cash or Common OP Units after the earlier of the third anniversary of their issuance, or the occurrence of certain events including a change in the control of the Company. Finally, after the fifth anniversary of the issuance, the Company may redeem the Preferred OP Units and convert them into Common OP Units at market value as of the redemption date.

8. Related Party Transactions

In February 2005, the Company issued \$4,000 of Restricted Common OP Units to Klaff for the balance of certain management contract rights as well as the rights to certain potential future revenue streams (Note 7).

In March 2005, the Company completed a \$20,000 Preferred Equity Investment with Levitz SL, of which Klaff, a common and preferred OP unit holder, is the managing member.

The Company earns certain management and service fees in connection with its investment in Fund I and Fund II (Note 4). Such fees earned by the Company aggregated \$7,890, \$3,504 and \$1,689 for the years ended December 31, 2005, 2004 and 2003, respectively.

The Company also earns fees in connection with its rights to provide asset management, leasing, disposition, development and construction services for an existing portfolio of retail properties and/or leasehold interests in which Klaff, a preferred OP unit holder, has an interest. Net fees earned by the Company in connection with this portfolio were \$3,602 and \$885 for the years ended December 31, 2005 and 2004, respectively. These amounts are net of the payment of sub-management fees to Klaff of \$303 and \$1,591 for the years ended December 31, 2005 and 2004, respectively.

The Company managed one property in which a major shareholder of the Company had an ownership interest and earned a management fee of 3% of tenant collections. Management fees earned by the Company under this contract aggregated \$142 for the year ended December 31, 2004. In addition, the Company earned leasing commission of \$157 related to this property for the year ended December 31, 2004. In connection with the sale of the property on July 12, 2004, the management contract was terminated and the Company earned a \$75 disposition fee.

Lee Wielansky, the Lead Trustee of the Company, was paid a consulting fee of \$100 for both years ended December 31, 2005 and 2004.

ACADIA REALTY TRUST AND SUBSIDIARIES
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS
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8. Related Party Transactions, continued

On March 19, 2004, Ross Dworman, a former trustee of the Company, and certain entities controlled by Mr. Dworman converted 1,000,000 share options and 548,614 OP Units held by them in connection with a secondary public offering. Included in the Common OP Units converted to Common Shares during 2003 were 2,300 Common OP Units converted by Mr. Dworman who then transferred them to a charitable foundation in accordance with a pre-existing arrangement.

During the year ended December 31, 2004, Kenneth F. Bernstein, President and Chief Executive Officer, and certain trustees of the Company exercised 400,000 and 20,000 options to purchase Common Shares, respectively.

9. Tenant Leases

Space in the shopping centers and other retail properties is leased to various tenants under operating leases that usually grant tenants renewal options and generally provide for additional rents based on certain operating expenses as well as tenants' sales volume.

Minimum future rentals to be received under non-cancelable leases for shopping centers and other retail properties as of December 31, 2005 are summarized as follows:

2006	\$ 46,281
2007	43,456
2008	38,619
2009	34,344
2010	29,229
Thereafter	184,869
	<u>\$ 376,798</u>

Minimum future rentals above include a total of \$4,180 for three tenants (with four leases), which have filed for bankruptcy protection. None of these leases have been rejected nor affirmed. During the years ended December 31, 2005, 2004 and 2003, no single tenant collectively accounted for more than 10% of the Company's total revenues.

10. Lease Obligations

The Company leases land at five of its shopping centers, which are accounted for as operating leases and generally provide the Company with renewal options. Ground rent expense was \$796, \$791 and \$780 for the years ended December 31, 2005, 2004 and 2003, respectively. The leases terminate during during 2008 to 2066. Three of these leases provides the Company with options to renew for additional terms aggregating from 20 to 44 years. The Company leases space for its White Plains corporate office for a term expiring in 2010. Office rent expense under this lease was \$412, \$239 and \$242 for the years ended December 31, 2005, 2004 and 2003, respectively. Future minimum rental payments required for leases having remaining non-cancelable lease terms are as follows:

2006	\$ 1,792
2007	1,848
2008	1,930
2009	1,939
2010	1,731
Thereafter	28,974
	<u>\$ 38,214</u>

11. Share Incentive Plan

During 1999, the Company adopted the 1999 Share Incentive Plan (the "1999 Plan"), which replaced both the 1994 Share Option Plan and the 1994 Non-Employee Trustees' Share Option Plan. The 1999 Plan authorizes the issuance of options equal to up to 8% of the total Common Shares outstanding from time to time on a fully diluted basis. However, not more than 4,000,000 of the Common Shares in the aggregate may be issued pursuant to the exercise of options and no participant may receive more than 5,000,000 Common Shares during the term of the 1999 Plan. Options are granted by the Share Option Plan Committee (the "Committee"), which currently consists of two non-employee Trustees, and will not have an exercise price less than 100% of the fair market value of the Common Shares and a term of greater than ten years at the grant date. Vesting of options is at the discretion of the Committee with the exception of options granted to non-employee Trustees, which vest in five equal annual installments beginning on the date of grant.

ACADIA REALTY TRUST AND SUBSIDIARIES
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11. Share Incentive Plan, continued

The 1999 Plan also provides for the granting of share appreciation rights, restricted shares and performance units/shares. Share appreciation rights provide for the participant to receive, upon exercise, cash and/or Common Shares, at the discretion of the committee, equal to the excess of the market value of the Common Shares at the exercise date over the market value of the Common Shares at the Grant Date. The Committee will determine the award and restrictions placed on restricted shares, including the dividends thereon and the term of such restrictions. The Committee also determines the award and vesting of performance units and performance shares based on the attainment of specified performance objectives of the Company within a specified performance period. Through December 31, 2005, no share appreciation rights or performance units/shares have been awarded.

During 2003, the Company adopted the 2003 Share Incentive Plan (the "2003 Plan") because no Common Shares remained available for future grants under the 1999 Plan. The 2003 Plan provides for the granting of options, share appreciation rights, restricted shares and performance units (collectively, "Awards") to officers, employees and trustees of the Company and consultants to the Company. The 2003 Plan is generally identical to the 1999 Plan, except that the maximum number of Common Shares that the Company may issue pursuant to the 2003 Plan is four percent of the Common Shares outstanding from time to time on a fully diluted basis. However, no participant may receive more than 1,000,000 Common Shares during the term of the 2003 Plan with respect to Awards. Pursuant to the 2003 Plan, non-employee Trustees receive an automatic grant of 3,000 options following each Annual Meeting of Shareholders.

As of December 31, 2005, the Company has 437,242 options outstanding to officers and employees. These fully vested options are for ten-year terms from the grant date and vested in three equal annual installments which began on the grant date. In addition, 40,000 options have been issued to non-employee Trustees of which 13,400 options were vested as of December 31, 2005.

During 2005, the Company issued a total of 109,826 restricted Common Shares ("Restricted Shares") to executive officers ("Officers") and 23,642 Restricted Shares (net of subsequent forfeitures) to certain employees ("Employees") of the Company. In general, the Restricted Shares carry all the rights of Common Shares including voting and dividend rights, but may not be transferred, assigned or pledged until the Recipients have a vested non-forfeitable right to such shares. Vesting with respect to the Restricted Shares issued to Officers, which is subject to the recipients' continued employment with the Company through the applicable vesting dates, is ratably over four years commencing on the first anniversary of the Grant Date and each of the next three anniversaries thereafter. In addition, vesting on 50% of these Restricted Shares is also subject to certain total shareholder returns on the Company's Common Shares. Vesting with respect to the Restricted Shares issued to Employees, which is subject to the Recipients' continued employment with the Company through the applicable vesting dates, is ratably over five years commencing on the Grant Date and each of the next four anniversaries thereafter. In addition, vesting on 25% of these Restricted Shares is also subject to certain total shareholder returns on the Company's Common Shares.

The total value of the above Restricted Share awards on the date of grant was \$2,179 which will be recognized in compensation expense over the vesting period.

For the year ended December 31, 2004, 126,853 Restricted Shares (net of forfeitures) were issued pursuant to the 2003 Plan. The total value of the Restricted Share awards on the date of grant was \$1,586 which will be recognized in expense over the vesting period. No awards of share appreciation rights or performance units/shares were granted for the years ended December 31, 2005, 2004 and 2003.

For the years ended December 31, 2005, 2004 and 2003, \$1,029, \$764 and \$410, respectively, were recognized in compensation expense related to Restricted Share grants. Unearned compensation of \$3,541 as of December 31, 2005 will be recognized in expense as such shares vest.

Effective January 1, 2002, the Company adopted the fair value method of recording stock-based compensation contained in SFAS No. 123, "Accounting for Stock-Based Compensation". As such, stock based compensation awards are expensed over the vesting period based on the fair value at the date the stock-based compensation was granted.

ACADIA REALTY TRUST AND SUBSIDIARIES
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11. Share Incentive Plan, continued

The Company has used the Binomial method for 2005 and the Black-Scholes option-pricing model in previous years for purposes of estimating the fair value in determining compensation expense for options granted for the years ended December 31, 2005, 2004 and 2003. The Company has also used this model for the pro forma information regarding net income and earnings per share as required by SFAS No. 123 for options issued for the year ended December 31, 2001 as if the Company had also accounted for these employee stock options under the fair value method. The fair value for the options issued by the Company was estimated at the date of the grant using the following weighted-average assumptions resulting in:

	Years ended December 31,		
	2005	2004	2003
Risk-free interest rate	4.0%	4.0%	4.4%
Dividend yield	4.2%	4.2%	5.8%
Expected life	7.5 years	7.5 years	10.0 years
Expected volatility	18.0%	18.0%	18.0%
Fair value at date of grant (per option)	\$ 2.57	\$ 2.17	\$ 0.82

Changes in the number of shares under all option arrangements are summarized as follows:

	Years ended December 31,		
	2005	2004	2003
Outstanding at beginning of year	464,650	2,095,150	2,472,400
Granted	69,296	19,000	8,000
Option price per share granted	\$ 16.35	\$ 12.55-14.13	\$ 9.11-11.66
Cancelled	—	—	—
Exercisable at end of year	437,242	446,850	2,082,750
Settled (1)	—	39,500	385,000
Exercised	56,704	1,610,000	250
Expired	—	—	—
Outstanding at end of year	477,242	464,650	2,095,150
Option prices per share outstanding	\$5.75-\$16.35	\$5.75-\$14.13	\$4.89-\$11.66

(1) Pursuant to the 1999 Plan these options were settled and did not result in the issuance of any additional Common Shares.

As of December 31, 2005 the outstanding options had a weighted average exercise price of \$8.08 and a weighted average remaining contractual life of approximately 5.1 years.

12. Employee Stock Purchase and Deferred Share Plan

In 2003, the Company adopted the Acadia Realty Trust Employee Stock Purchase Plan (the "Purchase Plan"), which allows eligible employees of the Company to purchase Common Shares through payroll deductions. The Purchase Plan provides for employees to purchase Common Shares on a quarterly basis at a 15% discount to the closing price of the Company's Common Shares on either the first day or the last day of the quarter, whichever is lower. The amount of the payroll deductions will not exceed a percentage of the participant's annual compensation that the Committee establishes from time to time, and a participant may not purchase more than 1,000 Common Shares per quarter. Compensation expense will be recognized by the Company to the extent of the above discount to the average closing price of the Common Shares with respect to the applicable quarter. During 2005, 2004 and 2003, 6,412, 6,397 and 810 Common Shares, respectively, were purchased by Employees under the Purchase Plan and the associated compensation expense was \$16, \$15 and \$1 respectively.

In August of 2004, the Company adopted a Deferral and Distribution Election pursuant to the 1999 Share Incentive Plan and 2003 Share Incentive Plan, whereby the participants elected to defer receipt of 190,487 Common Shares ("Share Units") that would otherwise be issued upon the exercise of certain options. The payment of the option exercise price was made by tendering Common Shares that the participants owned for at least six months prior to the option exercise date. The Share Units are equivalent to a Common Share on a one-for-one basis and carry a dividend equivalent right equal to the dividend rate for the Company's Common shares. The deferral period is determined by each of the participants and generally terminates after the cessation of the participants continuous service with the Company, as defined in the agreement. In December 2004, optionees exercised 346,000 options pursuant to the Deferred Share Election and tendered 155,513 Common Shares in consideration of the option exercise price. In 2004 the Company issued 155,513 Common Shares to optionees and 190,487 Share Units. During 2005 there were no additional Shared Units contributed to the plan.

ACADIA REALTY TRUST AND SUBSIDIARIES
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13. Employee 401(k) Plan

The Company maintains a 401(k) plan for employees under which the Company currently matches 50% of a plan participant's contribution up to 6% of the employee's annual salary. A plan participant may contribute up to a maximum of 15% of their compensation but not in excess of \$14 for the year ended December 31, 2005. The Company contributed \$128, \$109, and \$110 for the years ended December 31, 2005, 2004 and 2003, respectively.

14. Dividends and Distributions Payable

On November 8, 2005, the Company declared a cash dividend for the quarter ended December 31, 2005 of \$0.185 per Common Share. The dividend was paid on January 13, 2006 to shareholders of record as of December 31, 2005.

15. Federal Income Taxes

The Company has elected to qualify as a REIT in accordance with the Internal Revenue Code (the "Code") and intends at all times to qualify as a REIT under Sections 856 through 860 of the Internal Revenue Code of 1986, as amended. To qualify as a REIT, the Company must meet a number of organizational and operational requirements, including a requirement that it currently distribute at least 90% of its annual REIT taxable income to its shareholders. As a REIT, the Company generally will not be subject to corporate Federal income tax, provided that distributions to its shareholders equal at least the amount of its REIT taxable income as defined under the Code. As the Company distributed sufficient taxable income for the years ended December 31, 2005, 2004 and 2003 no U.S. Federal income or excise taxes were incurred. If the Company fails to qualify as a REIT in any taxable year, it will be subject to Federal income taxes at the regular corporate rates (including any applicable alternative minimum tax) and may not be able to qualify as a REIT for the four subsequent taxable years. Even though the Company qualifies for taxation as a REIT, the Company is subject to certain state and local taxes on its income and property and Federal income and excise taxes on any undistributed taxable income. In addition, taxable income from non-REIT activities managed through the Company's TRS's are subject to Federal, state and local income taxes.

The primary difference between the GAAP and tax reported amounts of the Company's assets and liabilities are a higher GAAP basis in its real estate properties. This is primarily the result of assets acquired as a result of property contributions in exchange for OP Units .

ACADIA REALTY TRUST AND SUBSIDIARIES
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15. Federal Income Taxes, continued*Reconciliation between GAAP Net Income and Federal Taxable Income*

The following table reconciles GAAP net income to taxable income for the years ended December 31, 2005, 2004 and 2003:

	2005 (Estimated)	2004 (Actual)	2003 (Actual)
GAAP net income	\$ 20,626	\$ 19,585	\$ 7,853
Less: GAAP net income of TRS	1,349	—	—
GAAP net income from REIT operations (1)	19,277	19,585	7,853
Book/tax difference in depreciation and amortization	5,163	3,438	3,828
Book/tax difference on exercise of options to purchase Common Shares	(26)	(8,970)	—
Book/tax difference on capital transactions	(50)	(1,354)	—
Other book/tax differences, net	(748)	1,953	(326)
REIT taxable income before dividends paid deduction	\$ 23,616	\$ 14,652	\$ 11,355

(1) – All adjustments to GAAP net income from REIT operations are net of amounts attributable to minority interest and TRS.

Characterization of Distributions:

The Company has determined that the cash distributed to the shareholders is characterized as follows for Federal income tax purposes:

	For the years ended December 31,		
	2005	2004	2003
Ordinary income	95%	59%	100%
Section 1250 gain	3%	32%	—
Return of capital	2%	9%	—
	100%	100%	100%

Taxable REIT Subsidiaries ("TRS")

Income taxes have been provided for on the asset and liability method as required by SFAS No. 109. The Company's TRS income and provision for income taxes for the year ended December 31, 2005 is summarized as follows:

	2005 (Estimated)
TRS income before income taxes	\$ 3,458
Less provision for income taxes:	
Federal	1,601
State and Local	508
Total provision for income taxes	2,109
GAAP net income TRS	\$ 1,349

The Company has provided a full valuation allowance against its deferred tax asset of \$247 due to the current uncertainty of its realization and as such is not included in the accompanying Consolidated Balance Sheets at December 31, 2005. This deferred tax asset relates primarily to the differences in the timing of the recognition of income/(deductions) and gain/(loss) between the GAAP and tax basis of accounting for (i) real estate joint ventures activities, (ii) capital transactions and (iii) other deductible temporary differences.

ACADIA REALTY TRUST AND SUBSIDIARIES
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15. Federal Income Taxes, continued

The income tax provision differs from the amount computed by applying the statutory federal income tax rate to taxable income before income taxes as follows:

	2005
Federal provision at statutory tax rate (35%)	\$ 1,210
State and local taxes, net of federal benefit	330
Tax effect of:	
Permanent differences	476
Valuation allowance against deferred tax asset	208
Utilization of loss and deduction carry forwards	(115)
Other	31
Total provision for income taxes	\$ 2,140

16. Financial Instruments

Fair Value of Financial Instruments:

SFAS No. 107, "Disclosures About Fair Value of Financial Instruments" requires disclosure on the fair value of financial instruments. Certain of the Company's assets and liabilities are considered financial instruments. Fair value estimates, methods and assumptions are set forth below.

Cash and Cash Equivalents, Restricted Cash, Cash in Escrow, Rents Receivable, Notes Receivable, Prepaid Expenses, Other Assets, Accounts Payable and Accrued Expenses, Dividends and Distributions Payable, Due to Related Parties and Other Liabilities. The carrying amount of these assets and liabilities approximates fair value due to the short-term nature of such accounts.

Derivative Instruments – The fair value of these instruments is based upon the estimated amounts the Company would receive or pay to terminate the contracts as of December 31, 2005 and 2004 and is determined using interest rate market pricing models.

Mortgage Notes Payable – As of December 31, 2005 and 2004, the Company has determined the estimated fair value of its mortgage notes payable are \$235,297 and \$153,612, respectively, by discounting future cash payments utilizing a discount rate equivalent to the rate at which similar mortgage notes payable would be originated under conditions then existing.

Derivative Financial Instruments:

SFAS No. 133, "Accounting for Derivative Instruments and Hedging Activities", as amended and interpreted, establishes accounting and reporting standards for derivative instruments, including certain derivative instruments embedded in other contracts, and for hedging activities. As required by SFAS 133, the Company records all derivatives on the balance sheet at fair value. The accounting for changes in the fair value of derivatives depends on the intended use of the derivative and the resulting designation. Derivatives used to hedge the exposure to changes in the fair value of an asset, liability, or firm commitment attributable to a particular risk, such as interest rate risk, are considered fair value hedges. Derivatives used to hedge the exposure to variability in expected future cash flows, or other types of forecasted transactions, are considered cash flow hedges.

For derivatives designated as fair value hedges, changes in the fair value of the derivative and the hedged item related to the hedged risk are recognized in earnings. For derivatives designated as cash flow hedges, the effective portion of changes in the fair value of the derivative is initially reported in other comprehensive income (outside of earnings) and subsequently reclassified to earnings when the hedged transaction affects earnings, and the ineffective portion of changes in the fair value of the derivative is recognized directly in earnings. The Company assesses the effectiveness of each hedging relationship by comparing the changes in fair value or cash flows of the derivative hedging instrument with the changes in fair value or cash flows of the designated hedged item or transaction. For derivatives not designated as hedges, changes in fair value are recognized in earnings.

ACADIA REALTY TRUST AND SUBSIDIARIES
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS
(dollars in thousands, except per share amounts)

16. Financial Instruments, continued*Derivative Financial Instruments, continued*

As of December 31, 2005 and 2004, no derivatives were designated as fair value hedges or hedges of net investments in foreign operations. Additionally, the Company does not use derivatives for trading or speculative purposes and currently does not have any derivatives that are not designated as hedges.

The following table summarizes the notional values and fair values of the Company's derivative financial instruments as of December 31, 2005. The notional value does not represent exposure to credit, interest rate or market risks:

Hedge Type	Notional Value	Rate	Forward Start Date	Interest maturity	Fair Value
LIBOR Swap	\$ 36,778	4.35%	n/a	1/1/11	\$ 615
LIBOR Swap	20,000	4.53%	n/a	10/1/06	24
LIBOR Swap	15,149	4.32%	n/a	1/1/07	62
LIBOR Swap	11,719	4.11%	n/a	1/1/07	72
LIBOR Swap	8,730	4.47%	n/a	6/1/07	31
LIBOR Swap	4,640	4.71%	10/2/06	1/1/10	5
Interest rate swap receivable					\$ 809
LIBOR Swap	11,410	4.90%	10/2/06	10/1/11	(59)
LIBOR Swap	8,434	5.14%	6/1/07	3/1/12	(121)
Interest rate swap liability					\$ (180)

As of December 31, 2005, the derivative instruments were reported at fair value as reflected above. The interest rate swap receivable is included in Other Assets in the Consolidated Balance Sheets. As of December 31, 2004, the derivative instruments were reported at fair value as a derivative instrument liability of \$2,136. As of December 31, 2005 and 2004, unrealized losses totaling \$12 and \$3,219, respectively, represented the fair value of the aforementioned derivatives, of which \$12 and \$3,180, respectively, were reflected in accumulated other comprehensive loss, and \$0 and \$39, respectively, as a reduction of minority interest in the Operating Partnership. For the years ended December 31, 2004 and 2003, the Company recorded in interest expense an unrealized loss of \$37 and unrealized gain of \$51, respectively, due to partial ineffectiveness on one of the swaps which was terminated in November 2004. The ineffectiveness resulted from differences between the derivative notional and the principal amount of the hedged variable rate debt.

The Company's interest rate hedges are designated as cash flow hedges and hedge the future cash outflows on mortgage debt. Interest rate swaps that convert variable payments to fixed payments, such as those held by the Company, as well as interest rate caps, floors, collars, and forwards are cash flow hedges. The unrealized gains and losses in the fair value of these hedges are reported on the balance sheet with a corresponding adjustment to either accumulated other comprehensive income or earnings depending on the type of hedging relationship. For cash flow hedges, offsetting gains and losses are reported in accumulated other comprehensive income. Over time, the unrealized gains and losses held in accumulated other comprehensive income will be reclassified to earnings. This reclassification occurs over the same time period in which the hedged items affect earnings.

ACADIA REALTY TRUST AND SUBSIDIARIES
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS
(dollars in thousands, except per share amounts)

17. Earnings Per Common Share

Basic earnings per share was determined by dividing the applicable net income to common shareholders for the year by the weighted average number of Common Shares outstanding during each year consistent with SFAS No. 128. Diluted earnings per share reflects the potential dilution that could occur if securities or other contracts to issue Common Shares were exercised or converted into Common Shares or resulted in the issuance of Common Shares that then shared in the earnings of the Company. The following table sets forth the computation of basic and diluted earnings per share from continuing operations for the periods indicated:

	Years ended December 31,		
	2005	2004	2003
Numerator:			
Income from continuing operations – basic earnings per share	\$ 21,567	\$ 13,516	\$ 8,393
Effect of dilutive securities:			
Preferred OP Unit distributions	—	—	—
Numerator for diluted earnings per share	21,567	13,516	8,393
Denominator:			
Weighted average shares – basic earnings per share	31,949	29,341	26,640
Effect of dilutive securities:			
Employee stock options	265	571	592
Dilutive potential Common Shares	265	571	592
Denominator for diluted earnings per share	32,214	29,912	27,232
Basic earnings per share from continuing operations	\$ 0.68	\$ 0.46	\$ 0.32
Diluted earnings per share from continuing operations	\$ 0.67	\$ 0.45	\$ 0.31

The weighted average shares used in the computation of basic earnings per share include unvested restricted shares (Note 11) and Share Units (Note 12) that are entitled to receive dividend equivalent payments. The effect of the conversion of Common OP Units is not reflected in the above table as they are exchangeable for Common Shares on a one-for-one basis. The income allocable to such units is allocated on this same basis and reflected as minority interest in the accompanying consolidated financial statements. As such, the assumed conversion of these units would have no net impact on the determination of diluted earnings per share.

18. Summary of Quarterly Financial Information (unaudited)

The quarterly results of operations of the Company for the years ended December 31, 2005 and 2004 are as follows:

	March 31, 2005	June 30, 2005	September 30, 2005	December 31, 2005	Total for Year
Revenue	\$ 19,613	\$ 20,346	\$ 20,745	\$ 22,614	\$ 83,318
Income from continuing operations	\$ 4,360	\$ 5,044	\$ 7,294	\$ 4,869	\$ 21,567
Income (loss) from discontinued operations	\$ 85	\$ (699)	\$ (69)	\$ (258)	\$ (941)
Net income	\$ 4,445	\$ 4,345	\$ 7,225	\$ 4,611	\$ 20,626
Net income per Common Share – basic:					
Income from continuing operations	\$ 0.14	\$ 0.16	\$ 0.23	\$ 0.15	\$ 0.68
Income (loss) from discontinued operations	0.00	(0.02)	(0.00)	(0.01)	(0.03)
Net income	\$ 0.14	\$ 0.14	\$ 0.23	\$ 0.14	\$ 0.65
Net income per Common Share –diluted:					
Income from continuing operations	\$ 0.14	\$ 0.16	\$ 0.22	\$ 0.15	\$ 0.67
Income (loss) from discontinued operations	0.00	(0.02)	(0.00)	(0.01)	(0.03)
Net income	\$ 0.14	\$ 0.14	\$ 0.22	\$ 0.14	\$ 0.64
Cash dividends declared per Common Share	\$ 0.1725	\$ 0.1725	\$ 0.1725	\$ 0.185	\$ 0.7025
Weighted average Common Shares outstanding:					
Basic	31,867,185	31,898,644	32,008,982	32,017,316	31,948,610
Diluted	32,139,833	32,144,529	32,706,201	32,293,926	32,214,231

ACADIA REALTY TRUST AND SUBSIDIARIES
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS
(dollars in thousands, except per share amounts)

18. Summary of Quarterly Financial Information (unaudited), continued

	March 31, 2004	June 30, 2004	September 30, 2004	December 31, 2004	Total for Year
Revenue	\$ 17,226	\$ 17,466	\$ 18,087	\$ 18,878	\$ 71,657
Income from continuing operations	\$ 3,124	\$ 3,966	\$ 3,097	\$ 3,329	\$ 13,516
Loss (income) from discontinued operations	\$ (274)	\$ (202)	\$ (202)	\$ 6,747	\$ 6,069
Net income	\$ 2,850	\$ 3,764	\$ 2,895	\$ 10,076	\$ 19,585
Net income per Common Share – basic					
Income from continuing operations	\$ 0.11	\$ 0.13	\$ 0.11	\$ 0.11	\$ 0.46
Loss (income) from discontinued operations	(0.01)	0.00	0.00	0.22	0.21
Net income	\$ 0.10	\$ 0.13	\$ 0.11	\$ 0.33	\$ 0.67
Net income per Common Share – diluted					
Income from continuing operations	\$ 0.11	\$ 0.13	\$ 0.10	\$ 0.11	\$ 0.45
Loss (income) from discontinued operations	(0.01)	0.00	0.00	0.21	0.20
Net income	\$ 0.10	\$ 0.13	\$ 0.10	\$ 0.32	\$ 0.65
Cash dividends declared per Common Share	\$ 0.16	\$ 0.16	\$ 0.16	\$ 0.1725	\$ 0.6525
Weighted average Common Shares outstanding:					
Basic	27,890,065	29,333,184	29,459,175	30,665,688	29,340,992
Diluted	28,763,751	29,793,310	29,953,528	31,645,852	29,912,405

19. Commitments and Contingencies

Under various Federal, state and local laws, ordinances and regulations relating to the protection of the environment, a current or previous owner or operator of real estate may be liable for the cost of removal or remediation of certain hazardous or toxic substances disposed, stored, generated, released, manufactured or discharged from, on, at, under, or in a property. As such, the Company may be potentially liable for costs associated with any potential environmental remediation at any of its formerly or currently owned properties.

The Company conducts Phase I environmental reviews with respect to properties it acquires. These reviews include an investigation for the presence of asbestos, underground storage tanks and polychlorinated biphenyls (PCBs). Although such reviews are intended to evaluate the environmental condition of the subject property as well as surrounding properties, there can be no assurance that the review conducted by the Company will be adequate to identify environmental or other problems that may exist. Where a Phase I assessment is so recommended, a Phase II assessment was conducted to further determine the extent of possible environmental contamination. In all instances where a Phase I or II assessment has resulted in specific recommendations for remedial actions, the Company has either taken or scheduled the recommended remedial action. To mitigate unknown risks, the Company has obtained environmental insurance for most of its properties, which covers only unknown environmental risks.

The Company believes that it is in compliance in all material respects with all Federal, state and local ordinances and regulations regarding hazardous or toxic substances. Management is not aware of any environmental liability that they believe would have a material adverse impact on the Company's financial position or results of operations. Management is unaware of any instances in which it would incur significant environmental costs if any or all properties were sold, disposed of or abandoned. However, there can be no assurance that any such non-compliance, liability, claim or expenditure will not arise in the future.

For the year ended December 31, 2004, the Company accrued a reserve for \$730 related to flood damage incurred at one of its properties. Under the terms of the Company's insurance policy, a maximum deductible of approximately \$730 would apply in the event the flood damage was the direct result of a "named" storm. During the first quarter of 2005, the Company reduced the reserve by \$480 due to the settlement of the insurance claim.

The Company is involved in various matters of litigation arising in the normal course of business. While the Company is unable to predict with certainty the amounts involved, the Company's management and counsel are of the opinion that, when such litigation is resolved, the Company's resulting liability, if any, will not have a significant effect on the Company's consolidated financial position or results of operations.

ACADIA REALTY TRUST AND SUBSIDIARIES
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS
(dollars in thousands, except per share amounts)

20. Subsequent Events

On January 4, 2006, the institutional investors of Fund I merged their 78% interest in the Brandywine Portfolio into affiliates of GDC Properties Incorporated ("GDC") in exchange for cash. The Company merged its 22% share of the Brandywine Portfolio into GDC in exchange for a 22% interest in GDC. Prior to the closing of this transaction, the Company provided \$17.6 million of mortgage financing to GDC secured by certain properties within the Brandywine Portfolio.

ACADIA REALTY TRUST
SCHEDULE III-REAL ESTATE AND ACCUMULATED DEPRECIATION
December 31, 2005

Description	Encumbrances	Land	Buildings & Improvements	Costs capitalized Subsequent to Acquisition	Land	Buildings & Improvements	Total	Accumulated Depreciation	Date of Acquisition (a) Construction(c)	
Shopping Centers										
Crescent Plaza										
Brockton, MA	\$ 17,600	\$ 1,147	\$ 7,425	\$ 822	\$ 1,147	\$ 8,247	\$ 9,394	\$ 4,344	1984(a)	
New Loudon Center										
Latham, NY	15,000	505	4,161	10,840	505	15,001	15,506	8,024	1982(a)	
Ledgewood Mall										
Ledgewood, NJ	(1)	619	5,434	33,096	619	38,530	39,149	25,506	1983(a)	
Mark Plaza										
Edwardsville, PA	—	—	4,268	4,765	—	9,033	9,033	5,709	1968(c)	
Luzerne Street Plaza										
Scranton, PA	—	35	315	1,722	35	2,037	2,072	1,141	1983(a)	
Blackman Plaza										
Wilkes-Barre, PA	—	120	—	1,599	120	1,599	1,719	587	1968(c)	
Greenridge Plaza										
Scranton, PA	—	1,335	6,314	2,292	1,335	8,606	9,941	4,652	1986(c)	
Plaza 422										
Lebanon, PA	—	190	3,004	720	190	3,724	3,914	2,714	1972(c)	
Route 6 Mall										
Honesdale, PA	—	—	—	12,695	1,664	11,031	12,695	4,262	1995(c)	
Pittston Mall										
Pittston, PA	—	1,500	—	5,956	1,521	5,935	7,456	2,139	1995(c)	
Bartow Avenue										
Bronx, NY	—	1,691	5,803	44	1,691	5,847	7,538	133	2002(c)	
Amboy Rd. Shopping Ctr.										
Staten Island, NY	—	—	11,909	—	—	11,909	11,909	145	2005(a)	
Bradford Towne Centre										
Towanda, PA	(1)	—	—	16,100	817	15,283	16,100	6,158	1994(c)	
Abington Towne Center										
Abington, PA	(2)	799	3,197	1,994	799	5,191	5,990	1,182	1998(a)	
Bloomfield Town Square										
Bloomfield Hills, MI	(3)	3,443	13,774	4,684	3,443	18,458	21,901	3,561	1998(a)	
Walnut Hill Plaza										
Woonsocket, RI	(3)	3,122	12,488	844	3,122	13,332	16,454	2,983	1998(a)	
Elmwood Park Plaza										
Elmwood Park, NJ	34,600	3,248	12,992	14,764	3,800	27,205	31,005	5,178	1998(a)	
Merrillville Plaza										
Hobart, IN	12,936	4,288	17,152	1,199	4,288	18,351	22,639	3,723	1998(a)	
Soundview Marketplace										
Port Washington, NY	8,338	2,428	9,711	5,994	3,227	14,904	18,131	3,355	1998(a)	
Marketplace of Absecon										
Absecon, NJ	(3)	2,573	10,294	2,467	2,573	12,761	15,334	2,501	1998(a)	

ACADIA REALTY TRUST
SCHEDULE III-REAL ESTATE AND ACCUMULATED DEPRECIATION
December 31, 2005

Description	Encumbrances	Land	Buildings & Improvements	Costs capitalized Subsequent to Acquisition	Land	Buildings & Improvements	Total	Accumulated Depreciation	Date of Acquisition (a) Construction(c)
Hobson West Plaza Naperville, IL	\$ (3)	\$ 1,793	\$ 7,172	\$ 687	\$ 1,793	\$ 7,859	\$ 9,652	\$ 1,700	1998(a)
Smithtown Shopping Center Smithtown, NY	10,082	3,229	12,917	1,230	3,229	14,147	17,376	3,173	1998(a)
Town Line Plaza Rocky Hill, CT		878	3,510	7,048	909	10,528	11,437	6,304	1998(a)
Branch Shopping Center Village of the Branch, NY	(2)	3,156	12,545	619	3,156	13,164	16,320	2,523	1998(a)
The Methuen Shopping Center Methuen, MA	(2)	956	3,826	—	956	3,826	4,782	705	1998(a)
Gateway Shopping Center Burlington, VT	(2)	1,273	5,091	11,517	1,273	16,608	17,881	1,851	1999(a)
Mad River Station Dayton, OH	—	2,350	9,404	419	2,350	9,823	12,173	1,763	1999(a)
Pacesetter Park Shopping Center Ramapo, NY	12,500	1,475	5,899	971	1,475	6,870	8,345	1,223	1999(a)
239 Greenwich Greenwich, CT	15,894	1,817	15,846	359	1,817	16,205	18,022	2,761	1999(c)
Residential Properties Gate House, Holiday House, Tiger Village Columbia, MO	10,588	2,312	9,247	3,092	2,312	12,339	14,651	3,053	1998(a)
Village Apartments Winston Salem, NC	(3)	3,429	13,716	2,727	3,429	16,443	19,872	3,769	1998(a)
Colony Apartments Columbia, MO	5,294	1,118	4,470	1,522	1,118	5,992	7,110	1,487	1998(a)
Undeveloped land				250	250		250		
Properties under development	—	—	—	—	—	—	—	—	
	\$ 238,448	\$ 50,829	\$ 231,884	\$ 153,038	\$ 54,963	\$ 380,788	\$ 435,751	\$ 118,309	

ACADIA REALTY TRUST
NOTES TO SCHEDULE III
December 31, 2005

1. These properties serve as collateral for the financing with Washington Mutual Bank, FA in the amount of \$29,131 (Note 6)
2. These properties serve as collateral for the financing with Bank of America, FA in the amount of \$44,485 (Note 6)
3. These properties serve as collateral for the financing with Bank of America, NA in the amount of \$22,000 (Note 6).
4. Depreciation and investments in buildings and improvements reflected in the statements of income is calculated over the estimated useful life of the assets as follows:

Buildings	30 to 40 years
Improvements	Shorter of lease term or useful life

5. The aggregate gross cost of property included above for Federal income tax purposes was \$373,098 as of December 31, 2005.
6. (a) Reconciliation of Real Estate Properties:

The following table reconciles the real estate properties from January 1, 2003 to December 31, 2005:

	For the year ended December 31,		
	2005	2004	2003
Balance at beginning of year	\$ 414,974	\$ 407,220	\$ 393,652
Other improvements	8,868	6,909	13,568
Reclassification of tenant improvement activities	—	845	—
Property Acquired	11,909	—	—
Balance at end of year	\$ 435,751	\$ 414,974	\$ 407,220

- (b) Reconciliation of Accumulated Depreciation:

The following table reconciles accumulated depreciation from January 1, 2003 to December 31, 2005:

	For the year ended December 31,		
	2005	2004	2003
Balance at beginning of year	\$ 105,278	\$ 91,777	\$ 76,454
Reclassification of tenant improvement activities	—	660	—
Depreciation related to real estate	13,031	12,841	15,323
Balance at end of year	\$ 118,309	\$ 105,278	\$ 91,777

ACADIA REALTY TRUST

BYLAWS

ARTICLE I

OFFICES

Section 1. PRINCIPAL OFFICE. The principal office of the Trust shall be located at 1311 Mamaroneck Avenue, Suite 260, White Plains, NY 10605 or at such other place or places as the Trustees may designate.

Section 2. ADDITIONAL OFFICES. The Trust may have additional offices at such places as the Trustees may from time to time determine or the business of the Trust may require.

ARTICLE II

MEETINGS OF SHAREHOLDERS

Section 1. PLACE. All meetings of shareholders shall be held at the principal office of the Trust or at such other place within the United States as shall be stated in the notice of the meeting.

Section 2. ANNUAL MEETING. An annual meeting of the shareholders for the election of Trustees and the transaction of any business within the powers of the Trust shall be held each year on a date and at the time set by the Trustees.

Section 3. SPECIAL MEETINGS. The president or one-third of the Trustees may call special meetings of the shareholders. Special meetings of shareholders shall also be called by the secretary upon the written request of the holders of shares entitled to cast not less than 40% of all the votes entitled to be cast at such meeting. Such request shall state the purpose of such meeting and the matters proposed to be acted on at such meeting. The secretary shall inform such shareholders of the reasonably estimated cost of preparing and mailing notice of the meeting and, upon payment to the Trust of such costs, the secretary shall give notice to each shareholder entitled to notice of the meeting. Unless requested by shareholders entitled to cast a majority of all the votes entitled to be cast at such meeting, a special meeting need not be called to consider any matter which is substantially the same as a matter voted on at any special meeting of the shareholders held during the preceding twelve months.

Section 4. NOTICE. Not less than ten nor more than 90 days before each meeting of shareholders, the secretary shall give to each shareholder entitled to vote at such meeting and to each shareholder not entitled to vote who is entitled to notice of the meeting written or printed notice stating the time and place of the meeting and, in the case of a special meeting or as otherwise may be required by statute, the purpose for which the meeting is called, either by mail or by presenting it to such shareholder personally or by leaving it at his residence or usual place of business. If mailed, such notice shall be deemed to be given when deposited in the United States mail addressed to the shareholder at his post office address as it appears on the records of the Trust, with postage thereon prepaid.

Section 5. SCOPE OF NOTICE. Any business of the Trust may be transacted at an annual meeting of shareholders without being specifically designated in the notice, except such business as is required by statute to be stated in such notice. No business shall be transacted at a special meeting of shareholders except as specifically designated in the notice.

Section 6. QUORUM. At any meeting of shareholders, the presence in person or by proxy of shareholders entitled to cast a majority of all the votes entitled to be cast at such meeting shall constitute a quorum; provided, however, this section shall not affect any requirement under any statute, the Declaration of Trust or these Bylaws regarding the vote necessary for the adoption of any measure. Any meeting of shareholders, annual or special, may adjourn from time to time to reconvene at the same or some other place, and notice need not be given of any such adjourned meeting if the time and place thereof are announced at the meeting at which the adjournment is taken. Any meeting of shareholders, regardless of whether a quorum is present or is not present, may be adjourned from time to time by the chairman of the meeting, or by the Board of Trustees, or by the shareholders entitled to vote at such meeting, present in person or by proxy, by a majority in voting power thereof. Any such adjournment of a meeting may be to a date not more than 120 days after the original record date without notice other than announcement at the meeting. At such adjourned meeting at which a quorum shall be present, any business may be transacted which might have been transacted at the meeting as originally notified. If the adjournment is for more than 120 days, or if after the adjournment a new record date is fixed for the adjourned meeting, notice of the adjourned meeting shall be given to each shareholder of record entitled to vote at the meeting.

The shareholders present at a meeting which has been duly called and convened may continue to transact business until adjournment, notwithstanding the withdrawal of enough shareholders to leave less than a quorum.

Section 7. VOTING. A plurality of all the votes cast at a meeting of shareholders duly called and at which a quorum is present shall be sufficient to elect a Trustee. Each share may be voted for as many individuals as there are Trustees to be elected and for whose election the share is entitled to be voted. A majority of the votes cast at a meeting of shareholders duly called and at which a quorum is present shall be sufficient to approve any other matter which may properly come before the meeting, unless more than a majority of the votes cast is required by statute or by the Declaration of Trust. Unless otherwise provided in the Declaration, each outstanding share, regardless of class, shall be entitled to one vote on each matter submitted to a vote at a meeting of shareholders.

Section 8. PROXIES. A shareholder may vote the shares owned of record by him, either in person or by proxy executed in writing by the shareholder or by his duly authorized attorney in fact. Such proxy shall be filed with the secretary of the Trust before or at the time of the meeting. No proxy shall be valid after eleven months from the date of its execution, unless otherwise provided in the proxy.

Section 9. VOTING OF SHARES BY CERTAIN HOLDERS. Shares registered in the name of a corporation, partnership, trust or other entity, if entitled to be voted, may be voted by the president or a vice president, a general partner or trustee thereof, as the case may be, or a proxy appointed by any of the foregoing individuals, unless some other person who has been appointed to vote such shares pursuant to a bylaw or a resolution of the board of directors of such corporation or other entity presents a certified copy of such bylaw or resolution, in which case such person may vote such shares. Any trustee or other fiduciary may vote shares registered in his name as such fiduciary, either in person or by proxy.

Shares of the Trust directly or indirectly owned by it shall not be voted at any meeting and shall not be counted in determining the total number of outstanding shares entitled to be voted at any given time, unless they are held by it in a fiduciary capacity, in which case they may be voted and shall be counted in determining the total number of outstanding shares at any given time.

The Trustees may adopt by resolution a procedure by which a shareholder may certify in writing to the Trust that any shares registered in the name of the shareholder are held for the account of a specified person other than the shareholder. The resolution shall set forth the class of shareholders who may make the certification, the purpose for which the certification may be made, the form of certification and the information to be contained in it; if the certification is with respect to a record date or closing of the share transfer books, the time after the record date or closing of the share transfer books within which the certification must be received by the Trust; and any other provisions with respect to the procedure which the Trustees consider necessary or desirable. On receipt of such certification, the person specified in the certification shall be regarded as, for the purposes set forth in the certification, the shareholder of record of the specified shares in place of the shareholder who makes the certification.

Notwithstanding any other provision of the Declaration of Trust or these Bylaws, Title 3, Subtitle 7 of the Corporations and Associations Article of the Annotated Code of Maryland shall not apply to shares acquired or owned, directly or indirectly, by any person acting in concert with, or any "group" (as defined in Section 13 of the Securities Exchange Act of 1934, as amended (the "Exchange Act"), and the rules thereunder).

Section 10. INSPECTORS. At any meeting of shareholders, the chairman of the meeting may, or upon the request of any shareholder shall, appoint one or more persons as inspectors for such meeting. Such inspectors shall ascertain and report the number of shares represented at the meeting based upon their determination of the validity and effect of proxies, count all votes, report the results and perform such other acts as are proper to conduct the election and voting with impartiality and fairness to all the shareholders.

Each report of an inspector shall be in writing and signed by him or by a majority of them if there is more than one inspector acting at such meeting. If there is more than one inspector, the report of a majority shall be the report of the inspectors. The report of the inspector or inspectors on the number of shares represented at the meeting and the results of the voting shall be prima facie evidence thereof.

The chairman of the meeting shall cause a copy of the inspector's report to be delivered to the Trustees as soon as practicable after the meeting.

Section 11. REPORTS TO SHAREHOLDERS. The Trustees shall deliver or cause to be delivered to the shareholders such reports of the business and operations of the Trust as are required under applicable federal, state or stock exchange rules and regulations.

Section 12. NOMINATIONS AND SHAREHOLDER BUSINESS.

(a) Annual Meetings of Shareholders. (1) Nominations of persons for election to the Board of Trustees and the proposal of business to be considered by the shareholders may be made at an annual meeting of shareholders (i) pursuant to the procedures set forth in the Trust's notice of meeting, if any, (ii) by or at the direction of the Trustees or (iii) by any shareholder of the Trust who was a shareholder of record at the time of giving of notice provided for in this Section 12(a), who is entitled to vote at the meeting and who complied with the notice procedures set forth in this Section 12(a).

(2) For nominations or other business to be properly brought before an annual meeting by a shareholder pursuant to clause (iii) of paragraph (a) (1) of this Section 12, the shareholder must have given timely notice thereof in writing to the secretary of the Trust. To be timely, a shareholder's notice shall be delivered to the secretary at the principal executive offices of the Trust not less than 60 days nor more than 90 days prior to the first anniversary of the preceding year's annual meeting; provided, however, that in the event that the date of the annual meeting is advanced by more than 30 days or delayed by more than 60 days from such anniversary date, notice by the shareholder to be timely must be so delivered not earlier than the 90th day prior to such annual meeting and not later than the close of business on the later of the 60th day prior to such annual meeting or the tenth day following the day on which public announcement of the date of such meeting is first made. Such shareholder's notice shall set forth (i) as to each person whom the shareholder proposes to nominate for election or reelection as a Trustee, all information relating to such person that is required to be disclosed in

solicitations of proxies for election of Trustees, or is otherwise required, in each case pursuant to Regulation 14A under the Exchange Act (including such person's written consent to being named in the proxy statement as a nominee and to serving as a Trustee if elected); (ii) as to any other business that the shareholder proposes to bring before the meeting, a brief description of the business desired to be brought before the meeting, the reasons for conducting such business at the meeting and any material interest in such business of such shareholder and of the beneficial owner, if any, on whose behalf the proposal is made; and (iii) as to the shareholder giving the notice and the beneficial owner, if any, on whose behalf the nomination or proposal is made, (x) the name and address of such shareholder, as they appear on the Trust's books, and of such beneficial owner and (y) the class and number of shares of the Trust which are owned beneficially and of record by such shareholder and such beneficial owner.

(3) Notwithstanding anything in the second sentence of paragraph (a) (2) of this Section 12 to the contrary, in the event that the number of Trustees to be elected to the Board of Trustees is increased and there is no public announcement naming all of the nominees for Trustee or specifying the size of the increased Board of Trustees made by the Trust at least 70 days prior to the first anniversary of the preceding year's annual meeting, a shareholder's notice required by this Section 12(a) shall also be considered timely, but only with respect to nominees for any new positions created by such increase, if it shall be delivered to the secretary at the principal executive offices of the Trust not later than the close of business on the tenth day following the day on which such public announcement is first made by the Trust.

(b) Special Meetings of Shareholders. Only such business shall be conducted at a special meeting of shareholders as shall have been brought before the meeting pursuant to the Trust's notice of meeting. Nominations of persons for election to the Board of Trustees may be made at a special meeting of shareholders at which Trustees are to be elected pursuant to the Trust's notice of meeting (i) by or at the direction of the Board of Trustees or (ii) by any shareholder of the Trust who is a shareholder of record at the time of giving of notice provided for in this Section 12(b), who is entitled to vote at the meeting and who complied with the notice procedures set forth in this Section 12(b). In the event the Trust calls a special meeting of shareholders for the purpose of electing one or more Trustees to the Board of Trustees, any such shareholder may nominate a person or persons (as the case may be) for election to such position as specified in the Trust's notice of meeting, if the shareholder's notice required by Section 12(a)(2) shall be delivered to the secretary at the principal executive offices of the Trust not earlier than the 90th day prior to such special meeting and not later than the close of business on the later of the 60th day prior to such special meeting or the tenth day following the day on which public announcement is first made of the date of the special meeting and of the nominees proposed by the Trustees to be elected at such meeting.

(c) General. (1) Only such persons who are nominated in accordance with the procedures set forth in this Section 12 shall be eligible to serve as Trustees and only such business shall be conducted at a meeting of shareholders as shall have been brought before the meeting in accordance with the procedures set forth in this Section 12. The presiding officer of the meeting shall have the power and duty to determine whether a nomination or any business proposed to be brought before the meeting was made in accordance with the procedures set forth in this Section 12 and, if any proposed nomination or business is not in compliance with this Section 12, to declare that such defective nomination or proposal be disregarded.

(2) For purposes of this Section 12, "public announcement" shall mean disclosure in a press release reported by the Dow Jones News Service, Associated Press or comparable news service or in a document publicly filed by the Trust with the Securities and Exchange Commission pursuant to Section 13, 14 or 15(d) of the Exchange Act.

(3) Notwithstanding the foregoing provisions of this section 12, a shareholder shall also comply with all applicable requirements of state law and of the Exchange Act and the rules and regulations thereunder with respect to the matters set forth in this Section 12. Nothing in this Section 12 shall be deemed to affect any rights of shareholders to request inclusion of proposals in the Trust's proxy statement pursuant to Rule 14a-8 under the Exchange Act.

Section 13. INFORMAL ACTION BY SHAREHOLDERS. Any action required or permitted to be taken at a meeting of shareholders may be taken without a meeting if a consent in writing, setting forth such action, is signed by each shareholder entitled to vote on the matter and any other shareholder entitled to notice of a meeting of shareholders (but not to vote thereat) has waived in writing any right to dissent from such action, and such consent and waiver are filed with the minutes of proceedings of the shareholders.

Section 14. VOTING BY BALLOT. Voting on any question or in any election may be viva voce unless the presiding officer shall order or any shareholder shall demand that voting be by ballot.

ARTICLE III

TRUSTEES

Section 1. GENERAL POWERS; QUALIFICATIONS. The business and affairs of the Trust shall be managed under the direction of its Board of Trustees. A Trustee shall be an individual at least 21 years of age who is not under legal disability.

Section 2. ANNUAL AND REGULAR MEETINGS. An annual meeting of the Trustees shall be held immediately after and at the same place as the annual meeting of shareholders, no notice other than this Bylaw being necessary. The Trustees may provide, by resolution, the time and place, either within or without the State of Maryland, for the holding of regular meetings of the Trustees without other notice than such resolution.

Section 3. SPECIAL MEETINGS. Special meetings of the Trustees may be called by or at the request of the president or by a majority of the Trustees then in office. The person or persons authorized to call special meetings of the Trustees may fix any place, either within or without the State of Maryland, as the place for holding any special meeting of the Trustees called by them.

Section 4. NOTICE. Notice of any special meeting of the Trustees shall be delivered personally or by telephone, electronic mail, facsimile transmission, United States mail or courier to each Trustee at his or her business or residence address. Notice by personal delivery, telephone, electronic mail or facsimile transmission shall be given at least 24 hours prior to the meeting. Notice by United States mail shall be given at least three days prior to the meeting. Notice by courier shall be given at least two days prior to the meeting. Telephone notice shall be deemed to be given when the Trustee or his or her agent is personally given such notice in a telephone call to which the Trustee or his or her agent is a party. Electronic mail notice shall be deemed to be given upon transmission of the message to the electronic mail address given to the Trust by the Trustee. Facsimile transmission notice shall be deemed to be given upon completion of the transmission of the message to the number given to the Trust by the Trustee and receipt of a completed answer-back indicating receipt. Notice by United States mail shall be deemed to be given when deposited in the United States mail properly addressed, with postage thereon prepaid. Notice by courier shall be deemed to be given when deposited with or delivered to a courier properly addressed. Neither the business to be transacted at, nor the purpose of, any annual, regular or special meeting of the Trustees need be stated in the notice, unless specifically required by statute or these Bylaws.(1)

Section 5. QUORUM. A majority of the Trustees shall constitute a quorum for transaction of business at any meeting of the Trustees, provided that, if less than a majority of such Trustees are present at said meeting, a majority of the Trustees present may adjourn the meeting from time to time without further notice, and provided further that if, pursuant to the Declaration of Trust or these Bylaws, the vote of a majority of a particular group of Trustees is required for action, a quorum must also include a majority of such group.

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(1) Reflects Amendment No. 1 previously adopted by the Trustees, effective March 16, 2005.

The Trustees present at a meeting which has been duly called and convened may continue to transact business until adjournment, notwithstanding the withdrawal of enough Trustees to leave less than a quorum.

Section 6. VOTING. The action of the majority of the Trustees present at a meeting at which a quorum is present shall be the action of the Trustees, unless the concurrence of a greater proportion is required for such action by applicable statute, the Declaration of Trust or these bylaws.

Section 7. TELEPHONE MEETINGS. Trustees may participate in a meeting by means of a conference telephone or similar communications equipment if all persons participating in the meeting can hear each other at the same time. Participation in a meeting by these means shall constitute presence in person at the meeting.

Section 8. INFORMAL ACTION BY TRUSTEES. Any action required or permitted to be taken at any meeting of the Trustees may be taken without a meeting, if a consent in writing to such action is signed by each Trustee and such written consent is filed with the minutes of proceedings of the Trustees.

Section 9. VACANCIES. If for any reason any or all the Trustees cease to be Trustees, such event shall not terminate the Trust or affect these Bylaws or the powers of the remaining Trustees hereunder (even if fewer than three Trustees remain). Any vacancy (including a vacancy created by an increase in the number of Trustees) shall be filled, at any regular meeting or at any special meeting called for that purpose, by a majority of the Trustees. Any individual so elected as Trustee shall hold office for the unexpired term of the Trustee he is replacing.

Section 10. COMPENSATION. Trustees shall not receive any stated salary for their services as Trustees but, by resolution of the Trustees, fixed sums per year and/or per meeting. Expenses of attendance, if any, may be allowed to Trustees for attendance at each annual, regular or special meeting of the Trustees or of any committee thereof; but nothing herein contained shall be construed to preclude any Trustees from serving the Trust in any other capacity and receiving compensation therefor provided that any such compensation is approved in advance by resolution of the Trustees.

Section 11. REMOVAL OF TRUSTEES. The shareholders may, at any time, remove any Trustee, with or without cause, by the affirmative vote of two-thirds of all the votes entitled to be cast on the matter and may, by the affirmative vote of a majority of all votes entitled to be cast on the matter, elect a successor to fill any resulting vacancy for the balance of the term of the removed Trustees.

Section 12. LOSS OF DEPOSITS. No Trustee shall be liable for any loss which may occur by reason of the failure of the bank, trust company, savings and loan association, or other institution with whom moneys or shares have been deposited.

Section 13. SURETY BONDS. Unless required by law, no Trustee shall be obligated to give any bond or surety or other security for the performance of any of his duties.

Section 14. RELIANCE. Each Trustee, officer, employee and agent of the Trust shall, in the performance of his duties with respect to the Trust, be fully justified and protected with regard to any act or failure to act in reliance in good faith upon the books of account or other records of the Trust, upon an opinion of counsel or upon reports made to the Trust by any of its officers or employees or by the adviser, accountants, appraisers or other experts or consultants selected by the Trustees or officers of the Trust, regardless of whether such counsel or expert may also be a Trustee.

Section 15. CERTAIN RIGHTS OF TRUSTEES, OFFICERS, EMPLOYEES AND AGENTS. The Trustees shall have no responsibility to devote their full time to the affairs of the Trust. Any Trustee or officer, employee or agent of the Trust, in his personal capacity or in a capacity as an affiliate, employee, or agent of any other person, or otherwise, may have business interests and engage in business activities similar to or in addition to those of or relating to the Trust.

Section 16. LEAD TRUSTEE. The independent Trustees shall elect annually, from among themselves, a Lead Trustee. The duties of the Lead Trustee shall be to chair discussions among the independent Trustees, to facilitate their communication with each other and management, and to be the spokesperson on behalf of the independent Trustees in matters dealing with the press and public when called upon.

ARTICLE IV

COMMITTEES

Section 1. NUMBER, TENURE AND QUALIFICATIONS. The Trustees may appoint from among their members an Executive Committee, an Audit Committee and other committees, composed of two or more Trustees, to serve at the pleasure of the Trustees.

Section 2. POWERS. The Trustees may delegate to committees appointed under Section 1 of this Article any of the powers of the Trustees, except as prohibited by law.

Section 3. MEETINGS. In the absence of any member of any such committee, the members thereof present at any meeting, whether or not they constitute a quorum, may appoint another Trustee to act in the place of such absent member.

Section 4. TELEPHONE MEETINGS. Members of a committee of the Trustees may participate in a meeting by means of a conference telephone or similar communications equipment if all persons participating in the meeting can hear each other at the same time. Participation in a meeting by these means shall constitute presence in person at the meeting.

Section 5. INFORMAL ACTION BY COMMITTEES. Any action required or permitted to be taken at any meeting of a committee of the Trustees may be taken without a meeting, if a consent in writing to such action is signed by each member of the committee and such written consent is filed with the minutes of proceedings of such committee.

Section 6. NOTICE. Notice of any committee meeting shall be given in the same manner as notice of special meetings of Trustees pursuant to ARTICLE III, Section 4.

ARTICLE V

OFFICERS

Section 1. GENERAL PROVISIONS. The officers of the Trust may consist of a chairman of the board, a vice chairman of the board, a president, one or more vice presidents, a treasurer, one or more assistant treasurers, a secretary, and one or more assistant secretaries. In addition, the Trustees may from time to time appoint such other officers with such powers and duties as they shall deem necessary or desirable. The officers of the Trust shall be elected annually by the Trustees at the first meeting of the Trustees held after each annual meeting of shareholders. If the election of officers shall not be held at such meeting, such election shall be held as soon thereafter as may be convenient. Each officer shall hold office until his successor is elected and qualifies or until his death, resignation or removal in the manner hereinafter provided. Any two or more offices except president and vice president may be held by the same person. In their discretion, the Trustees may leave unfilled any office except that of president, treasurer and secretary. Election of an officer or agent shall not of itself create contract rights between the Trust and such officer or agent.

Section 2. REMOVAL AND RESIGNATION. Any officer or agent of the Trust may be removed by the Trustees if in their judgment the best interests of the Trust would be served thereby, but such removal shall be without prejudice to the contract rights, if any, of the person so removed. Any officer of the Trust may resign at any time by giving written notice of his resignation to the Trustees, the chairman of the board, the president or the secretary. Any resignation shall take effect at any time subsequent to the time specified therein or, if the time when it shall become effective is not specified therein, immediately upon its receipt. The acceptance of a resignation shall not be necessary to make it effective unless otherwise stated in the resignation.

Section 3. VACANCIES. A vacancy in any office may be filled by the Trustees for the balance of the term.

Section 4. CHIEF EXECUTIVE OFFICER. The Trustees may designate a chief executive officer from among the elected officers. The chief executive officer shall have responsibility for implementation of the policies of the Trust, as determined by the Trustees, and for the administration of the business affairs of the Trust.

Section 5. CHIEF OPERATING OFFICER. The Trustees may designate a chief operating officer from among the elected officers. Said officer will have the responsibilities and duties as set forth by the Trustees or the chief executive officer.

Section 6. CHIEF FINANCIAL OFFICER. The Trustees may designate a chief financial officer from among the elected officers. Said officer will have the responsibilities and duties as set forth by the Trustees or the chief executive officer.

Section 7. CHAIRMAN AND VICE CHAIRMAN OF THE BOARD. The chairman of the board shall preside over the meetings of the Trustees and of the shareholders at which he shall be present and shall in general oversee all of the business and affairs of the Trust. In the absence of the chairman of the board, the vice chairman of the board shall preside at such meetings at which he shall be present. The chairman and the vice chairman of the board may execute any deed, mortgage, bond, contract or other instrument, except in cases where the execution thereof shall be expressly delegated by the Trustees or by these Bylaws to some other officer or agent of the Trust or shall be required by law to be otherwise executed. The chairman of the board and the vice chairman of the board shall perform such other duties as may be assigned to them by the Trustees.

Section 8. PRESIDENT. In the absence of both the chairman and the vice chairman of the board, the president shall preside over the meetings of the Trustees and of the shareholders at which he shall be present. In the absence of a designation of a chief executive officer by the Trustees, the president shall be the chief executive officer and shall be ex officio a member of all committees that may, from time to time, be constituted by the Trustees. The president may execute any deed, mortgage, bond, contract or other instrument, except in cases where the execution thereof shall be expressly delegated by the Trustees or by these Bylaws to some other officer or agent of the Trust or shall be required by law to be otherwise executed; and in general shall perform all duties incident to the office of president and such other duties as may be prescribed by the Trustees from time to time.

Section 9. VICE PRESIDENTS. In the absence of the president or in the event of a vacancy in such office, the vice president (or in the event there be more than one vice president, the vice presidents in the order designated at the time of their election or, in the absence of any designation, then in the order of their election) shall perform the duties of the president and when so acting shall have all the powers of and be subject to all the restrictions upon the president; and shall perform such other duties as from time to time may be assigned to him by the president or by the Trustees. The Trustees may designate one or more vice presidents as executive vice president, senior vice president or assistant vice president or as vice president with any other similar title or for particular areas of responsibility.

Section 10. SECRETARY. The secretary shall (a) keep the minutes of the proceedings of the shareholders, the Trustees and committees of the Trustees in one or more books provided for that purpose; (b) see that all notices are duly given in accordance with the provisions of these Bylaws or as required by law; (c) be custodian of the trust records and of the seal of the Trust; (d) keep a register of the post office address of each shareholder which shall be furnished to the secretary by such shareholder; (e) have general charge of the share transfer books of the Trust; and (f) in general perform such other duties as from time to time may be assigned to him by the president or by the Trustees.

Section 11. TREASURER. The treasurer shall have the custody of the funds and securities of the Trust and shall keep full and accurate accounts of receipts and disbursements in books belonging to the Trust and shall deposit all moneys and other valuable effects in the name and to the credit of the Trust in such depositories as may be designated by the Trustees.

He shall disburse the funds of the Trust as may be ordered by the Trustees, taking proper vouchers for such disbursements, and shall render to the president and Trustees, at the regular meetings of the Trustees or whenever they may require it, an account of all his transactions as treasurer and of the financial condition of the Trust.

If required by the Trustees, he shall give the Trust a bond in such sum and with such surety or sureties as shall be satisfactory to the Trustees for the faithful performance of the duties of his office and for the restoration to the Trust, in case of his death, resignation, retirement or removal from office, all books, papers, vouchers, moneys and other property of whatever kind in his possession or under his control belonging to the Trust.

Section 12. ASSISTANT SECRETARIES AND ASSISTANT TREASURERS. The assistant secretaries and assistant treasurers, in general, shall perform such duties as shall be assigned to them by the secretary or treasurer, respectively, or by the president or the Trustees. The assistant treasurers shall, if required by the Trustees, give bonds for the faithful performance of their duties in such sums and with such surety or sureties as shall be satisfactory to the Trustees.

Section 13. SALARIES. The salaries of the officers shall be fixed from time to time by the Trustees and no officer shall be prevented from receiving such salary by reason of the fact that he is also a Trustee.

ARTICLE VI

CONTRACTS, LOANS, CHECKS AND DEPOSITS

Section 1. CONTRACTS. Trustees may authorize any officer or agent to enter into any contract or to execute and deliver any instrument in the name of and on behalf of the Trust and such authority may be general or confined to specific instances. Any agreement, deed, mortgage, lease or other document executed by one or more of the Trustees or by an authorized person shall be valid and binding upon the Trustees and upon the Trust when authorized or ratified by action of the Trustees.

Section 2. CHECKS AND DRAFTS. All checks, drafts or other orders for the payment of money, notes or other evidences of indebtedness issued in the name of the Trust shall be signed by such officer or officers, agent or agents of the Trust and in such manner as shall from time to time be determined by the Trustees.

Section 3. DEPOSITS. All funds of the Trust not otherwise employed shall be deposited from time to time to the credit of the Trust in such banks, trust companies or other depositories as the Trustees may designate.

ARTICLE VII

SHARES

Section 1. CERTIFICATES. Each shareholder shall be entitled to a certificate or certificates which shall represent and certify the number of shares of each class of beneficial interests held by him in the Trust. Each certificate shall be signed by the president or a vice president and countersigned by the secretary or an assistant secretary or the treasurer or an assistant treasurer and may be sealed with the seal, if any, of the Trust. The signatures may be either manual or facsimile. Certificates shall be consecutively numbered; and if the Trust shall, from time to time, issue several classes of shares, each class may have its own number series. A certificate is valid and may be issued whether or not an officer who signed it is still an officer when it is issued. Each certificate representing shares which are restricted as to their transferability or voting powers, which are preferred or limited as to their dividends or as to their allocable portion of the assets upon liquidation or which are redeemable at the option of the Trust, shall have a statement of such restriction, limitation, preference or redemption provision, or a summary thereof, plainly stated on the certificate. In lieu of such statement or summary, the Trust may set forth upon the face or back of the certificate a statement that the Trust will furnish to any shareholder, upon request and without charge, a full statement of such information.

Section 2. TRANSFERS. Certificates shall be treated as negotiable and title thereto and to the shares they represent shall be transferred by delivery thereof to the same extent as those of a Maryland stock corporation. Upon surrender to the Trust or the transfer agent of the Trust of a share certificate duly endorsed or accompanied by proper evidence of succession, assignment or authority to transfer, the Trust shall issue a new certificate to the person entitled thereto, cancel the old certificate and record the transaction upon its books.

The Trust shall be entitled to treat the holder of record of any share or shares as the holder in fact thereof and, accordingly, shall not be bound to recognize any equitable or other claim to or interest in such share on the part of any other person, whether or not it shall have express or other notice thereof, except as otherwise provided by the laws of the State of Maryland.

Section 3. LOST CERTIFICATE. The Trustees may direct a new certificate to be issued in place of any certificate previously issued by the Trust alleged to have been lost, stolen or destroyed upon the making of an affidavit of that fact by the person claiming the certificate to be lost, stolen or destroyed. When authorizing the issuance of a new certificate, the Trustees may, in their discretion and as a condition precedent to the issuance thereof, require the owner of such lost, stolen or destroyed certificate or his legal representative to advertise the same in such manner as they shall require and/or to give bond, with sufficient surety, to the Trust to indemnify it against any loss or claim which may arise as a result of the issuance of a new certificate.

Section 4. CLOSING OF TRANSFER BOOKS OR FIXING OF RECORD DATE. The Trustees may set, in advance, a record date for the purpose of determining shareholders entitled to notice of or to vote at any meeting of shareholders, or shareholders entitled to receive payment of any dividend or the allotment of any other rights, or in order to make a determination of shareholders for any other proper purpose. Such date, in any case, shall not be prior to the close of business on the day the record date is fixed and shall be not more than 90 days and, in the case of a meeting of shareholders, not less than ten days, before the date on which the meeting or particular action requiring such determination of shareholders is to be held or taken.

In lieu of fixing a record date, the Trustees may provide that the share transfer books shall be closed for a stated period but not longer than 20 days. If the share transfer books are closed for the purpose of determining shareholders entitled to notice of or to vote at a meeting of shareholders, such books shall be closed for at least ten days before the date of such meeting.

If no record date is fixed and the share transfer books are not closed for the determination of shareholders, (a) the record date for the determination of shareholders entitled to notice of or to vote at a meeting of shareholders shall be at the close of business on the day on which the notice of meeting is mailed or the 30th day before the meeting, whichever is the closer date to the meeting; and (b) the record date for the determination of shareholders entitled to receive payment of a dividend or an allotment of any other rights shall be the close of business on the day on which the resolution of the directors, declaring the dividend or allotment of rights, is adopted.

When a determination of shareholders entitled to vote at any meeting of shareholders has been made as provided in this section, such determination shall apply to any adjournment thereof, except where the determination has been made through the closing of the transfer books and the stated period of closing has expired.

Section 5. STOCK LEDGER. The Trust shall maintain at its principal office or at the office of its counsel, accountants or transfer agent, an original or duplicate share ledger containing the name and address of each shareholder and the number of shares of each class held by such shareholder.

Section 6. FRACTIONAL SHARES; ISSUANCE OF UNITS. The Trustees may issue fractional shares or provide for the issuance of scrip, all on such terms and under such conditions as they may determine. Notwithstanding any other provision of the Declaration or these Bylaws, the Trustees may issue units consisting of different securities of the Trust. Any security issued in a unit shall have the same characteristics as any identical securities issued by the Trust, except that the Trustees may provide that for a specified period securities of the Trust issued in such unit may be transferred on the books of the Trust only in such unit.

ARTICLE VIII

ACCOUNTING YEAR

The Trustees shall have the power, from time to time, to fix the fiscal year of the Trust by a duly adopted resolution.

ARTICLE IX

DIVIDENDS

Section 1. DECLARATION. Dividends upon the shares of the Trust may be declared by the Trustees, subject to the provisions of law and the Declaration of Trust. Dividends may be paid in cash, property or shares of the Trust, subject to the provisions of law and the Declaration.

Section 2. CONTINGENCIES. Before payment of any dividends, there may be set aside out of any funds of the Trust available for dividends such sum or sums as the Trustees may from time to time, in their absolute discretion, think proper as a reserve fund for contingencies, for equalizing dividends, for repairing or maintaining any property of the Trust or for such other purpose as the Trustees shall determine to be in the best interest of the Trust, and the Trustees may modify or abolish any such reserve in the manner in which it was created.

ARTICLE X

PROHIBITED INVESTMENTS AND ACTIVITIES

Notwithstanding anything to the contrary in the Declaration of Trust, the Trust shall not make any acquisition which it does not believe is in the best interests of the Trust, and will not, without the approval of a majority of the disinterested Trustees, (i) acquire from or sell to any Trustee, officer or employee of the Trust, any corporation, partnership, joint venture, trust, employee benefit plan or other enterprise in which a Trustee, officer or employee of the Trust owns more than a one percent interest or any affiliate of any of the foregoing, any of the assets or other property of the Trust, except for the acquisition of certain properties in connection with the initial public offering of shares by the Trust, which properties shall be described in the prospectus relating to such initial public offering, (ii) make any loan to or borrow from any of the foregoing persons or (iii) engage in any other transaction with any of the foregoing persons. Each such transaction will be in all respects on such terms as are, at the time of the transaction and under the circumstances then prevailing, fair and reasonable to the Trust.

ARTICLE XI

SEAL

Section 1. SEAL. The Trustees may authorize the adoption of a seal by the Trust. The seal shall have inscribed thereon the name of the Trust and the year of its organization. The Trustees may authorize one or more duplicate seals and provide for the custody thereof.

Section 2. AFFIXING SEAL. Whenever the Trust is required to place its seal to a document, it shall be sufficient to meet the requirements of any law, rule or regulation relating to a seal to place the word "(SEAL)" adjacent to the signature of the person authorized to execute the document on behalf of the Trust.

ARTICLE XII

INDEMNIFICATION

To the maximum extent permitted by Maryland law in effect from time to time, the Trust, without requiring a preliminary determination of the ultimate entitlement to indemnification, shall indemnify (a) any Trustee, officer or shareholder or any former Trustee, officer or shareholder who has been successful, on the merits or otherwise, in the defense of a proceeding to which he was made a party by reason of such status, against reasonable expenses incurred by him in connection with the proceeding, (b) any Trustee or officer or any former Trustee or officer (including without limitation any individual who, while a Trustee and at the request of the Trust, serves or has served another corporation, partnership, joint venture, trust, employee benefit plan or any other enterprise as a director, officer, partner or trustee of such corporation, partnership, joint venture, trust, employee benefit plan or other enterprise) against any claim or liability to which he may become subject by reason of such status unless it is established that (i) his act or omission was committed in bad faith or was the result of active and deliberate dishonesty, (ii) he actually received an improper personal benefit in money, property or services or (iii) in the case of a criminal proceeding, he had reasonable cause to believe that his act or omission was unlawful and (c) each shareholder or former

shareholder against any claim or liability to which he may become subject by reason of his status as a shareholder or former shareholder. In addition, the Trust shall pay or reimburse, in advance of final disposition of a proceeding, reasonable expenses incurred by a Trustee, officer or shareholder or former Trustee, officer or shareholder made a party to a proceeding by reason of his status as a Trustee, officer or shareholder provided that, in the case of a Trustee or officer, the Trust shall have received (i) a written affirmation by the Trustee or officer of his good faith belief that he has met the standard of conduct necessary for indemnification by the Trust as authorized by these Bylaws and (ii) a written undertaking by or on his behalf to repay the amount paid or reimbursed by the Trust if it shall ultimately be determined that the standard of conduct was not met. The Trust may, with the approval of its Trustees, provide such indemnification and reimbursement of expenses to a person who served a predecessor of the Trust in any of the capacities described in clause (b) above and to any employee or agent of the Trust or a predecessor of the Trust. Neither the amendment nor repeal of this Section, nor the adoption or amendment of any other provision of the Declaration of Trust or these Bylaws inconsistent with this Section, shall apply to or affect in any respect the applicability of this paragraph with respect to any act or failure to act which occurred prior to such amendment, repeal or adoption. Any indemnification or payment or reimbursement of the expenses permitted by these Bylaws shall be furnished in accordance with the procedures provided for indemnification and payment or reimbursement of expenses under Section 2-418 of the Maryland General Corporation Law (the "MGCL") for directors of Maryland corporations. The Trust may provide to Trustees, officers and shareholders such other and further indemnification or payment or reimbursement of expenses as may be permitted by the MGCL, as in effect from time to time, for directors of Maryland corporations.

ARTICLE XIII

WAIVER OF NOTICE

Whenever any notice is required to be given pursuant to the Declaration of Trust or Bylaws or pursuant to applicable law, a waiver thereof in writing, signed by the person or persons entitled to such notice, whether before or after the time stated therein, shall be deemed equivalent to the giving of such notice. Neither the business to be transacted at nor the purpose of any meeting need be set forth in the waiver of notice, unless specifically required by statute. The attendance of any person at any meeting shall constitute a waiver of notice of such meeting, except where such person attends a meeting for the express purpose of objecting to the transaction of any business on the ground that the meeting is not lawfully called or convened.

ARTICLE XIV
AMENDMENT OF BYLAWS

The Trustees shall have the exclusive power to adopt, alter or repeal any provision of these Bylaws and to make new Bylaws.

* * * * *

The foregoing are certified as the Amended and Restated Bylaws of the Trust adopted by the Trustees on March 9, 2006

Robert Masters, Secretary

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REVOLVING LOAN AGREEMENT

dated as of May 26, 2005

between

FLEET NATIONAL BANK, a Bank of America company,
as a Lender and Arranger
("Lender"),

THE BANK OF CHINA, NEW YORK BRANCH, as a Lender,

FLEET NATIONAL BANK, a Bank of America company,
as Administrative Agent
("Administrative Agent")

and

RD ABSECON ASSOCIATES, L.P. ("RD Absecon"),
RD BLOOMFIELD ASSOCIATES, LIMITED PARTNERSHIP ("RD Bloomfield"),
RD HOBSON ASSOCIATES, L.P. ("RD Hobson"),
RD VILLAGE ASSOCIATES LIMITED PARTNERSHIP ("RD Village"),
and
RD WOONSOCKET ASSOCIATES LIMITED PARTNERSHIP ("RD Woonsocket"),
as Borrowers

(RD Absecon, RD Bloomfield, RD Hobson, RD Village and RD Woonsocket,
individually and collectively, as the context requires, "Borrower")

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THIS REVOLVING LOAN AGREEMENT ("this Agreement") dated as of May ____, 2005 by and among RD ABSECON ASSOCIATES, L.P., a Delaware limited partnership ("RD Absecon"), RD BLOOMFIELD ASSOCIATES, LIMITED PARTNERSHIP, a Delaware limited partnership ("RD Bloomfield"), RD HOBSON ASSOCIATES, L.P., a Delaware limited partnership ("RD Hobson"), RD VILLAGE ASSOCIATES LIMITED PARTNERSHIP, a Delaware limited partnership ("RD Village") and RD WOONSOCKET ASSOCIATES LIMITED PARTNERSHIP, a Delaware limited partnership ("RD Woonsocket"; RD Absecon, RD Bloomfield, RD Hobson, RD Village and RD Woonsocket, collectively and individually, as the context requires, "Borrower") and FLEET NATIONAL BANK, a Bank of America company (in its individual capacity and not as Administrative Agent, "Fleet"), THE BANK OF CHINA, NEW YORK BRANCH ("Bank of China"; Fleet, Bank of China and each other lender who may become a Lender pursuant to Section 8.07, each, a "Lender" and collectively, "Lenders") and FLEET NATIONAL BANK, a Bank of America company, as Administrative Agent for Lenders (together with its successors in such capacity, "Administrative Agent").

Borrower desires that Lenders extend credit as provided herein, and Lenders are prepared to extend such credit. Accordingly, Borrower, Administrative Agent and each Lender agree as follows:

NOW, THEREFORE, in consideration of the mutual promises and agreements herein contained, Borrower, Administrative Agent and Lenders hereby agree as follows:

ARTICLE I

DEFINITIONS AND RULES OF CONSTRUCTION

Section 1.01. Definitions. The following terms, as used in this Agreement, shall have the following meanings:

"Absecon/NJ Property" -- The fee interest in real property located at Whitehorse Pike in Absecon, New Jersey owned by RD Absecon.

"Additional Costs" -- Has the meaning specified in Section 3.01.

"Additional Interest" -- Any and all sums that shall become due and payable by Borrower under the Hedging Agreement.

"Additional Advance" -- Has the meaning set forth in Section 4.02 of this Agreement.

"Administrative Agent" -- Has the meaning specified in the preamble.

"Administrative Agent's Counsel" -- Schiff Hardin LLP, 623 Fifth Avenue, 28th Floor, New York, New York 10022.

"Administrative Agent's Office" -- Administrative Agent's office located as set forth on its signature page hereof, or such other address in the United States as Administrative Agent may designate by notice to Borrower and Lenders.

"Affiliate" -- With respect to any Person (the "first Person"), any other Person (1) which directly or indirectly controls, or is controlled by, or is under common control with the first Person or (2) 10% or more of the beneficial interest in which is directly or indirectly owned or held by the first Person. The term "control" means the possession, directly or indirectly, of the power, alone, to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting securities, by contract, or otherwise.

"Anchors" -- Shall mean, with respect to each Property, (i) American Stores Properties, Inc., a wholly owned subsidiary of Albertson's, Inc. (a/k/a Acme) and Eckerd Corporation with respect to the Absecon/NJ Property, (ii) HomeGoods, Inc., Marshalls of MA, Inc., The TJX Companies, Inc. and OfficeMax North America, Inc. (f/k/a OfficeMax, Inc.) with respect to the Bloomfield/MI Property, (iii) Bobak Enterprises, with respect to the Hobson/IL Property; and (iv) Sears, Roebuck & Co., Shaws Supermarkets, Inc., a wholly-owned subsidiary of Albertson's, Inc., Mark Stevens CVS, Inc. and Concord Buying Group Inc., with respect to the Woonsocket/RI Property.

"Applicable Lending Office" -- For each Lender and for the portions of the outstanding principal balance under its Note bearing interest at the Prime Based Rate or LIBO Based Rate, as applicable, the lending office of such Lender (or of an Affiliate of such Lender) designated as such on its signature page hereof or in the applicable Assignment and Assumption Agreement, or such other office of such Lender (or of an Affiliate of such Lender) as such Lender may from time to time specify to Administrative Agent and Borrower as the office by the portions of the outstanding principal balance under its Note bearing interest at the Prime Based Rate or LIBO Based Rate, as applicable, are to be made and maintained.

"Applicable Margin" -- With respect to the Prime Based Rate, 0.45% per annum; and with respect to the LIBO Based Rate, 1.30% per annum.

"Assignee" -- Has the meaning specified in Section 8.07.

"Assignment and Assumption Agreement" -- An Assignment and Assumption Agreement, substantially in the form of EXHIBIT A, pursuant to which a Lender assigns and an Assignee assumes rights and obligations in accordance with Section 11.05.

"Authorization Letter" -- The letter in the form of EXHIBIT F.

"Bloomfield/MI Property" -- The fee interest in real property located at 2257 South Telegraph Road in Bloomfield, Michigan owned by RD Bloomfield.

"Business Day" -- Any day on which commercial banks are not authorized or required to close in New York City; and, whenever such day relates to a LIBOR Amount, an Interest Period with respect to a LIBOR Amount, or notice with respect to a LIBOR Amount, any such day in which dealings in Dollar deposits are also carried out in the London interbank market and banks are also open for business in London.

"Code" -- The Internal Revenue Code of 1986.

"Contribution Agreement" -- That certain Subordination and Contribution Agreement dated as of the date hereof by and among Administrative Agent and Borrowers.

"Counterparty" -- Fleet National Bank, or any of its Affiliates, in their capacity as a party to the Hedging Agreement, if any, and its successors and assigns in such capacity.

"Default" -- Any event or circumstance which, with the giving of notice or the passage of time, or both, would become an Event of Default.

"Default Rate" -- A rate per annum equal to (1) with respect to Prime Based Loans, a variable rate 5% above the rate of interest then in effect thereon and (2) with respect to LIBOR Loans, a fixed rate 5% above rate(s) of interest in effect thereon at the time of Event of Default until the end of the then current Interest Period therefor and, thereafter, a variable rate 5% above the rate of interest for a Prime Based Loan.

"Delinquency Amount"; "Delinquency Notice"; "Delinquent Lender" -- Have the respective meanings specified in Section 7.16.

"DSC Test" -- Has the meaning set forth in Section 2.04 of this Agreement.

"Dollars" and "\$" -- Lawful money of the United States of America.

"Electing Lender"; "Election Notice"; "Election Period" -- Have the respective meanings specified in Section 7.16.

"Eligible Assignee" -- An entity which is (i) a commercial bank organized under the Laws of the United States, or any State thereof, and having (x) total assets in excess of \$1,000,000,000 and (y) a combined capital and surplus of at least \$250,000,000; (ii) a commercial bank organized under the laws of any other country which is a member of the Organization of Economic Cooperation and Development ("OECD"), or a political subdivision of any such country, and having (x) total assets in excess of \$1,000,000,000 and (y) a combined capital and surplus of at least \$250,000,000, provided that such bank is acting through a branch or agency located in the country in which it is organized or another country which is also a member of OECD; (iii) a life insurance company organized under the Laws of any State of the United States, or organized under the laws of any country and licensed as a life insurer by any State within the United States and having admitted assets of at least \$1,000,000,000; or (iv) a nationally recognized investment banking company, or an Affiliate thereof (other than any Person which is directly or indirectly an Affiliate of Borrower or Guarantor, or of any member or partner of Borrower or Guarantor) organized under the Laws of any State of the United States, and licensed or qualified to conduct such business under the Laws of any such State and having (1) total assets of at least \$1,000,000,000 and (2) a net worth of at least \$250,000,000.

"Employee Benefit Plan" -- Any employee benefit or other plan established or maintained, or to which contributions have been made, by Borrower or Guarantor.

"ERISA" -- The Employee Retirement Income Security Act of 1974, including the rules and regulations promulgated thereunder.

"ERISA Affiliate" -- Any corporation which is a member of the same controlled group of corporations (within the meaning of Section 414(b) of the Code) as Borrower and/or Guarantor, or any trade or business which is under common control (within the meaning of Section 414(c) of the Code) with Borrower and/or Guarantor, or any organization which is required to be treated as a single employer with Borrower and/or Guarantor under Section 414(m) or 414(o) of the Code.

"Event of Default" -- Has the meaning given to such term in the Mortgage.

"Federal Funds Rate" -- For any day, the rate per annum equal to the weighted average of the rates on overnight Federal funds transactions as published by the Federal Reserve Bank of New York for such day or, for any day that is not a banking day in New York City, for the immediately preceding banking day.

"Fiscal Year" -- The calendar year or such other annual period as Borrower and Administrative Agent may mutually agree upon.

"Financial Statements" -- Statements of the assets, liabilities (direct or contingent), income, expenses and cash flow of Borrower and Guarantor, prepared in accordance with generally accepted accounting principles in the United States as in effect from time to time and consistently applied.

"Fronting Fee" -- Has the meaning set forth in Section 8.20 of this Agreement.

"GAAP" -- Generally accepted accounting principles in the United States as in effect from time to time, consistently applied.

"Good Faith Contest" -- The contest of an item if (1) the item is diligently contested in good faith, and, if appropriate, by proceedings timely instituted, (2) adequate reserves are established with respect to the contested item, (3) during the period of such contest, the enforcement of any contested item is effectively stayed and (4) the failure to pay or comply with the contested item during the period of the contest is not likely to (x) result in a Material Adverse Change or (y) have an adverse effect on the Mortgaged Property under any Mortgage or any part thereof, or on Lenders' interest therein.

"Governmental Approvals" -- Any authorization, consent, approval, license, permit, certification, or exemption of, registration or filing with or report or notice to, any Governmental Authority.

"Governmental Authorities" -- The United States, the state in which the Property is located and any political subdivision, agency, department, commission, board, bureau or instrumentality of either of them, including any local authorities, which exercises jurisdiction over Borrower, Guarantor, the Property or the Improvements.

"Guarantor" -- Jointly and severally, Acadia Realty Limited Partnership, a Delaware limited partnership and any other person(s) or entity(ies) who may hereafter become a guarantor of any or all of Borrower's obligations in respect of the Loan.

"Guaranty" -- The guaranty(ies) of all or part of Borrower's obligations, to be executed by Guarantor.

"Hazardous Materials" -- Has the meaning given to such term in the Mortgage.

"Hedging Agreement" -- Any ISDA Master Agreement or other documentation with respect to an interest rate hedging transaction entered into by and between any Borrower, as any of the same may be amended, modified or supplemented from time to time, including any and all "confirmations" under any thereof.

"Hobson/IL Property" -- The fee interest in real property located at 931 West 75th Street in Naperville, Illinois owned by RD Hobson.

"Improvements" -- Shall mean, with respect to the indicated Property: (i) a one story Neighborhood Shopping Center containing 105,093 square feet with respect to the Absecon/NJ Property, (ii) a one story Community Shopping Center containing 229,506 square feet with respect to the RD Bloomfield Property, (iii) a one story Neighborhood Shopping Center containing 99,042 square feet with respect to the Hobson/IL Property, (iv) one story Neighborhood Shopping Center containing 269,921 square feet with respect to the Woonsocket/RI Property and (v) a two story, 578,706 n.r.s.f./600 unit apartment community with 1,158 surface parking spaces with respect to the Village/NC Property.

"Indemnity" -- An agreement from Borrower and Guarantor or, if there is no Guarantor, such other persons or entities as shall be satisfactory to Lender, whereby, among other things, Lender is indemnified regarding Hazardous Materials.

"Individual Loan Commitment" -- With respect to each Lender, the amount set forth below opposite the name of such Lender (subject to change in accordance with the terms of this Agreement).

Lender -----	Individual Loan Commitment -----
Fleet	\$32,500,000
Bank of China	\$32,500,000

Upon any reduction in the Total Loan Commitment, each Lender's Individual Loan Commitment shall reduce by the Lender's Pro Rata Share of the reduction of the Total Loan Commitment.

"Insolvency Event" -- Shall mean the occurrence of any of the Events of Default described in clauses (d) through (h) of the Mortgage.

"Interest Period" -- The period during which interest at the LIBO Based Rate, determined as provided in this Agreement, shall be applicable to the LIBO Rate Request Amount in question, provided, however, that each such period shall be either one (1), two (2), three (3) months (or, if available, four (4), or six (6) months or such other periods as Administrative Agent may make available from time to time), which shall be measured from the date specified by Borrower in each LIBO Rate Request for the commencement of the computation of interest at the LIBO Based Rate, to the numerically corresponding day in the calendar month in which such period terminates (or, if there be no numerical correspondent in such month, or if the date selected by Borrower for such commencement is the last Business Day of a calendar month, then the last Business Day of the calendar month in which such period terminates, or if the numerically corresponding day is not a Business Day then the next succeeding Business Day, unless such next succeeding Business Day enters a new calendar month, in which case such period shall end on the next preceding Business Day) and in no event shall any such period extend beyond the Maturity Date.

"Initial Advance" -- The first advance of Loan proceeds to be made hereunder.

"Law" -- Any federal, state or local law, statute, rule, regulation, ordinance, order, decree, directive, requirement, code, notice of violation or rule of common law, now or hereafter in effect, and in each case as amended, and any judicial or administrative interpretation thereof by a Governmental Authority or otherwise, including any judicial or administrative order, determination, consent decree or judgment.

"Lender"; "Lenders" -- Has the respective meanings specified in the preamble.

"Lender Reply Period" -- Has the meaning specified in Section 8.06.

"Lenders L/C Fee" -- Has the meaning set forth in Section 8.20 of this Agreement.

"Letter of Credit" -- Has the meaning set forth in Section 8.20 of this Agreement.

"LIBO Rate" -- The rate per annum (at Administrative Agent's option, rounded up, if necessary, to the nearest 1/32 of 1%) that appears on Dow Jones Page 3750 at approximately 11:00 a.m. (London time) on the date (the "LIBOR Determination Date") two (2) Business Days prior to the first day of the applicable Interest Period, for amounts comparable to the LIBO Rate Request Amount for the same period of time as the Interest Period selected by Borrower in the LIBO Rate Request; or, if such rate does not appear on Dow Jones Page 3750 as of approximately 11:00 a.m. (London time) on the LIBOR Determination Date, the rate (at Administrative Agent's option, rounded up, if necessary, to the nearest 1/32 of 1%) for deposits in Dollars for a period comparable to the applicable Interest Period that appears on the Reuters Screen LIBO Page as of approximately 11:00 a.m. (London time) on the LIBOR Determination Date. If such rate does not appear on either Dow Jones Page 3750 or on the Reuters Screen LIBO Page as of approximately 11:00 a.m. (London time) on the LIBOR Determination Date, the LIBO Rate for the Interest Period will be determined on the basis of the offered rates for deposits in Dollars for an amount comparable to the LIBO Rate Request Amount for the same period of time as such Interest Period that are offered by four (4) major banks in the London interbank market at approximately 11:00 a.m. (London time) on the LIBOR Determination Date. Administrative Agent will request that the principal London office of each of the four (4) major banks provide a quotation of its Dollar deposit offered rate. If at least two (2) such quotations are provided, the LIBO Rate will be the arithmetic mean of the quotations. If fewer than two (2) quotations are provided as requested, the LIBO Rate will be determined on the basis of the rates quoted for loans in Dollars to leading European banks for amounts comparable to such LIBO Rate Request Amount for the same period of time as such Interest Period offered by major banks in New York City at approximately 11:00 a.m. (New York time) on the LIBOR Determination Date. In the event that Administrative Agent is unable to obtain any such quotation as provided above, it will be deemed that the LIBO Rate cannot be determined. For purposes of the foregoing definition, "Dow Jones Page 3750" means the display designated as "Page 3750" on the Dow Jones Markets Service (or such other page as may replace Page 3750 on that service or such other service as may be nominated by the British Bankers' Association as the information vendor for the purpose of displaying British Bankers' Association Interest Settlement Rates for Dollar deposits); and "Reuters Screen LIBO Page" means the display designated as page "LIBO" on the Reuters Monitor Money Rates Service (or such other page as may replace the LIBO page on that service for the purpose of displaying interbank rates from London in Dollars).

"LIBO Rate Request" -- Borrower's telephonic notice (to be promptly confirmed in writing), to be received by Administrative Agent by 12 Noon (New York time) three (3) Business Days prior to the date specified in the LIBO Rate Request for the commencement of the Interest Period (which specified date must be a Business Day), of (a) its intention to have (i) all or any portion of the Principal Amount which is not then the subject of an Interest Period (other than an Interest Period which is terminating on the Business Day specified in the notice) and/or (ii) all or any portion of any advance of proceeds of the Loan evidenced by the Notes which is to be made on the Business Day specified in the notice, bear interest at the LIBO Based Rate and (b) the Interest Period desired by Borrower in respect of the amount specified.

"LIBO Rate Request Amount" -- The amount, to be specified by Borrower in each LIBO Rate Request, which Borrower desires bear interest at the LIBO Based Rate and which, at Administrative Agent's option, shall be an integral multiple of \$100,000.

"LIBOR Loan" -- All or any portion (as the context requires) of any Lender's Loan which shall accrue interest at the LIBOR Based Rate.

"Loan" -- The loan in the Loan Amount made by Lender to Borrower under this Agreement.

"Loan Allocation" -- Shall mean, with respect to the indicated Property: (i) \$12,060,000 for the Absecon/NJ Property, (ii) \$16,730,000 for the Bloomfield/MI Property, (iii) \$7,450,000 for the Hobson/IL Property, (iv) \$17,840,000 for the Woonsocket/RI Property and (v) \$10,920,000 for the Village/NC Property.

"Loan Amount" -- \$65,000,000 (subject to change in accordance with the terms of this Agreement).

"Loan Documents" -- This Agreement, the Notes, the Mortgages, the Indemnity, the Authorization Letter, the Solvency Certificate, the Contribution Agreement, Uniform Commercial Code financing statements in respect of the Mortgaged Property and any other collateral given to Lender as security for the Loan, and any other documents which evidence or secure the Loan.

"Loan to Value Test" -- Has the meaning set forth in Section 2.03 of this Agreement.

"Major Lease" -- Any lease for space in excess of 10,000 square feet of the rentable area of the Improvements.

"Material Adverse Change" means either (1) a material adverse change in the status of the business, results of operations, financial condition, property or prospects of Borrower or (2) any event or occurrence of whatever nature which is likely to (x) have a material adverse effect on the ability of Borrower to perform its obligations under the Loan Documents or (y) create, in the sole and absolute judgment (reasonably exercised) of Lender, a material risk of sale or forfeiture of any of the Mortgaged Property (other than an immaterial portion thereof) under any Mortgage or otherwise materially impair any of the Mortgaged Property under any Mortgage or Lenders' rights therein.

"Maturity Date" -- June 1, 2010.

"Mortgage" -- For each Property, the Mortgage (or Deed of Trust), Assignment of Leases and Rents and Security Agreement in respect thereof, each dated the date hereof, from the respective Mortgagor for the benefit of Administrative Agent, as agent for Lenders, to secure the payment and performance of Borrower's obligations hereunder, under the Notes and otherwise in respect of the Loans.

"Mortgaged Property" means, for each Property, the Property, the Improvements thereon and all other property constituting the "Mortgaged Property", as said quoted term is defined in the applicable Mortgage.

"Multiemployer Plan" -- A Plan defined as such in Section 3(37) of ERISA to which contributions have been made by Borrower or any ERISA Affiliate and which is covered by Title IV of ERISA.

"Net Operating Income"

(a) all revenues from the ownership, use, occupancy, leasing and operation of the Property during the period in question, determined in accordance with GAAP (but adjusted to eliminate the effects of straight-lining of rents and further adjusted to exclude extraordinary and non-recurring sources of income), including all rental and other payments, including, without limitation, base rent, additional rent, promotional revenues, percentage rent and payments for common area maintenance, taxes, insurance and operating expenses and proceeds of rental loss or business interruption service, excluding tenant security deposits collected but not applied to tenants' obligations, and interest on such deposits;

minus

(b) all expenses in connection with the Property during such period, determined in accordance with GAAP, including insurance premiums, real estate taxes, promotional expenses, maintenance and repair expenses, management fees and any other operational expenses, all as determined in accordance with GAAP, but not including debt service payable under the Loan.

"Non-Delinquent Lender" -- Each Lender other than the Delinquent Lender(s).

"Non-Excluded Taxes" -- Has the meaning specified in Section 8.14.

"Note"; "Notes" -- Have the respective meanings specified in Section 2.06.

"Obligations" -- Each and every obligation, covenant and agreement of Borrower, now or hereafter existing, contained in this Agreement, and any of the other Loan Documents, whether for principal, reimbursement obligations, interest, fees, expenses, indemnities or otherwise, and any amendments or supplements thereto, extensions or renewals thereof or replacements therefor, including, but not limited to, all indebtedness, obligations and liabilities of Borrower to Administrative Agent and any Lender now existing or hereafter incurred under or arising out of or in connection with the Notes, this Agreement, the other Loan Documents, and any documents or instruments executed in connection therewith; in each case whether direct or indirect, joint or several, absolute or contingent, liquidated or unliquidated, now or hereafter existing, renewed or restructured, whether or not from time to time decreased or extinguished and later increased, created or incurred, and including all indebtedness of Borrower, under any instrument now or hereafter evidencing or securing any of the foregoing.

"Participant"; "Participation" -- Have the respective meanings specified in Section 8.07.

"Payor" -- Has the meaning specified in Section 7.12.

"Pension Plan" -- Any employee pension benefit plan within the meaning of Section 3(2) of ERISA with respect to which Borrower, Guarantor or any ERISA Affiliate at any relevant time has liability or an obligation to contribute.

"Person" -- An individual, partnership, corporation, limited liability company, business trust, joint stock company, trust, unincorporated association, joint venture or other entity of whatever nature.

"Plan" -- Any employee benefit or other plan established or maintained, or to which contributions have been made, by Borrower or any ERISA Affiliate and which is covered by Title IV of ERISA or to which Section 412 of the Code applies.

"Premises Documents" -- Has the meaning given to such term in the Mortgage.

"Prime Based Loan" -- All or any portion (as the context requires) of a Lender's Loan which shall accrue interest at a rate determined in relation to the Prime Based Rate.

"Prime Based Rate" -- The Applicable Margin plus the greater of (i) the Federal Funds Rate plus 1/2 of 1% per annum or (ii) the prime commercial lending rate as announced from time to time by Administrative Agent at Administrative Agent's Office (it being understood that said "prime commercial lending rate" is a reference rate and does not necessarily represent the lowest or best rate being charged to customers), each change in said rates to be effective, without notice or demand of any kind, as of the date of such change.

"Principal Amount" -- At any time, the aggregate outstanding principal amount of the Notes.

"Property" means, individually and collectively, as the context requires, each of the Absecon/NJ Property, the Bloomfield/MI Property, the Hobson/IL Property, the Village/NC Property and the Woonsocket/RI Property.

"Pro Rata Share" -- With respect to each Lender, the ratio of such Lender's Individual Loan Commitment to the Loan Amount. As of the date hereof, the Lenders' respective Pro Rata Shares are as follows:

Lender -----	Pro Rata Share -----
Fleet	50%
Bank of China	50%

"Regulation D" and "Regulation U" -- Respectively, Regulation D and Regulation U of the Board of Governors of the Federal Reserve System.

"Regulatory Change" -- With respect to any Lender and the charging and collecting of interest at the LIBO Based Rate, any change after the date hereof in federal, state or foreign laws or regulations (including Regulation D) or the adoption or making after such date of any interpretations, directives or requests applying to a class of banks including such Lender under any federal, state or foreign laws or regulations (whether or not having the force of law) by any court or governmental or monetary authority charged with the interpretation or administration thereof, excluding any change the effect of which is reflected in a change in the LIBO Based Rate.

"Release Price" -- Shall mean, with respect to the indicated Property: (i) \$13,880,000 for the Absecon/NJ Property, (ii) \$19,250,000 for the Bloomfield/MI Property, (iii) \$8,566,000 for the Hobson/IL Property, (iv) \$12,570,000 for the RD Village Property, and, (v) \$20,528,000 for the RD Woonsocket Property.

"Replacement Lender" -- Has the meaning set forth in Section 7.20 of this Agreement.

"Required Lenders" -- At any time, those Non-Delinquent Lenders having Pro Rata Shares aggregating more than 50%; provided, however, that during the existence of an Event of Default, the "Required Lenders" shall be those Non-Delinquent Lenders holding at least 66-2/3% of the then aggregate unpaid principal amount of the Loans.

"Required Payment" -- Has the meaning specified in Section 7.12.

"Requisition" -- A written statement by or on behalf of Borrower, in form and substance satisfactory to Administrative Agent, setting forth the amount of the Loan advance requested in each instance and instructions for the payment of the same, and certifying the purpose for which such advance is to be used.

"Reserve Requirement" -- The rate at which reserves (including any marginal, supplemental or emergency reserves) are actually required to be maintained by any Lender or any Lender's respective Participants, if any, under Regulation D against "Euro-Currency Liabilities", as such quoted term is used in Regulation D. Without limiting the effect of the foregoing, the Reserve Requirement shall reflect any other reserves required to be maintained by any Lender or any Lender's respective Participants, if any, by reason of any Regulatory Change against (i) any category of liabilities which includes deposits by reference to which the LIBO Based Rate is to be determined as provided in this Agreement or (ii) any category of extensions of credit or other assets which includes loans the interest rate on which is determined on the basis of rates used in determining the LIBO Rate.

"Solvency Certificate" -- A certificate in the form of EXHIBIT G executed by each of the Borrowers.

"Solvent" -- When used with respect to any Person, that the fair value of the property of such Person, on a going concern basis, is greater than the total amount of liabilities (including, without limitation, contingent liabilities) of such Person.

"Title Insurer" -- The issuer(s), approved by Administrative Agent, of the title insurance policy or policies insuring the Mortgage. "Total Loan Commitment" -- An amount equal to the aggregate amount of all Individual Loan Commitments.

"Treasury Rate" -- The yield rate (i) on the 10 year U.S. Treasury Security due on or closest to the Maturity Date (as defined in the Note), as such yield rate is reported in the Wall Street Journal on the second Business Day preceding the date of calculation.

"Unrestricted Cash and Cash Equivalents" means the following assets of Guarantor (and Guarantor's pro rata share thereof with respect to unconsolidated joint ventures in which Guarantor has the power and authority to cause distributions from such joint venture), in each case, not subject to any lien, security interest or restriction: (i) cash, (ii) securities issued or directly and fully guaranteed or insured by the United States of America or any agency or instrumentality thereof (provided that the full faith and credit of the United States of America is pledged in support thereof) having maturities of not more than six (6) months from the date of acquisition, (iii) shares of money market funds invested in the securities described in clause (ii) above and (iv) Dollar denominated time deposits or certificates of deposit of any domestic United States commercial bank whose long-term debt is rated at least A by Standard & Poor's Rating Services, a division of The McGraw-Hill Companies, Inc. or A2 by Moody's Investors Service, Inc. and having capital and surplus in excess of \$500,000,000.

"Village/NC Property" -- The fee interest in real property located at 240 Village Crossing Lane in Winston-Salem, North Carolina owned by RD Village.

"Woonsocket/RI Property" -- The fee interest in real property located at 1500 Diamond Hill Road in Woonsocket, Rhode owned by RD Woonsocket.

Section 1.02. Accounting Terms. All accounting terms not specifically defined herein shall be construed in accordance with GAAP, and all financial data required to be delivered hereunder shall be prepared in accordance with GAAP.

Section 1.03. Computation of Time Periods. Except as otherwise provided herein, in this Agreement, in the computation of periods of time from a specified date to a later specified date, the word "from" means "from and including" and words "to" and "until" each means "to but excluding".

Section 1.04. Rules of Construction. Except as expressly provided otherwise, when used in this Agreement (i) "or" is not exclusive, (ii) "hereunder", "herein", "hereof" and the like refer to this Agreement as a whole, (iii) "Article", "Section", "Schedule" and "Exhibit" refer to Articles, Sections, Schedules and Exhibits of this Agreement, (iv) terms defined in the singular shall have a correlative meaning when used in the plural and vice versa, (v) a reference to a Law includes any amendment, modification or supplement to, or replacement of, such Law and (vi) a reference to a document shall mean such document as the same may be amended, modified or supplemented from time to time in accordance with its terms. The cover page and the Exhibits and Schedules, if any, annexed hereto are incorporated as a part of this Agreement with the same effect as if set forth in the body hereof. Any table of contents and all captions and headings herein are for convenience only and shall not affect the interpretation or construction hereof.

ARTICLE II

THE LOAN

Section 2.01. Generally. Subject to the terms and conditions of this Agreement, each of the Lenders severally agrees to lend to Borrower in an amount up to its Individual Loan Commitment pursuant to which the Lender shall from time to time advance and re-advance to Borrower an amount equal to its Pro Rata Share of the excess of the Total Loan Commitment over the sum of (1) all previous advances of the Loans which remain unpaid and (2) the outstanding amount of all Letters of Credit. Within the limits set forth herein, Borrower may borrow from time to time under this Section 2.01 and prepay from time to time pursuant to Section 2.13 (subject, however, to the restrictions on prepayment set forth in said Section), and thereafter re-borrow pursuant to this Section 2.01. The Loans may be outstanding as (1) Base Rate Loans, (2) LIBOR Loans or (3) a combination of the foregoing, as Borrower shall elect and notify Administrative Agent in accordance with Section 2.10. The LIBOR Loan and Base Rate Loan of each Lender shall be maintained at such Lender's Applicable Lending Office.

Section 2.02. Nature of Lenders' Obligations. The obligations of Lenders under this Agreement are several, and no Lender shall be responsible for the failure of any other Lender to make any advance of the Loan to be made by such other Lender. However, the failure of any Lender to make any advance of the Loan to be made by it hereunder on the date specified therefor shall not relieve any other Lender of its obligation to make any advance of its portion of the Loan specified hereby to be made on such date.

Section 2.03. Purpose. The Loan shall be made for the business purposes of working capital, distributions to Borrower's parent company and repayment of existing debt. Borrower covenants and agrees that in no event shall proceeds of the Loan, or any part thereof, be used, directly or indirectly, for any other purpose, for any illegal purpose or for the purpose, whether immediate, incidental or ultimate, of buying or carrying "margin stock" within the meaning of Regulation U of the Board of Governors of the Federal Reserve System, or in connection with any hostile acquisition or for any illegal purpose.

Section 2.04. Advances. The Initial Advance shall be in the amount of \$12,000,000 and shall be made upon satisfaction of the conditions set forth in Section 4.01. Subsequent advances shall be made no more frequently than once a month thereafter, upon satisfaction of the conditions set forth in Section 4.02. In no event shall Lenders be obligated to make an advance hereunder if (i) the Principal Amount of the Loan following such advance (the "Post Advance Amount") would exceed 65% of the appraised value of the Mortgaged Property (the "Loan to Value Test") as determined by an independent appraisal conducted at Borrower's expense by an appraiser selected by Administrative Agent, which appraisal shall be conclusive as to value absent manifest error, provided, however, that Borrower shall not be obligated to pay for more than one (1) appraisal per any twelve (12) consecutive month period so long as no Event of Default exists or (ii) if Net Operating Income is not 135% or more of debt service on the Initial Advance or the Post Advance Amount, as the case may be (the "DSC Test"). For purposes of determining compliance with the DSC Test, Net Operating Income shall be calculated on a semi-annual basis using six months' actual figures and the projected figures for the next succeeding six months and debt service shall be calculated using an interest rate equal to the greater of (a) the actual interest rate; (b) the Treasury Rate plus 200 basis points or (c) an interest rate equal to 8.0% and a (25) year equal payment self liquidating amortization schedule. For purposes of determining compliance with the Loan to Value Test, a new appraisal shall not be required for each advance provided the appraisal required in connection therewith shall not be more than twelve (12) months old and any required reappraisals shall be made at Borrower's expense, subject to the limitation set forth in clause (i) above.

Section 2.05. Procedure for Advance. Borrower shall submit to Administrative Agent a request for the advance of proceeds of the Loan stating the amount requested and the purpose for which such advance is to be used no later than 10:00 a.m. (New York time) on the date five (5) Business Days, prior to the date the advance is to be made. Administrative Agent, upon its receipt and approval of the request for advance, will so notify all Lenders by facsimile. Not later than 10:00 a.m. (New York time) on the date set for such advance, each Lender shall, through its Applicable Lending Office and subject to the conditions of this Agreement, make the amount to be advanced by it on such day available to Administrative Agent, at Administrative Agent's Office and in immediately available funds for the account of Borrower. The amount so received by Administrative Agent shall, subject to the conditions of this Agreement, be made available to Borrower, in immediately available funds, by Administrative Agent's crediting one or more bank accounts of Borrower or any one or more of them designated by Borrower in its request for advance. Each Advance made pursuant to this Agreement shall be in an amount at least equal to \$1,000,000 and in integral multiples of \$100,000.

Section 2.06. Notes. The Loan shall be evidenced by notes of Borrower in the form of EXHIBIT D, duly completed and executed by Borrower (one for each Lender in an amount equal to such Lender's Individual Loan Commitment, payable for the account of such Lender's Applicable Lending Office), in an aggregate principal amount equal to the Loan Amount (such notes, as the same may hereafter be amended, modified, extended, severed, assigned, substituted, renewed or restated from time to time (including, without limitation, any substitute notes pursuant to Section 8.07), each, a "Note" and collectively, the "Notes"). The Notes shall mature, and all outstanding principal and other sums thereunder shall be paid in full, on the Maturity Date, as the same may be accelerated or extended.

Each Lender is hereby authorized by Borrower to endorse on the schedule attached to the Note held by it, the amount of each advance and each payment of principal received by such Lender for the account of its Applicable Lending Office(s) on account of its Loan, which endorsement shall, in the absence of manifest error, be conclusive as to the outstanding balance of the Loan made by such Lender. The failure by any Lender to make such notations with respect to its Loans or each advance or payment shall not limit or otherwise affect the obligations of Borrower under this Agreement or the Notes.

In case of any loss, theft, destruction or mutilation of any Lender's Note, Borrower shall, upon its receipt of an affidavit of an officer of such Lender as to such loss, theft, destruction or mutilation and an appropriate indemnification, execute and deliver a replacement Note to such Lender in the same principal amount and otherwise of like tenor as the lost, stolen, destroyed or mutilated Note.

Section 2.07. Payments and Distributions; Certain Consequences of Delinquent Lender Status. Borrower shall make each payment under this Agreement and under the Notes not later than 11:00 a.m. (New York time) on the date when due to Administrative Agent at Administrative Agent's Office in immediately available funds. Administrative Agent will thereafter, on the day of its receipt of each such payment, cause to be distributed to each Lender (i) such Lender's appropriate share (based upon the respective outstanding principal amounts of the Notes and the respective rates of interest thereunder) of the payments of principal and interest, and its appropriate share of the payments of other sums, in like funds for the account of such Lender's Applicable Lending Office. Payments by Borrower hereunder or under the Notes or other Loan Documents shall be made without setoff or counterclaim.

Except to the extent otherwise provided in this Agreement, whenever any payment to be made under this Agreement or under the Notes is due on any day other than a Business Day, such payment shall be made on the next succeeding Business Day, and such extension of time shall in such case be included in the computation of the payment of interest and, if applicable, fees, as the case may be.

Notwithstanding the foregoing provisions of this Section, (i) Administrative Agent shall make no payment to a Delinquent Lender until the Non-Delinquent Lenders have been paid in full all outstanding principal, accrued and unpaid interest and any other sums owing to them under the Loan Documents, it being understood that payments of interest on account of the outstanding principal amount of the Note held by the Delinquent Lender shall be held by Administrative Agent in a non-interest bearing account and not distributed to the Delinquent Lender until such time as all principal, interest and other sums due to the Non-Delinquent Lenders have been paid in full; (ii) any payments (other than interest, as provided in clause (i) above) which would otherwise be due a Delinquent Lender shall be distributed to the Non-Delinquent Lenders until

such time as all principal, interest and other sums due to the Non-Delinquent Lenders have been paid in full (except that any such amounts otherwise due a Delinquent Lender received by Administrative Agent during an Election Period shall be retained by Administrative Agent until the expiration of the Election Period and either paid to the Delinquent Lender, if the delinquency is cured, or paid to the Non-Delinquent Lenders, if the delinquency is not cured); and (iii) Administrative Agent shall deduct, from amounts due (or, in the case of a Delinquent Lender, amounts that would otherwise be payable to such Delinquent Lender being held by Administrative Agent pursuant to clause (i) above) a Lender in default under its obligations under Section 7.05 or the reimbursement provisions of this Section 2.07 regarding interpleader actions, the amount owing by such Lender pursuant to said Section 7.05 or the reimbursement provisions of this Section 2.07 regarding interpleader actions and pay the amount so deducted to itself, the other Lenders, or such other party as is entitled to such amount, as applicable.

If, following such time as all amounts owing under the Loan to the Non-Delinquent Lenders and Administrative Agent have been paid in full, Administrative Agent is holding funds in respect of amounts payable to the Delinquent Lender as provided in the third paragraph of this Section, Administrative Agent shall file an interpleader action in New York State Supreme Court, New York County and shall deposit the funds so held (less a sum equal to Administrative Agent's reasonable fees and expenses in connection with said interpleader action and deposit) with said court and Administrative Agent shall thereupon be relieved of responsibility to any party with respect to the funds deposited. Borrower and each Delinquent Lender hereby jointly and severally agree to reimburse Administrative Agent for all costs and expenses that Administrative Agent may incur in connection with the foregoing interpleader action.

Except as provided above in this Section and in Section 7.16, each Lender's interest in the Loan shall be of equal priority with the interest of each other Lender.

Section 2.08. Interest. Borrower shall have the option, subject to the terms and conditions set forth in this Agreement, of paying interest on the Principal Amount or portions thereof at the Prime Based Rate or the LIBO Based Rate. If Borrower desires the application of the LIBO Based Rate, it shall submit a LIBO Rate Request to Administrative Agent, which LIBO Rate Request shall be irrevocable, subject to Borrower's right to convert the rate of interest payable under the Notes with respect to any LIBOR Amount from the LIBO Based Rate to the Prime Based Rate as provided in Section 2.10. Administrative Agent shall, on the day of its receipt of the LIBO Rate Request from Borrower, notify each Lender by facsimile of the specified LIBOR Amount and the amount of the Lender's portion thereof, the Interest Period and date of commencement thereof, and the interest rate applicable to such LIBOR Amount. Each LIBO Rate Request shall be applicable to the Notes in accordance with the Lenders' respective Pro Rata Shares, so that, barring a conversion or suspension of the LIBO Based Rate by one or more, but not all, Lenders, pursuant to Article III, the outstanding principal amounts of each of the Notes shall contain segments bearing interest at the Prime Based Rate and/or LIBO Based Rate(s) under particular Interest Period(s), each of which segments shall correspond to a proportional segment of the outstanding principal amount of every other Note. In the event that Borrower fails to submit a LIBO Rate Request with respect to a LIBOR Amount not later than 12 Noon (New York time) three (3) Business Days prior to the last day of the relevant Interest Period, the LIBOR Amount in question shall bear interest, commencing at the end of such Interest Period, at the Prime Based Rate for a one (1) month Interest Period.

Interest shall be computed on an actual/360-day basis (i.e., interest for each day during which any portion of the Principal Amount is bearing interest at a particular interest rate per annum shall be computed at such rate divided by 360).

Borrower shall pay interest on the Principal Amount to Administrative Agent for the account of Lenders. Interest on the Principal Amount shall be payable, in arrears, monthly on the first day of the first month following the Initial Advance and on the first day of each month thereafter until the Notes are repaid in full.

Section 2.09. Limitation on Number of Interest Periods. Borrower shall not have the right to have more than five (5) Interest Periods, in the aggregate, in respect of the Loan in effect at any one time, whether or not any portion of the Principal Amount is then bearing interest at the Prime Based Rate.

Section 2.10. Conversions of Interest Rate. Provided there exists no Event of Default, Borrower shall have the right to convert, from time to time, the rate of interest payable under the Notes with respect to any portion of the Principal Amount to the LIBO Based Rate or the Prime Based Rate, subject to the terms of this Agreement (including, without limitation, the payment of all amounts due in connection with any such conversion from the LIBO Based Rate on a date other than the last day of an applicable Interest Period) and provided that, in the case of a conversion from the LIBO Based Rate, the entire LIBOR Amount is the subject of the conversion. Conversions shall be accomplished (i) in the case of a conversion from the Prime Based Rate to the LIBO Based Rate, by Borrower's submission of a LIBO Rate Request in accordance with Section 2.08 or (ii) in the case of a conversion from the LIBO Based Rate to the Prime Based Rate, by Borrower's request to Administrative Agent by telephone (to be promptly confirmed in writing), to be received by Administrative Agent at least three (3) Business Days prior to the date specified for such conversion, specifying the LIBOR Amount with respect to which the interest rate is to be converted and the date of the conversion. With respect to any portion of the Principal Amount subject to the LIBO Based Rate, Borrower shall not have the right to convert from one Interest Period to another other than the last day of an applicable Interest Period. On the date of its receipt of such request, Administrative Agent shall notify each Lender thereof either by telephone or by facsimile.

Section 2.11. Inapplicability of LIBO Based Rate. Any portion of the Principal Amount to which the LIBO Based Rate is not or cannot pursuant to the terms of this Agreement be applicable shall bear interest at the Prime Based Rate. Upon the occurrence of an Event of Default, the entire Principal Amount shall, at the option of the Required Lenders, immediately and without notice to Borrower, bear interest at the Prime Based Rate. In addition, following the occurrence of an Event of Default, Borrower shall have no right to submit a LIBO Rate Request with respect to any LIBOR Amount for which the current Interest Period is expiring. The foregoing provisions shall not be construed as a waiver by Lenders of their right to pursue any other remedies available to them under the Mortgage or any other Loan Document nor shall they be construed to limit in any way the application of the Default Rate as provided in the Mortgage.

Section 2.12. Late Payment Premium. Borrower shall pay to Administrative Agent for the account of Lenders a late payment premium in the amount of 5% of any payments of principal or interest under the Loan made more than ten (10) days after the due date thereof, which late payment premium shall be due with any such late payment.

Section 2.13. Voluntary Prepayments. Borrower may, upon at least five (5) Business Days' notice (which notice shall be irrevocable) to Administrative Agent, prepay the Principal Amount, in whole or part, without premium or penalty; provided, however, that (i) any partial prepayment under this Section shall be in a principal amount of not less than \$1,000,000 and an integral multiple of \$100,000, (ii) prepayment of a LIBOR Amount other than on the last day of the applicable Interest Period shall be subject to the provisions of Section 3.03 and (iii) each prepayment under this Section shall include all interest accrued on the amount of principal prepaid (and all late charges and other sums that may be payable) through the date of prepayment. Amounts prepaid may not be reborrowed.

Section 2.14. Annual Commitment Reduction/Required Amortization. Commencing on the first day of June, 2006 and on the first day of each April thereafter until the Maturity Date both the Loan Amount and the Total Loan Commitment shall reduce by the amount set forth on Schedule A attached hereto and, to the extent the Loan Amount as so reduced would exceed the Principal Amount, Borrower shall, on the date of reduction make a mandatory principal payment in the amount of such excess such that, at no time, shall the Principal Amount exceed the Loan Amount as reduced from time to time. After any release of a Property, in accordance with Section 8.18 or otherwise, Administrative Agent shall recalculate the required annual amortization payments due hereunder in accordance with a constant annual payment mortgage schedule based on the Principal Amount at such time and an assumed interest rate of 8% per annum, which would fully amortize over a term equal to (x) twenty-five (25) years less (y) the number of full twelve (12) month periods elapsed since the date hereof. Administrative Agent shall provide Borrower with a schedule of such recalculated amortization payment schedule upon request and such schedule shall be final and binding upon Borrower absent manifest error.

Section 2.15. Nature of Lenders' Obligations; Borrower's Rights and Obligations in Event a Lender Fails to Make an Advance. The obligations of Lenders under this Agreement are several, and no Lender shall be responsible for the failure of any other Lender to fund the portion required to be funded by such other Lender of an advance of the Loan.

ARTICLE III
YIELD MAINTENANCE ETC.

Section 3.01. Additional Costs and Other Effects of Regulatory Changes; Taxes. Borrower shall pay directly to a Lender, promptly upon demand, such amounts as are necessary to compensate such Lender for Additional Costs resulting from any Regulatory Change which (i) subjects such Lender to any tax, duty or other charge with respect to the Loan or its Note, or changes the basis of taxation of any amounts payable to such Lender under the Loan or its Note (other than taxes imposed on the overall net income of such Lender or of its Applicable Lending Office by the jurisdiction in which such Lender's principal office or such Applicable Lending Office is located), (ii) imposes, modifies or deems applicable any reserve, special deposit or similar requirements relating to any extensions of credit or other assets of, or any deposits with or other liabilities of, such Lender, (iii) imposes on such Lender or, in the case of LIBOR Amounts, on the London interbank market, any other condition affecting the Loan or its Note, or any of such extensions of credit or liabilities or (iv) imposes any capital adequacy requirements on such Lender by virtue of the Loan or the Notes. Such Lender will notify Borrower (with a copy to Administrative Agent) of any event occurring after the date hereof which would entitle it to compensation pursuant to this paragraph as promptly as practicable after it obtains knowledge thereof and determines to request such compensation, and will designate a different Applicable Lending Office for those portions of the Loan affected by such event if such designation will avoid the need for, or reduce the amount of, such compensation and will not, in such Lender's sole opinion, be disadvantageous to it, provided that such Lender shall have no obligation to so designate an Applicable Lending Office located in the United States.

Without limiting the effect of the immediately preceding paragraph, in the event that, by reason of any Regulatory Change, (i) a Lender incurs Additional Costs based on or measured by the excess above a specified level of the amount of (1) a category of deposits or other liabilities of such Lender which includes deposits by reference to which the LIBO Rate is determined as provided in this Agreement and/or (2) a category of extensions of credit or other assets of such Lender which includes loans the interest on which is determined on the basis of rates referred to in the definition of "LIBO Rate" in Section 1.01, (ii) a Lender becomes subject to restrictions on the amount of such a category of liabilities or assets which it may hold or (iii) it shall be unlawful or impossible for a Lender to make or maintain its Pro Rata Share of the Loan (or any portion thereof) at the LIBO Based Rate, then such Lender's obligation to make or maintain its Pro Rata Share of the Loan (or any portion thereof) at the LIBO Based Rate (and Borrower's right to request the same) shall be suspended and such Lender shall give notice thereof to Borrower (with a copy to Administrative Agent) and, upon the giving of such notice, interest payable on the affected Note shall be converted to the Prime Based Rate, unless such Lender may lawfully continue to maintain its Pro Rata Share of the Loan (or any portion thereof) then bearing interest at the LIBO Based Rate to the end of the current Interest Period(s), at which time the interest rate on the affected Note shall convert to the Prime Based Rate. If subsequent to any conversion to the Prime Based Rate as provided above such Lender determines that such Regulatory Change has ceased to be in effect, such Lender will so notify Borrower (with a copy to Administrative Agent), and Borrower may convert the rate of interest payable under the affected Note with respect to those portions of the Principal Amount bearing interest at the Prime Based Rate to the LIBO Based Rate by submitting a LIBO Rate Request in respect thereof and otherwise complying with the provisions of this Agreement with respect thereto.

Determinations by each Lender of the existence or effect of any Regulatory Change on its costs of making or maintaining its Pro Rate Share of the Loan, or portions thereof, at the LIBO Based Rate, or on amounts receivable by it in respect thereof, and of the additional amounts required to compensate such Lender in respect of Additional Costs, shall be conclusive, so long as made on a reasonable basis.

Section 3.02. Limitations on Availability of LIBO Based Rate. Anything herein to the contrary notwithstanding, if, at the time of or prior to the determination of the LIBO Based Rate in respect of any LIBO Rate Request Amount as provided in this Agreement, (i) Administrative Agent determines (which determination shall be conclusive, so long as made on a reasonable basis) that by reason of circumstances affecting the London interbank market generally, adequate and fair means do not or will not exist for determining the LIBO Rate applicable to an Interest Period or (ii) a Lender determines (which determination shall be conclusive, so long as made on a reasonable basis) that the LIBO Rate will not accurately reflect the cost to such Lender of making or maintaining its Pro Rata Share of the Loan (or any portion thereof) at the LIBO Based Rate, then Administrative Agent, in the case of the circumstances described in clause (i) above, or such Lender, in the case of the circumstances described in clause (ii) above, shall give Borrower prompt notice thereof (with a copy to Administrative Agent in the case of the notice from such Lender), and the LIBO Rate Request Amount in question, in the case of the circumstances described in clause (i) above, or such Lender's portion thereof, in the case of the circumstances described in clause (ii) above, shall bear interest, or continue to bear interest, as the case may be, at the Prime Based Rate. If at any time subsequent to Administrative Agent's or such Lender's giving of such notice, Administrative Agent or such Lender, as the case may be, determines that because of a change in circumstances the LIBO Based Rate is again available to Borrower, Administrative Agent or such Lender, as the case may be, shall so notify Borrower (with a copy to Administrative Agent, in the case of the notice from such Lender) and Borrower may convert the rate of interest payable under the Notes or such Lender's Note, as the case may be, from the Prime Based Rate to the LIBO Based Rate by submitting a LIBO Rate Request in respect thereof and otherwise complying with the provisions of this Agreement with respect thereto.

Section 3.03. Certain Compensation. Borrower shall pay directly to a Lender, immediately upon request and notwithstanding contrary provisions contained in the Mortgage or other Loan Documents, such amounts as shall, in the judgment of such Lender (which shall be conclusive so long as made on a reasonable basis), compensate it for any loss, cost or expense incurred by it as a result of (i) any payment or prepayment (under any circumstances whatsoever, whether voluntary or involuntary) of any portion of the Principal Amount bearing interest at the LIBO Based Rate on a date other than the last day of an applicable Interest Period, (ii) the conversion (for any reason whatsoever, whether voluntary or involuntary) of the rate of interest payable under such Lender's Note from the LIBO Based Rate to the Prime Based Rate with respect to any portion of the Principal Amount then bearing interest at the LIBO Based Rate

on a date other than the last day of an applicable Interest Period, (iii) the failure of all or a portion of an advance of the Loan which was to have borne interest at the LIBO Based Rate pursuant to a LIBO Rate Request to be made, (iv) any failure by Borrower to prepay any portion of the Principal Amount bearing interest at the LIBO Based Rate on the date specified in Borrower's notice of prepayment or (v) the failure of Borrower to borrow, continue or convert in accordance with a LIBO Rate Request submitted by it, which amounts shall include, without limitation, an amount equal the Present Value (determined as hereinafter provided) of the dollar amount which is obtained by multiplying the number of days from the date of the occurrence to the last day of the applicable Interest Period by a number which is calculated by (i) multiplying the amount prepaid, converted, not advanced, not prepaid or not borrowed, as the case may be, by the excess of the LIBO Based Rate applicable thereto over the current rate for United States Treasury securities (bills on a discounted basis shall be converted to a bond equivalent) with a maturity date closest to the last day of the applicable Interest Period and (ii) dividing the product thereof by 360. For purposes of this Section, Present Value shall be determined by using the number of days during the period from the date of occurrence to and including the last day of the applicable Interest Period and using the above-referenced United States Treasury security rate. A determination by a Lender as to the amounts payable to it pursuant to this Section shall be conclusive absent manifest error.

Section 3.04. "Lender" to Include Participants. For purposes of this Article III and of the definition of "Additional Costs" in Section 1.01, the term "Lender" shall, at each Lender's option, be deemed to include such Lender's present and future Participants in the Loan to the extent of each such Participant's actual Additional Costs or other losses, costs or expenses payable pursuant to this Article III.

ARTICLE IV

CONDITIONS PRECEDENT

Section 4.01. Conditions Precedent to Loan. Lenders shall not be obligated to make the Initial Advance until the following conditions shall have been satisfied:

(a) There shall exist no Default or Event of Default, and no Default or Event of Default would result from the making of the Loan;

(b) The representations and warranties made to Administrative Agent or Lenders herein, in the other Loan Documents and in any other document, certificate or statement executed or delivered to Administrative Agent or Lenders in connection with the Loan shall be true and correct on and as of the date of the advance of the Loan with the same effect as if made on such date;

(c) The Improvements shall not have been materially injured or damaged by fire or other casualty; and

(d) Lenders shall have received and approved each of the following:

(1) Loan Fees and Expenses. (i) A non-refundable facility fee in respect of this Loan (without credit for any amounts paid under existing credit facilities refinanced hereby) in the amount of \$325,000, to be retained by Lenders whether or not any advances are made hereunder and (ii) all fees and expenses incurred by Administrative Agent (including, without limitation, the reasonable fees and expenses of Administrative Agent's Counsel, Lenders' environmental and insurance consultants, and the preparer of the appraisal required by paragraph (4) below);

(2) Loan Documents. This Agreement and each of the other Loan Documents, duly executed by the parties thereto, and, where applicable, duly acknowledged and in proper form for recording or filing, as the case may be, and all necessary or desirable recordings and filings shall have been duly made;

(3) Financial Statements. Current Financial Statements and such other financial data (including, without limitation, current financial statements of tenants under leases in respect of the Mortgaged Property and of parties to any of the Premises Documents, and of the guarantor(s), if any, of any such tenants or parties) as Administrative Agent shall require;

(4) Appraisal. An independent M.A.I. appraisal of the Property and Improvements complying in all respects with the standards for real estate appraisals established pursuant to the Financial Institutions Reform, Recovery, and Enforcement Act of 1989;

(5) Insurance Policies. The policies of insurance required by the Mortgage, together with evidence of the payment of the premiums therefor;

(6) Hazardous Materials Report/Reliance Letter. A detailed report by a properly qualified engineer, which shall include, inter alia, a certification that such engineer has obtained and examined a list of prior owners, tenants and other users of all or any portion of the Property or any improvements thereon, and has made an on-site physical examination of the Property, and a visual observation of the surrounding areas, and has found no evidence of past or present Hazardous Materials activities or the presence of Hazardous Materials, together with, if required by Administrative Agent, a "reliance letter" addressed to Administrative Agent with respect to such report;

(7) Title Policy. A paid title insurance policy, in the amount of the Loan Allocation for each property in ALTA 10-17-92 or other form approved by Administrative Agent's Counsel with such endorsements as shall be reasonably requested by Administrative Agent's Counsel (including "tie-in" endorsements aggregating liability under such policies to the extent permitted by Law), issued by the Title Insurer which shall insure the Mortgage to be a valid lien on Borrower's interest in the premises free and clear of all defects and encumbrances except those previously received and approved by Administrative Agent's Counsel, and shall contain (i) full coverage against mechanics' liens (filed and inchoate), (ii) a reference to the survey but no survey exceptions except those theretofore approved by Administrative Agent's Counsel, (iii) such affirmative insurance and endorsements as Administrative Agent's Counsel may require, and (iv) if any such policy is dated earlier than the date of the disbursement of the Loan, an endorsement to such policy, in form approved by Administrative Agent's Counsel, redating the policy and setting forth no additional exceptions except those approved by Administrative Agent's Counsel; and shall be accompanied by such reinsurance agreements between the Title Insurer and title companies approved by Lender, in ALTA 1994 facultative form, as Lender may require;

(8) Survey. A current ALTA/ACSM, as-built survey of the Property, certified to Lender and the Title Insurer showing (i) the location of the perimeter of the Property by courses and distances, (ii) all easements, rights-of-way, and utility lines referred to in the title policy required by this Agreement or which actually service or cross the Property (with instrument, book and page number indicated), (iii) the lines of the streets abutting the Property and the width thereof, and any established building lines (and that such roads have been dedicated for public use and are completed and have been accepted by all required Governmental Authorities), (iv) any encroachments and the extent thereof upon the Property, (v) locations of all portions (with the acreage thereof also identified) of the Property, if any, which are located in an area designated as a "flood prone area" as defined by U.S. Department of Housing and Urban Development pursuant to the Flood Disaster Protection Act of 1973 and (vi) the Improvements, and the relationship thereof by distances to the perimeter of the Property, established building, setback and street lines and (vi) if the Property is described as being on a filed map, a legend relating the survey to said map;

(9) Leases and Premises Documents. Certified copies of all leases in respect of the Mortgaged Property, accompanied by, in the case of Anchors and any other leases specified by Administrative Agent, estoppel certificates from the tenants thereunder and executed notice-of-assignment letters in the form of EXHIBIT B in respect thereof; executed subordination and attornment agreements, in Administrative Agent's usual form, in respect of such leases as Administrative Agent may require; a certified copy of the standard form of lease or contract of sale, as the case may be, Borrower will use in connection with the leasing of space in the Improvements or the sale of portions of the Property; certified copies of all Premises Documents, together with estoppel certificates from the parties thereto and a certified current rent roll for the Improvements;

(10) Requisition. A Requisition for the Initial Advance,

(11) Counsel Opinions. Opinions of Borrower's counsel and local counsel (and, if required by Lender, of a local counsel selected by Lender or Administrative Agent's Counsel) to the effects set forth on EXHIBIT C;

(12) Organizational Documents. If Borrower, the mortgagor or grantor under any Mortgage (if different from Borrower), Guarantor or any general partner or member of any of them is a corporation, current copies of the following documents with respect to each (unless otherwise indicated):

(i) a good-standing certificate from the jurisdiction of its incorporation and, as to Borrower and the mortgagor or grantor under the Mortgage only, from the jurisdiction in which the Property is located,

(ii) a resolution, certified by the corporate secretary, of the shareholders or directors of the corporation authorizing the consummation of the transactions contemplated hereby and the execution, delivery and performance of the Loan Documents and any other documents to be executed, delivered or performed by said corporation (including any substitute or replacement Notes to be executed and delivered pursuant to the terms hereof), and

(iii) a certificate of the corporate secretary as to the incumbency of the officers executing any of the documents required hereby,

and, if Borrower, the mortgagor or grantor under the Mortgage (if different from Borrower), Guarantor or any general partner or member of any of them is a partnership, venture, limited liability company or trust:

(iv) the entity's organizational agreement and all amendments and attachments thereto, certified by a general partner, venturer, member or trustee to be true and complete,

(v) any certificates filed or required to be filed by the entity in the jurisdictions of its formation and where the Property is located in order for it to do business in those jurisdictions, and

(vi) evidence of the authorization of the consummation of the transactions contemplated hereby and the execution, delivery and performance of the Loan Documents and any other documents to be executed, delivered or performed by said entity (including any substitute or replacement notes to be executed and delivered pursuant to the terms hereof), and including any required consents by partners, venturers, members, trustees or beneficiaries;

(13) Management and Leasing Contracts. Copies, certified to be true and complete, of all existing contracts providing for the management, maintenance, operation or leasing of the Property and Improvements, together with, in each case, such collateral assignments or "will-serve" letters as Administrative Agent may require;

(14) Permits and Approvals. Copies of the certificate(s) of occupancy for the Improvements and of any and all other authorizations (including plot plan and subdivision approvals, zoning variances, water, sewer, building and other permits) required by Governmental Authorities or otherwise necessary for the use, occupancy and operation of the Property and/or Improvements for their intended purposes in accordance with all applicable Laws;

(15) Intentionally Omitted;

(16) Chattel Searches. UCC searches against Borrower or other owner of the Mortgaged Property and advice from the Title Insurer to the effect that searches of proper public records disclose no leases of personalty or financing statements filed or recorded against the Mortgaged Property, Borrower or other owner of any Mortgaged Property;

(17) Intentionally Omitted; and

(18) Additional Documentation. Such other approvals, opinions or documents as Lender may reasonably request including, but not limited to, (i) a current certified rent roll for the Mortgaged Property and tenant estoppel letters for all Anchors, (ii) ground lessor estoppel certificates from the ground lessor with respect to any ground leases encumbered by the Mortgage and (iii) current financial statements of Guarantor showing a minimum net worth of \$100,000,000 (the "Net Worth Requirement") and a minimum Unrestricted Cash and Cash Equivalents of \$10,000,000 (the "Liquidity Requirement").

Section 4.02. Conditions to Advances After the Initial Advance. In addition to the Initial Advance, an amount of Loan proceeds (each such advance, an "Additional Advance") shall be made available to Borrower subject to the satisfaction of the following conditions:

(a) Subject to the limitations set forth in Section 2.04 and Section 4.02(h) with respect to any Additional Advance, the amount of each Additional Advance subsequent to the Initial Advance shall be in the minimum amount of \$100,000 (unless less than said amount is available for disbursement pursuant to the terms hereof at the time of such Additional Advance, in which case the amount of such subsequent advance shall be equal to such remaining availability).

(b) All conditions of Section 4.01 shall have been and remain satisfied as of the date of such advances;

(c) There shall exist no Default or Event of Default;

(d) The representations and warranties made to Administrative Agent and Lenders herein, in the other Loan Documents and in any other document, certificate or statement executed or delivered to Administrative Agent or Lenders in connection with the Loan shall be true and correct on and as of the date of the advance with the same effect as if made on such date (except for the updated rent roll);

(e) Lender shall have received a Requisition, and, if required, a title continuation report;

(f) There shall have occurred no material adverse change in the condition or value of the "Mortgaged Property", as defined in the Mortgage;

(g) Mortgagor shall furnish Administrative Agent with a statement, duly acknowledged, of the amount due whether for principal or interest, on the Loan and whether any offsets, counterclaims or defenses exist against the indebtedness secured hereby; and

(h) The aggregate outstanding proceeds of the Loan, including the amount of the advance being requested, shall not exceed the amount necessary to satisfy the Loan to Value Test and the DSC Test for Additional Advances.

ARTICLE V

REPRESENTATIONS AND WARRANTIES

Borrower and Guarantor represent and warrant to Administrative Agent and Lenders that:

Section 5.01. Due Formation, Power and Authority. If it, the mortgagor or grantor under the Mortgage (if different from Borrower), Guarantor or any general partner or member of any of them is a corporation, partnership, venture, limited liability company or trust, each such entity is duly organized, validly existing and in good standing under the Laws of the jurisdiction of its formation, is qualified to do business (if required) and is in good standing in the jurisdiction in which the Property is located, and has full power and authority to consummate the transactions contemplated hereby and to execute, deliver and perform this Agreement and any other Loan Document to which it is a party.

Section 5.02. Legally Enforceable Agreements. Each Loan Document to which Borrower or Guarantor is a party is a legal, valid and binding obligation of such party, enforceable against Borrower or Guarantor, as the case may be, in accordance with its terms, except to the extent that such enforcement may be limited by applicable bankruptcy, insolvency and other similar Laws affecting creditors' rights generally.

Section 5.03. Financial Statements. Financial Statements have been heretofore delivered to Lenders which are true, correct and current in all respects and which fairly present the respective financial conditions of the subjects thereof as of the respective dates thereof; no material adverse change has occurred in the financial conditions reflected therein since the respective dates thereof and no borrowings (other than the Loan) which might give rise to a lien or claim against the Mortgaged Property or proceeds of the Loan have been made by Borrower or others since the dates thereof.

Section 5.04. Compliance With Laws; Payment of Taxes. Borrower and Guarantor are in compliance with, and the transactions contemplated hereby and by the other Loan Documents do not and will not violate any provision of, or require any filing, registration, consent or approval under, any Law presently in effect having applicability to Borrower or Guarantor; Borrower has filed all tax returns (federal, state and local) required to be filed and has paid all taxes, assessments and governmental charges and levies due and payable (including those in respect of the Mortgaged Property), including interest and penalties.

Section 5.05. Litigation. There are no actions, suits or proceedings pending or threatened against or affecting it, Guarantor, the Mortgaged Property, the validity or enforceability of the Mortgage or the priority of the lien thereof at law, in equity or before or by any Governmental Authorities except actions, suits or proceedings which have been disclosed to Administrative Agent and Lenders in writing and which are fully covered by insurance or would, if adversely determined, not substantially impair the ability of Borrower or Guarantor to pay when due any amounts which may become payable under the Notes or Guaranty or to otherwise pay and perform their respective obligations in connection with the Loan; to Borrower's knowledge, neither it nor Guarantor is in default with respect to any order, writ, injunction, decree or demand of any court or Governmental Authorities.

Section 5.06. No Conflicts or Defaults. The consummation of the transactions contemplated hereby and the performance hereof and of the other Loan Documents have not resulted and will not result in any breach of, or constitute a default under, any mortgage, deed of trust, lease, bank loan or credit agreement, corporate charter, by-laws, partnership agreement or other instrument to which Borrower or Guarantor is a party or by which either of them may be bound or affected.

Section 5.07. Solvency. Borrower and Guarantor are, and upon consummation of the transactions contemplated by this Agreement, the other Loan Documents and any other related documents, will be, Solvent.

Section 5.08. Governmental Regulation. Borrower is not subject to regulation under the Investment Company Act of 1940 or any Law limiting its ability to incur indebtedness for money borrowed as contemplated hereby.

Section 5.09. Insurance. Borrower has in force, and has paid the premiums in respect of, all of the insurance required by the Mortgage.

Section 5.10. ERISA. Neither Borrower nor Guarantor nor any other Person, including any fiduciary, has engaged in any prohibited transaction (as defined in Section 4975 of the Code or Section 406 of ERISA) which could subject Borrower or Guarantor or any Person whom they have an obligation to indemnify to any tax or penalty imposed under Section 4975 of the Code or Section 502 of ERISA; neither Borrower nor Guarantor nor any ERISA Affiliate maintains, contributes to or has any liability with respect to a Multiemployer Plan or any other plan subject to Title IV of ERISA; each Employee Benefit Plan is administered in accordance with its terms and in compliance with all applicable Laws, including any reporting requirements; each Pension Plan intending to qualify under Section 401(a) or 401(k) of the Code does so qualify; there is no lien outstanding or security interest given in connection with a Pension Plan; neither Borrower nor Guarantor nor any ERISA Affiliate has any liability with respect to an accumulated funding deficiency (whether or not waived) under Section 412 of the Code or Section 302 of ERISA; neither Borrower nor Guarantor has any liability for retiree medical or death benefits (contingent or otherwise) other than as required by Section 4980B of the Code; and no part of the funds to be used by Borrower or Guarantor in satisfaction of their respective obligations under this Agreement and the other Loan Documents constitute "plan assets" of any "employee benefit plan" within the meaning of ERISA or of any "plan" within the meaning of Section 4975(e)(1) of the Code, as interpreted by the Internal Revenue Service and the United States Department of Labor in rules, regulations, releases or bulletins or as interpreted under applicable case law.

Section 5.11. Other Documents. The Major Leases and Premises Documents are unmodified and in full force and effect, there are no defaults (or events which with notice or the passage of time, or both, would constitute such a default) under any thereof and all conditions to the effectiveness and continuing effectiveness thereof required to be satisfied as of the date hereof have been satisfied.

Section 5.12. No Defaults. There exists no Default or Event of Default.

Section 5.13. Accuracy of Information; Full Disclosure. Neither this Agreement nor any documents, financial statements, reports, notices, schedules, certificates, statements or other writings furnished by or on behalf of Borrower or Guarantor to Lender in connection with the negotiation of this Agreement or the other Loan Documents or the consummation of the transactions contemplated hereby, or required herein or by the other Loan Documents to be furnished by or on behalf of Borrower or Guarantor, contains any untrue or misleading statement of a material fact or omits a material fact necessary to make the statements herein or therein not misleading; there is no fact which Borrower has not disclosed to Administrative Agent and Lenders in writing which materially affects adversely nor, so far as Borrower can now foresee, will materially affect adversely any of the Mortgaged Property or the business affairs or financial condition of Borrower or Guarantor, or the ability of Borrower or Guarantor to perform this Agreement and the other Loan Documents.

Section 5.14. Separate Tax and Zoning Lot. Each Mortgaged Property constitutes a distinct parcel for purposes of zoning and of taxes, assessments and impositions (public or private) and are not otherwise considered as part of a larger single lot for purposes of zoning or of taxes, assessments or impositions (public or private).

Section 5.15. The Improvements. There are no structural defects in the Improvements or violations of any requirement of any Governmental Authorities with respect thereto; the use, occupancy and operation of the Improvements comply with all applicable permits and restrictive covenants affecting the Mortgaged Property, as well as with the Premises Documents and with all zoning, building, environmental, ecological, landmark, subdivision and other Laws, and all requirements for such use, occupancy and operation have been satisfied; there exist a sufficient number of parking spaces necessary to satisfy the requirements of the Premises Documents and any leases and all zoning and other applicable legal requirements with respect to the Mortgaged Property, and all required landscaping, sidewalks and other amenities, and all off-site improvements, related to the Improvements have been completed.

Section 5.16. Utility Services. All utility services necessary for the use and operation of the Improvements for their intended purposes are available and servicing the Property, including water supply, storm and sanitary sewer, gas, electric power and telephone facilities.

Section 5.17. Creation of Liens. It has entered into no contract or arrangement of any kind the performance of which by the other party thereto would give rise to a lien on the Mortgaged Property or any part thereof.

Section 5.18. Roads. All roads necessary for the full utilization of the Improvements for their intended purposes have been completed and dedicated to public use and accepted by all appropriate Governmental Authorities.

Section 5.19. Requisition as Reaffirmation. Each Requisition submitted to Administrative Agent, and the receipt of the funds requested thereby, shall constitute an affirmation by Borrower that the representations and warranties contained herein and in the other Loan Documents remain true and correct as of the respective dates of such Requisitions.

Section 5.20. Patriot Act.

(a) As of the date hereof, none of the funds or other assets of Borrower or of any of its direct or indirect owners (including Guarantor) constitute property of, or are beneficially owned, directly or indirectly, by, any Person subject to trade restrictions under United States Law, including those who are covered by the International Emergency Economic Powers Act, 50 U.S.C. ss.ss.1701 et seq., The Trading with the Enemy Act, 50 U.S.C. App. 1 et seq., and any Executive Orders or regulations promulgated thereunder (an "Embargoed Person") with the result that the investment in Borrower (whether directly or indirectly) is prohibited by such applicable Law or the Loan is in violation of such Law; (ii) no Embargoed Person has any interest of any nature whatsoever (whether directly or indirectly) in Borrower with the result that the investment in Borrower (whether directly or indirectly) is prohibited by such applicable Law or the Loan is in violation of such Law; and (iii) none of the funds of Borrower have been derived from any unlawful activity with the result that the investment in Borrower (whether directly or indirectly) is prohibited by such applicable Law or the Loan is in violation of such Law.

(b) Neither Borrower nor any of its direct or indirect owners (including Guarantor) is in violation of the U.S. Federal Bank Secrecy Act, as amended, and its implementing regulations (31 CFR part 103), the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001, Public Law 107-56 and the regulations promulgated thereunder, any order issued with respect to anti-money laundering by the U.S. Department of the Treasury's Office of Foreign Assets Control ("OFAC"), or any other anti-money laundering Law.

(c) Neither Borrower nor any of its direct or indirect owners (including Guarantor) is a Person with whom United States Persons are restricted from doing business with under (a) regulations issued by OFAC (including those persons and entities named on OFAC's Specially Designated Nationals and Blocked Persons list) or under any United States Law (including the September 24, 2001, Executive Order Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten to Commit, or Support Terrorism) or (b) any other Law. Without limiting the foregoing, Borrower is not presently funding its obligations hereunder with funds from any of the Persons referred to in this paragraph (c).

(d) Guarantor has joined in this Agreement, for the purposes, among other things, of joining in the representations to Administrative Agent and Lenders in this Section 5.20.

ARTICLE VI

COVENANTS OF BORROWER

Borrower covenants and agrees with Administrative Agent and Lenders that it will promptly:

Section 6.01. Compliance with Laws; Payment of Taxes. Comply with all Laws applicable to it or the Mortgaged Property, or any part thereof, such compliance to include, without limitation, paying before the same become delinquent all taxes, assessments and governmental charges imposed on it or the Mortgaged Property, or any part thereof, and promptly furnish Administrative Agent with reports of any official searches made by Governmental Authorities and any claims of violations thereof.

Section 6.02. Leases and Premises Documents. Not enter into any Major Lease without the prior written consent of Administrative Agent, not to be unreasonably withheld or delayed; and deliver to Administrative Agent certified copies of all leases in respect of the Mortgaged Property and all Premises Documents and all amendments to any thereof (in any case, whether executed before or after the date hereof) together with (i) if requested by Administrative Agent, current financial statements of the tenants thereunder or parties thereto as the case may be, and of the guarantor(s), if any, of such tenants or parties and (ii) in the case of all Major Leases, a notice-of-assignment letter in the form of EXHIBIT B; and keep all Premises Documents and, except as may be permitted by the Mortgage, all leases in full force and effect.

Section 6.03. Inspection Fee. Commencing on the first anniversary of the date hereof and on each anniversary thereafter during the term of the Loan, deliver to Administrative Agent, for its own account, a non-refundable administrative inspection fee in the amount of \$1,000.00 (the "Inspection Fee") with respect to the costs associated with Lender's annual inspection of the Property.

Section 6.04. Continuing Accuracy of Representations and Warranties. Cause all of the representations and warranties made to Administrative Agent or Lenders herein and in the other Loan Documents to be continuously true and correct.

Section 6.05. Covenants, Restrictions and Easements. Comply with all restrictions, covenants and easements affecting the Mortgaged Property or the Improvements and cause the satisfaction of all conditions hereof.

Section 6.06. Financial Covenants. Comply at all times with the DSC Test and the Loan to Value Test, as calculated in accordance with Section 2.04 hereof, provided, however, that such non-compliance shall not constitute an Event of Default under the Mortgage and hereunder if, within forty-five (45) days of the date upon which Mortgagor receives written notice from Administrative Agent of Borrower's non-compliance thereof (the "Notice Date"), Mortgagor complies with the provisions of this Section 6.06, by either (i) agreeing in writing to permanently reduce the Loan Amount and the Total Loan Commitments by an amount which would bring Borrower into compliance with the DSC Test and the Loan to Value Test and, to the extent the Loan Amount as so reduced would exceed the Principal Amount, making a mandatory principal payment in the amount of such excess such that, at no time, shall the Principal Amount exceed the Loan Amount as reduced from time to time, with Borrower paying all applicable prepayment or other charges, if any, provided for herein or in the Note with respect to such mandatory principal payment or (ii) delivering to Administrative Agent cash, a letter of credit from a financial institution acceptable to Administrative Agent, or such other collateral as may be acceptable to Lender in its sole discretion in an amount equal to the amount that would have been required to have been prepaid pursuant to (i) above in order to cure such default. In the case of Guarantor, Guarantor shall comply at all times with the Liquidity Requirement and the Net Worth Requirement.

Section 6.07. Payment of Costs. Pay all costs and expenses required for the satisfaction of the conditions hereof, including, without limitation (i) all document and stamp taxes, recording and filing expenses and fees and commissions lawfully due to brokers in connection with the transactions contemplated hereby, (ii) any taxes, insurance premiums, liens, security interests or other claims or charges against the Property or Improvements and (iii) all costs of completion of the work to be performed by Borrower in space to be occupied in the Improvements (including public space) to permit the lawful occupancy thereof for the purposes contemplated by actual or prospective lessees or owners of such space as set forth in the individual leases, subleases or purchase contracts thereof or in detailed work letters or other agreements or letters of intent with respect thereto, or, in cases where there are no such leases, subleases, contracts, work letters or other documents as aforesaid, as set forth in Borrower's standard work letter or the standard form of lease or contract, if any, required by paragraph (10) of Section 4.01(d), or, in cases where none of the foregoing exists, to the level of building standard in accordance with industry practices, as conclusively determined by the Engineering Consultant.

Section 6.08. Brokers. Indemnify Administrative Agent and Lenders against claims of brokers arising by reason of the execution hereof or the consummation of the transactions contemplated hereby.

Section 6.09. Correction of Defects. Upon demand of Administrative Agent or the Engineering Consultant, correct any defects (including structural) in the Improvements.

Section 6.10. Unused Fee. Borrower shall, during the term of the Loan, pay to Administrative Agent for the account of each Lender a fee (the "Unused Fee"), computed on the daily unused Individual Loan Commitment of such Lender based on the Loan Amount for each day at a rate per annum equal to 0.10%, calculated on the basis of a year of three hundred sixty (360) days for the actual number of days elapsed. The accrued Unused Fee shall be due and payable quarterly in arrears on the first day of July, October, January and April of each year commencing on July 1, 2005, and upon the Maturity Date (as stated, by acceleration or otherwise) or earlier termination of the Loan.

Section 6.11. Reporting and Miscellaneous Document Requirements. Furnish directly to each Lender:

(1) Semi-Annual Financial Statements of Borrower. On a semi-annual basis, as soon as available and in any event within ninety (90) days after the end of each applicable semi-annual period, Financial Statements of Borrower, in reasonable detail (including detailed balance sheet, income statement, cash flow statement and one-year projections) and stating in comparative form the respective figures for the corresponding date and period in the prior semi-annual period;

(2) Annual Financial Statements of Borrower. On an annual basis, as soon as available and in any event within ninety (90) days after the end of each applicable annual period, Financial Statements of Borrower, in reasonable detail (including detailed balance sheet, income statement, cash flow statement and one-year projections) and stating in comparative form the respective figures for the corresponding date and period in the prior annual period;

(3) Quarterly and Annual Financial Statements of Acadia Realty Trust. As soon as available and in any event within one hundred twenty (120) days after the end of each calendar quarter and Fiscal Year, Financial Statements of Acadia Realty Trust, a Maryland real estate investment trust ("Sponsor"), which is the parent of Guarantor, as of the end of and for such calendar quarter and Fiscal Year, in reasonable detail (including detailed balance sheet, income statement, cash flow statement, and contingent liability schedule) and stating in comparative form the respective figures for the corresponding date and period in the prior Fiscal Year, audited (with respect to the annual financial statements only) by one of the so-called "Big Four" accounting firms or another firm of certified public accountants reasonably acceptable to Administrative Agent, provided that, notwithstanding the foregoing, so long as Sponsor timely files 10Q and 10K reports with the Securities and Exchange Commission, Sponsor shall have complied with this clause (3);

(4) Covenant Compliance Certificates. Within sixty (60) days after the end of each fiscal quarter, Guarantor shall submit to Lender a Covenant Compliance Certificate certified by a principal financial or accounting officer or general partner, as the case may be, in the Form of EXHIBIT E-1 hereto certifying, on the basis of Guarantor's unaudited financial statements, that Guarantor has met the Liquidity Requirement for the applicable period. As soon as available and in any event within one hundred twenty (120) days after the end of each Fiscal Year, Guarantor shall submit to Lender a Covenant Compliance Certificate certified by a principal financial or accounting officer or general partner, as the case may be, in the Form of EXHIBIT E-2 hereto certifying, on the basis of Guarantor's audited Financial Statements as of the end of and for such Fiscal Year, that Guarantor has met the Net Worth Requirement and the Liquidity Requirement;

(5) Notice of Litigation. Promptly after the commencement and knowledge thereof, notice of all actions, suits, and proceedings before any court or arbitrator or any Governmental Authority, affecting (i) Borrower which, if determined adversely to Borrower are likely to result in a Material Adverse Change or (ii) all or any portion of the Mortgaged Property under any Mortgage;

(6) Notices of Defaults and Events of Default. As soon as possible and in any event within ten (10) days after Borrower becomes aware of the occurrence of a Default or any Event of Default, a written notice setting forth the details of such Default or Event of Default and the action which is proposed to be taken with respect thereto;

(7) Material Adverse Change. As soon as is practicable and in any event within five (5) days after knowledge of the occurrence of any event or circumstance which is likely to result in or has resulted in a Material Adverse Change, written notice thereof;

(8) Offices. Thirty (30) days' prior written notice of any change in the chief executive office or principal place of business of Borrower;

(9) Environmental and Other Notices. As soon as possible and in any event within ten (10) days after receipt, copies of (i) all Environmental Notices received by Borrower which are not received in the ordinary course of business and which relate to any Property or a situation which is likely to result in a Material Adverse Change and (ii) all reports of any official searches made by any Governmental Authority having jurisdiction over any Property or the Improvements thereon, and of any claims of violations thereof and, on an annual basis, delivered with Borrower's annual Financial Statements, a report from Borrower regarding the status of the environmental matters discussed in Section 6.12;

(10) Insurance Coverage. Promptly, such information concerning Borrower's insurance coverage as Administrative Agent may reasonably request;

(11) Bankruptcy of Tenants. Promptly after becoming aware of the same, written notice of the bankruptcy, insolvency or cessation of operations of any tenant in the Improvements on any Property to which 5% or more of the aggregate minimum rent from such Improvements is attributable;

(12) Leasing Reports and Property Information. (i) Upon request by Administrative Agent, but no more often than quarterly, an updated rent roll, leasing report, and operating and cash statements for each Property and (ii) (ii) as soon as available and in any event within ninety (90) days after the end of each Fiscal Year, tenant sales report for each Property, to the extent Borrower is entitled to receive same pursuant to the terms of the respective leases; and

(13) General Information. Promptly, such other information respecting the condition or operations, financial or otherwise, of Borrower, Guarantor or any Properties of Borrower as Administrative Agent may from time to time reasonably request.

Section 6.12. Specified Environmental Matters.

(a) The Michigan Department of Environmental Quality ("MDEQ") has noted certain environmental concerns at the Bloomfield/MI Property related to past and/or present automotive service related activities thereon. Borrower hereby agrees to (i) cooperate with any parties responsible for the environmental concern, and with MDEQ in order that MDEQ completes its monitoring and assessment of the Bloomfield/MI Property and issues appropriate closure documentation confirming that no further action is necessary with respect to such environmental concerns and (ii) promptly deliver complete copies of all such documentation to Administrative Agent.

(b) The Rhode Island Department of Environmental Management ("RIDEM") has noted certain environmental concerns requiring remediation at the Woonsocket/RI Property, which RD Woonsocket has performed to a substantial degree. Borrower hereby agrees to cause all such remediation and related monitoring to be completed such that RIDEM issues appropriate closure documentation confirming that no further action is necessary with respect to such remediation and monitoring on or before the second anniversary of the date hereof, provided that, if RIDEM requires further monitoring of environmental conditions which RIDEM has previously noted as of the date hereof, Borrower shall continue such monitoring to completion and shall not be in default of this covenant so long as Borrower delivers complete copies of the orders from RIDEM extending such monitoring period, along with any and all documents related thereto.

ARTICLE VII

ADMINISTRATIVE AGENT; RELATIONS AMONG LENDERS

Section 7.01. Appointment, Powers and Immunities of Administrative Agent. Each Lender hereby irrevocably appoints and authorizes Administrative Agent to act as its agent hereunder and under any other Loan Document with such powers as are specifically delegated to Administrative Agent by the terms of this Agreement and any other Loan Document, together with such other powers as are reasonably incidental thereto. Administrative Agent shall have no duties or responsibilities except those expressly set forth in this Agreement and any other Loan Document or required by Law, and shall not by reason of this Agreement be a fiduciary or trustee for any Lender except to the extent that Administrative Agent acts as an agent with respect to the receipt or payment of funds, nor shall Administrative Agent have any fiduciary duty to Borrower nor shall any Lender have any fiduciary duty to Borrower or any other Lender. No implied covenants, responsibilities, duties, obligations or liabilities shall be read into this Agreement or otherwise exist against Administrative Agent. Neither Administrative Agent nor any of its directors, officers, employees, agents, attorneys-in-fact or Affiliates shall be responsible to Lenders for any recitals, statements, representations or warranties made by Borrower or any officer, partner or official of Borrower or any other Person contained in this Agreement or any other Loan Document, or in any certificate or other document or instrument referred to or provided for in, or received by any of them under, this Agreement or any other Loan Document, or for the value, legality, validity, effectiveness, genuineness, enforceability or sufficiency of this Agreement or any other Loan Document or any other document or instrument referred to or provided for herein or therein, for the perfection or priority of any lien securing the obligations hereunder or thereunder or for any failure by Borrower or any Guarantor to perform any of its obligations hereunder or thereunder. Administrative Agent may employ agents and attorneys-in-fact and shall not be responsible, except as to money or securities received by it or its authorized agents, for the negligence or misconduct of any such agents or attorneys-in-fact selected by it with reasonable care. Neither Administrative Agent nor any of its directors, officers, employees, agents, attorneys-in-fact or Affiliates shall be liable or responsible for any action taken or omitted to be taken by it or them hereunder or under any other Loan Document or in connection herewith or therewith, except for its or their own gross negligence or willful misconduct.

Section 7.02. Reliance by Administrative Agent. Administrative Agent shall be entitled to rely upon any certification, notice or other communication (including any thereof by telephone, telex, telegram or cable) believed by it to be genuine and correct and to have been signed or sent by or on behalf of the proper Person or Persons, and upon advice and statements of legal counsel, independent accountants and other experts selected by Administrative Agent. Administrative Agent may deem and treat each Lender as the holder of its Note and interest in the Loan for all purposes hereof and shall not be required to deal with any Person who has acquired a Participation in the Loan from a Lender. As to any matters not expressly provided for by this Agreement or any other Loan Document, Administrative Agent shall in all cases be fully protected in acting, or in refraining from acting, in accordance with instructions signed by the Required Lenders, and such instructions of the Required Lenders and any action taken or failure to act pursuant thereto shall be binding on all of Lenders and any other holder of all or any portion of the Loan or Participation therein.

Section 7.03. Defaults. Administrative Agent shall not be deemed to have knowledge of the occurrence of a Default or of an Event of Default unless Administrative Agent has actual knowledge thereof or has received notice from a Lender or Borrower specifying such Default or Event of Default and stating that such notice is a "Notice of Default." In the event that Administrative Agent has such actual knowledge or receives such a notice of the occurrence of a Default or Event of Default, Administrative Agent shall give prompt notice thereof to Lenders. Administrative Agent shall promptly send to each Lender a copy of any notice of a Default or Event of Default that Administrative Agent sends to Borrower or Guarantor. Administrative Agent, following consultation with Lenders, shall (subject to Section 7.07) take such action with respect to such Default or Event of Default which is continuing, including with respect to the exercise of remedies or the realization on, or operation or disposition of, any or all of the Mortgaged Property or any other collateral for the Loan, as shall be directed by the Required Lenders; provided, however, that, unless and until Administrative Agent shall have received such directions, Administrative Agent may take such action, or refrain from taking such action, with respect to such Default or Event of Default as it shall deem to be in the best interest of Lenders. In no event shall Administrative Agent be required to take any such action which it determines would be contrary to the Loan Documents or to Law. Each of Lenders acknowledges and agrees that no individual Lender may separately enforce or exercise any of the provisions of any of the Loan Documents (including, without limitation, the Notes) other than through Administrative Agent.

Section 7.04. Rights of Administrative Agent as Lender. With respect to its Note and interest in the Loan, Administrative Agent in its capacity as a Lender hereunder shall have the same rights and powers hereunder as any other Lender and may exercise the same as though it were not acting as Administrative Agent, and the terms "Lender" and "Lenders" shall include Administrative Agent in its capacity as a Lender. Administrative Agent and its affiliates may (without having to account therefor to any Lender) accept deposits from, lend money to (on a secured or unsecured basis), and generally engage in any kind of banking, trust or other business with, Borrower or Guarantor (and any affiliates of them) as if it were not acting as Administrative Agent.

Section 7.05. Sharing of Costs by Lenders; Indemnification of Administrative Agent. Each Lender shall pay its ratable share, based on the respective outstanding principal balances under its Note and the other Notes, of any expenses incurred (and not paid or reimbursed by Borrower after demand for payment is made by Administrative Agent) by or on behalf of Lenders in connection with any Default or Event of Default, including, without limitation, costs of enforcement of the Loan Documents and any advances to pay taxes or insurance premiums, to complete the Improvements or otherwise to preserve the lien of the Mortgage or to preserve or protect the Mortgaged Property. In the event a Lender fails to pay its share of expenses as aforesaid, and all or a portion of such unpaid amount is paid by Administrative Agent and/or one or more of the other Lenders, then the defaulting Lender shall reimburse Administrative Agent and/or the other Lender(s) for the portion of such unpaid amount paid by it or them, as the case may be, together with interest thereon at the Prime Based Rate from the date of payment by Administrative Agent and/or the other Lender(s). In addition, each Lender agrees to reimburse and indemnify Administrative Agent (to the extent it is not paid by or on behalf of Borrower, after demand for payment is made by Administrative Agent, under Section 8.13 or under the applicable provisions of any other Loan Document, but without limiting the obligation of Borrower under said Section 8.13 or such provisions), for such Lender's ratable share, based upon the respective outstanding principal balances under its Note and the other Notes, of any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements of any kind and nature whatsoever which may be imposed on, incurred by or asserted against Administrative Agent in any way relating to or arising out of this Agreement, any other Loan Document or any other documents contemplated by or referred to herein or the transactions contemplated hereby or thereby (including, without limitation, the costs and expenses which Borrower is obligated to pay under Section 8.13 or under the applicable provisions of any other Loan Document) or the enforcement of any of the terms hereof or thereof or of any such other documents or instruments; provided, however, that no Lender shall be liable for (i) any of the foregoing to the extent they arise from the gross negligence or willful misconduct of the party to be indemnified or (ii) any loss of principal or interest with respect to Administrative Agent's Note or interest in the Loan.

Section 7.06. Non-Reliance on Administrative Agent and Other Lenders. Each Lender acknowledges that it has, independently and without reliance on Administrative Agent or any other Lender, and based on such documents and information as it has deemed appropriate, made its own analysis of the collateral for the Loan and of the credit of Borrower and Guarantor, and its own decision to enter into this Agreement, and that it will, independently and without reliance upon Administrative Agent or any other Lender, and based on such documents and information as it shall deem appropriate at the time, continue to make its own analysis and decisions in taking or not taking action under this Agreement or any other Loan Document. Administrative Agent shall not be required to keep itself informed as to the performance or observance by Borrower of this Agreement or any other Loan Document or any other document referred to or provided for herein or therein or to inspect the properties (including, without limitation, the Properties) or books of Borrower. Except for notices, reports and other documents and information expressly required to be furnished to Lenders by Administrative Agent hereunder, Administrative Agent shall not have any duty or responsibility to provide any Lender with any credit or other information concerning the affairs, financial condition or business of Borrower or Guarantor (or any Affiliate of them) which may come into the possession of Administrative Agent or any of its Affiliates. Administrative Agent shall not be required to file this Agreement, any other Loan Document or any document or instrument referred to herein or therein, for record or give notice of this Agreement, any other Loan Document or any document or instrument referred to herein or therein, to anyone.

Section 7.07. Failure of Administrative Agent to Act. Except for action expressly required of Administrative Agent hereunder, Administrative Agent shall in all cases be fully justified in failing or refusing to act hereunder unless it shall have received further assurances (which may include cash collateral) of the indemnification obligations of Lenders under Section 7.05 in respect of any and all liability and expense which may be incurred by it by reason of taking or continuing to take any such action. If any indemnity furnished to Administrative Agent for any purpose shall, in the opinion of Administrative Agent, be insufficient or become impaired, Administrative Agent may call for additional indemnity and cease, or not commence, the action indemnified against until such additional indemnity is furnished.

Section 7.08. Resignation or Removal of Administrative Agent. Administrative Agent may resign on at least thirty (30) days' written notice to Lenders and Borrower or upon the occurrence of an Event of Default. Administrative Agent may be removed at any time with cause by the Required Lenders, provided that Borrower and the other Lenders shall be promptly notified thereof. Upon such resignation or removal of Administrative Agent, the Required Lenders shall have the right to appoint a successor Administrative Agent, which successor Administrative Agent shall (provided there exists no Event of Default) be subject to Borrower's approval, such approval not to be unreasonably withheld or delayed. If no successor Administrative Agent shall have been so appointed by the Required Lenders, and shall have accepted such appointment, within twenty (20) days after the resignation or the Required Lenders' removal of the retiring Administrative Agent, then the retiring Administrative Agent may, on behalf of Lenders, appoint a successor Administrative Agent, which shall be one of Lenders, within ten (10) days. The Required Lenders or the retiring Administrative Agent, as the case may be, shall upon the appointment of a successor Administrative Agent promptly so notify Borrower and the other Lenders. Upon the acceptance of any appointment as Administrative Agent hereunder by a successor Administrative Agent, such successor Administrative Agent shall thereupon succeed to and become vested with all the rights, powers, privileges and duties of the retiring Administrative Agent, and the retiring Administrative Agent shall be discharged from its duties and obligations hereunder. After any retiring Administrative Agent's resignation or removal hereunder as Administrative Agent, the provisions of this Article VII shall continue in effect for its benefit in respect of any actions taken or omitted to be taken by it while it was acting as Administrative Agent.

Section 7.09. Amendments Concerning Agency Function. Notwithstanding anything to the contrary contained in this Agreement, Administrative Agent shall not be bound by any waiver, amendment, supplement or modification of this Agreement or any other Loan Document which affects its duties, rights, and/or function hereunder or thereunder unless it shall have given its prior written consent thereto.

Section 7.10. Liability of Administrative Agent. Administrative Agent shall not have any liabilities or responsibilities to Borrower on account of the failure of any Lender to perform its obligations hereunder or to any Lender on account of the failure of Borrower to perform its obligations hereunder or under any other Loan Document.

Section 7.11. Transfer of Agency Function. Without the consent of Borrower or any Lender, Administrative Agent may at any time or from time to time transfer its functions as Administrative Agent hereunder to any of its offices wherever located in the United States, provided that Administrative Agent shall promptly notify Borrower and Lenders thereof.

Section 7.12. Non-Receipt of Funds by Administrative Agent; Adjustments.

(a) Unless Administrative Agent shall have received notice from a Lender or Borrower (either one as appropriate being the "Payor") prior to the date on which such Lender is to make payment hereunder to Administrative Agent of Loan proceeds or Borrower is to make payment to Administrative Agent, as the case may be (either such payment being a "Required Payment"), which notice shall be effective upon receipt, that the Payor will not make the Required Payment in full to Administrative Agent, Administrative Agent may assume that the Required Payment has been made in full to Administrative Agent on such date, and Administrative Agent in its sole discretion may, but shall not be obligated to, in reliance upon such assumption, make the amount thereof available to the intended recipient on such date. If and to the extent the Payor shall not have in fact so made the Required Payment in full to Administrative Agent, the recipient of such payment shall repay to Administrative Agent forthwith on demand such amount made available to it together with interest thereon, for each day from the date such amount was so made available by Administrative Agent until the date Administrative Agent recovers such amount, at the Federal Funds Rate.

(b) If, after Administrative Agent has paid each Lender's share of any payment received or applied by Administrative Agent in respect of the Loan, that payment is rescinded or must otherwise be returned or paid over by Administrative Agent, whether pursuant to any bankruptcy or insolvency Law, sharing of payments clause of any loan agreement or otherwise, such Lender shall, at Administrative Agent's request, promptly return its share of such payment or application to Administrative Agent, together with such Lender's proportionate share of any interest or other amount required to be paid by Administrative Agent with respect to such payment or application. In addition, if a court of competent jurisdiction shall adjudge that any amount received and distributed by Administrative Agent is to be repaid, each Person to whom any such distribution shall have been made shall either repay to Administrative Agent its share of the amount so adjudged to be repaid or shall pay over the same in such manner and to such Persons as shall be determined by such court.

Section 7.13. Withholding Taxes. Each Lender represents that it is entitled to receive any payments to be made to it hereunder without the withholding of any tax and will furnish to Administrative Agent such forms, certifications, statements and other documents as Administrative Agent may reasonably request from time to time to evidence such Lender's exemption from the withholding of any tax imposed by any jurisdiction or to enable Administrative Agent to comply with any applicable Laws relating thereto. Without limiting the effect of the foregoing, if any Lender is not created or organized under the Laws of the United States or any state thereof, such Lender will furnish to Administrative Agent Form W-8ECI or Form W-8BEN of the U.S. Internal Revenue Service, or such other forms, certifications, statements or documents, duly executed and completed by such Lender, as evidence of such Lender's complete exemption from the withholding of United States tax with respect thereto. Administrative Agent shall not be obligated to make any payments hereunder to such Lender in respect of the Loan until such Lender shall have furnished to Administrative Agent the requested form, certification, statement or document.

Section 7.14. Sharing of Payments among Lenders. If a Lender shall obtain payment of any principal of its Note or of interest thereon through the exercise of any right of setoff, banker's lien or counterclaim, or by any other means (including direct payment), and such payment results in such Lender receiving a greater payment than it would have been entitled to had such payment been paid directly to Administrative Agent for disbursement to Lenders, then such Lender shall promptly purchase for cash from the other Lenders Participations in the Loan in such amounts, and make such other adjustments from time to time as shall be equitable, to the end that all Lenders shall share ratably the benefit of such payment. To such end Lenders shall make appropriate adjustments among themselves (by the resale of Participations sold or otherwise) if such payment is rescinded or must otherwise be restored.

Section 7.15. Possession of Documents. Each Lender shall maintain possession of its own Note. Administrative Agent shall hold all other Loan Documents and related documents in its possession and maintain separate records and accounts with respect to the Loan, reflecting the interests of Lenders in the Loan, and shall permit Lenders and their representatives access at all reasonable times to inspect such Loan Documents, related documents, records and accounts.

Section 7.16. Effect of a Lender's Failure to Make an Advance. In the event any Lender fails for any reason to fund the portion it is required to fund of any advance of Loan proceeds by 3:00 p.m. on the second Business Day after the date established by Administrative Agent as the date such advance is to be made, such Lender shall be a "Delinquent Lender" for all purposes hereunder until and unless such delinquency is cured in accordance with the terms of and by the time permitted under Section 7.17, and the following provisions shall apply:

(a) Administrative Agent shall notify (such notice being referred to as the "Delinquency Notice") each Lender and Borrower of any Lender's failure to fund. Each Non-Delinquent Lender shall have the right, but in no event or under any circumstance the obligation, to fund such Delinquent Lender's portion of such advance, provided that, within twenty (20) days of the date of the Delinquency Notice (the "Election Period"), such Non-Delinquent Lender or Lenders (each such Lender, an "Electing Lender") irrevocably commit(s) by notice in writing (an "Election Notice") to Administrative Agent, the other Lenders and Borrower to fund the Delinquent Lender's portion of the advance that is the subject of the delinquency and to assume the Delinquent Lender's obligations with respect to the advancing of the entire undisbursed portion of the Delinquent Lender's Individual Loan Commitment (such entire undisbursed portion of the Delinquent Lender's Individual Loan Commitment, including its portion of the advance that is the subject of the delinquency, the "Delinquency Amount"). If Administrative Agent receives more than one Election Notice within the Election Period, then the Electing Lenders sending such notices shall be deemed to have committed to fund ratable shares of the Delinquency Amount based upon the amounts of their respective Individual Loan Commitments. If there are one or more Electing Lenders and the Delinquent Lender fails to cure during the Election Period as provided in Section 7.17, then upon the expiration of the Election Period, each Electing Lender's Individual Loan Commitment shall be automatically increased by the Delinquency Amount (if there is only one Electing Lender) or such Electing Lender's ratable share, determined as aforesaid, of the Delinquency Amount (if there are two or more Electing Lenders), and the Delinquent Lender's Individual Loan Commitment shall automatically be reduced by the Delinquency Amount. Administrative Agent shall thereupon notify Borrower and each Lender of (i) the adjusted amounts of the Individual Loan Commitments and (ii) if the advance that was the subject of the delinquency was not made pursuant to Section 7.12 or was refunded by Borrower pursuant to paragraph (e) of this Section, the rescheduled date of such advance (which shall be no sooner than three (3) Business Days after such notice). In the event Administrative Agent shall have funded, pursuant to Section 7.12, the entire advance that was the subject of the delinquency (including the Delinquent Lender's portion), and Borrower shall not have refunded such advance pursuant to paragraph (e) of this Section, the Electing Lender(s) shall remit to Administrative Agent the Delinquent Lender's portion of the advance, or their ratable shares thereof, as the case may be, within three (3) Business Days of the notice provided for in the immediately preceding sentence, and Administrative Agent shall reimburse itself from such funds for making the Delinquent Lender's portion of the advance. Notwithstanding anything to the contrary contained herein, if Administrative Agent advances its own funds in respect of a Delinquent Lender's portion of an advance, Administrative Agent shall be entitled to the interest on the portion of the Principal Amount represented thereby, from the date Administrative Agent makes such advance until the date it is reimbursed therefor.

(b) In connection with the adjustment of the amounts of the Individual Loan Commitments of the Delinquent Lender and Electing Lender(s) upon the expiration of the Election Period as aforesaid, Borrower covenants that it shall, promptly following the request of the Electing Lender(s), execute and deliver to each Electing Lender and the Delinquent Lender substitute notes substantially in the form of EXHIBIT D and stating: "This Note is a substitute note as contemplated by Section 7.16 of the Loan Agreement; it replaces and is in lieu of that certain note made by Maker dated [date of Note] to the order of [Lender] in the principal sum of [Lender's original Individual Loan Commitment]." Such substitute notes shall be in amounts equal to such Lenders' respective Individual Loan Commitments, as adjusted. All such substitute notes shall constitute "Notes" and the obligations evidenced by such substitute notes shall be secured by the Mortgage. In connection with Borrower's execution of substitute notes as aforesaid, Borrower shall deliver to Administrative Agent evidence, satisfactory to Administrative Agent, of all requisite partnership, corporate or other action to authorize Borrower's execution and delivery of the substitute notes and any related documents. The execution and delivery of substitute notes as required above shall be a condition precedent to any further advances of Loan proceeds. Upon receipt of its substitute note, the Electing Lender and the Delinquent Lender will return to Borrower their notes that were replaced, provided that the delivery of a substitute note to the Delinquent Lender pursuant to this Section 7.16 shall operate to void and replace the note previously held by the Delinquent Lender regardless of whether the Delinquent Lender returns same as required hereby. Borrower, Administrative Agent and Lenders shall execute such modifications to the Loan Documents as shall, in the reasonable judgment of Administrative Agent, be necessary or desirable in connection with the adjustment of the amounts of Individual Loan Commitments in accordance with the foregoing provisions of this Section.

(c) In the event that no Lender elects to commit to fund the Delinquency Amount within the Election Period as provided in paragraph (a) of this Section, Administrative Agent shall, upon the expiration of the Election Period, so notify Borrower and each Lender and the provisions of Section 2.15 shall apply.

(d) Subject to a Delinquent Lender's right to cure as provided in Section 7.17, but notwithstanding anything else to the contrary contained in this Agreement, the Delinquent Lender's interest in, and any and all amounts due to a Delinquent Lender under, the Loan Documents (including, without limitation, all principal, interest, fees and expenses) shall be subordinate in lien priority and to the repayment of all amounts (including, without limitation, interest) then or thereafter due or to become due to the Non-Delinquent Lenders under the Loan Documents (including future advances), and the Delinquent Lender thereafter shall have no right to participate in any discussions among and/or decisions by Lenders hereunder and/or under the other Loan Documents. Further, any Delinquent Lender shall be bound by any amendment to, or waiver of, any provision of, or any action taken or omitted to be taken by Administrative Agent and/or the Non-Delinquent Lenders under, any Loan Document which is made subsequent to the Delinquent Lender's becoming a Delinquent Lender.

(e) If, pursuant to the operation of Section 7.12, an advance of Loan proceeds is made without Administrative Agent's receipt of a Delinquent Lender's portion thereof, Borrower shall, upon demand of Administrative Agent, refund the entire such advance to Administrative Agent. Borrower's failure to do so within ten (10) days of such demand shall, notwithstanding anything to the contrary contained herein or in the Mortgage, constitute an Event of Default under the Mortgage. Upon its receipt of such funds from Borrower, Administrative Agent shall promptly remit to each Non-Delinquent Lender its appropriate share thereof.

Section 7.17. Cure by Delinquent Lender. A Delinquent Lender may cure a delinquency arising out of its failure to fund its required portion of any advance if, within the Election Period, it remits to Administrative Agent its required portion of such advance (together with interest thereon at the Default Rate from the date such advance was to have been made if such advance was made by Administrative Agent and not refunded by Borrower pursuant to paragraph (e) of Section 7.16), in which event Administrative Agent shall so notify Borrower and the Non-Delinquent Lenders (i) of its receipt of such funds and (ii)(A) if the advance that was the subject of the delinquency shall not have been made (or shall have been refunded by Borrower pursuant to paragraph (e) of Section 7.16), of the rescheduled date of the advance (which shall be no sooner than three (3) Business Days after such notice) or (B) if Administrative Agent shall have funded the entire advance that was the subject of the delinquency (including the Delinquent Lender's portion) and Borrower shall not have refunded such advance pursuant to paragraph (e) of Section 7.16, of its intention to reimburse itself from funds received from the Delinquent Lender (which reimbursement is hereby authorized) for funding the Delinquent Lender's required portion of the advance. In the event any Delinquent Lender cures a delinquency prior to the expiration of the Election Period (or thereafter with the consent of all of the Non-Delinquent Lenders), such Delinquent Lender nonetheless shall be bound by any amendment to or waiver of any provision of, or any action taken or omitted to be taken by Administrative Agent and/or the Non-Delinquent Lenders under, any Loan Document which is made subsequent to that Lender's becoming a Delinquent Lender and prior to its curing the delinquency as provided in this Section, provided that such amendment or waiver of action was taken in accordance with the provisions of this Agreement. A Delinquent Lender shall have absolutely no right to cure any delinquency after the expiration of the Election Period unless all Non-Delinquent Lenders in their sole discretion elect to permit such cure.

Section 7.18. Delinquent Lender Not Excused. Nothing contained in Sections 7.16 or 7.17 shall release or in any way limit a Delinquent Lender's obligations as a Lender hereunder and/or under any other of the Loan Documents. Further, a Delinquent Lender shall indemnify and hold harmless Administrative Agent, each of the Non-Delinquent Lenders and Borrower from any claim, loss, or costs incurred by any of them as a result of a Delinquent Lender's failure to comply with the requirements of this Agreement, including, without limitation, any and all additional losses, damages, costs and expenses (including, without limitation, attorneys' fees) incurred by Administrative Agent and any Lender as a result of and/or in connection with (i) a Non-Delinquent Lender's acting as an Electing Lender, (ii) any enforcement action brought by Administrative Agent against a Delinquent Lender, and (iii) any action brought against Administrative Agent and/or Lenders. The indemnification provided above shall survive any termination of this Agreement.

Section 7.19. Notices Regarding Delinquent Lender. Notices by Administrative Agent or Lenders pursuant to Sections 7.16 or 7.17 may be by telephone (to be promptly confirmed in writing).

Section 7.20. Replacement Lender. In the event any Lender becomes a Delinquent Lender and none of the other Lenders elects to be an Electing Lender pursuant to Section 7.16, Borrower shall have the right, provided there exists no Default or Event of Default, to cause another financial institution, reasonably acceptable to (x) the Required Lenders if such institution is not an Eligible Assignee or (y) Administrative Agent if such institution is an Eligible Assignee, to assume the Delinquent Lender's obligations with respect to the Delinquency Amount on the then-existing terms and conditions of the Loan Documents (such replacement institution, a "Replacement Lender"). Such assumption shall be pursuant to a written instrument reasonably satisfactory to Administrative Agent. Upon such assumption, the Replacement Lender shall become a "Lender" for all purposes hereunder, with an Individual Loan Commitment in an amount equal to the Delinquency Amount, and the Delinquent Lender's Individual Loan Commitment shall automatically be reduced by the Delinquency Amount. In connection with the foregoing, Borrower shall execute and deliver to the Replacement Lender and the Delinquent Lender substitute notes substantially in the form of EXHIBIT D and stating: "This Note is a substitute note as contemplated by Section 7.20 of the Loan Agreement; it replaces and is in lieu of that certain note made by Maker dated [date of Note] to the order of [Delinquent Lender] in the principal sum of [Delinquent Lender's original Individual Loan Commitment]." Such substitute notes shall be in amounts equal to, in the case of the Replacement Lender's note, the Delinquency Amount and, in the case of the Delinquent Lender's note, its Individual Loan Commitment, as reduced as aforesaid. Such substitute notes shall constitute "Notes" and the obligations evidenced by such substitute notes shall be secured by the Mortgage. In connection with Borrower's execution of substitute notes as aforesaid, Borrower shall deliver to Administrative Agent evidence, satisfactory to Administrative Agent, of all requisite partnership/corporate action to authorize Borrower's execution and delivery of the substitute notes and any related documents. Upon delivery of the foregoing substitute note(s), each Delinquent Lender shall return to Borrower its note which was replaced, provided that the delivery of a substitute note to the Delinquent Lender pursuant to this Section 7.20 shall operate to void and replace the note previously held by the Delinquent Lender regardless of whether Delinquent Lender returns same as required hereby.

Borrower, Administrative Agent and Lenders shall execute such modifications to the Loan Documents as shall, in the reasonable judgment of Administrative Agent, be necessary or desirable in connection with the substitution of Lenders in accordance with the foregoing provisions of this Section.

Lenders shall reasonably cooperate with Borrower's attempts to obtain a Replacement Lender, but they shall not be obligated to modify the Loan Documents in connection therewith, other than modifications pursuant to the immediately preceding paragraph or modifications which are favorable to Lenders.

ARTICLE VIII

GENERAL CONDITIONS AND PROVISIONS

Section 8.01. Disbursement Not Waiver. The disbursement by Lenders of the Loan made prior to or without the fulfillment by Borrower of all of the conditions precedent thereto, whether or not known to Lenders, shall not constitute a waiver by Lenders of the requirement that all conditions, including the non-performed conditions, shall be satisfied.

Section 8.02. No Third-Party Beneficiaries. This Agreement is solely for the benefit of Administrative Agent, Lenders and Borrower. All conditions of the obligations of Lenders hereunder are imposed solely and exclusively for the benefit of Lenders and may be freely waived or modified in whole or in part by Lenders at any time if in their sole discretion it deems it advisable to do so, and no person other than Borrower (provided, however, that all conditions have been satisfied) shall have standing to require Lenders to disburse the Loan or to be a beneficiary of this Agreement.

Section 8.03. Documentation Etc. Satisfactory. All documentation and proceedings deemed by Administrative Agent or Administrative Agent's Counsel to be necessary or required in connection herewith and the documents relating hereto shall be subject to the prior approval of, and satisfactory to, both of them as to form and substance. In addition, the Persons responsible for the execution and delivery of, and signatories to, all of such documentation, shall be acceptable to, and subject to the approval of, Administrative Agent and Administrative Agent's Counsel. Administrative Agent or Administrative Agent's Counsel shall receive copies, certified if requested by either of them, of all documents which they may require in connection with the transactions contemplated hereby.

Section 8.04. Lender's Determination Conclusive. Administrative Agent shall, at all times, be free to independently establish to its satisfaction and in its absolute discretion the existence or nonexistence of any fact or facts the existence or nonexistence of which is a condition hereof.

Section 8.05. Notices. Except as expressly provided otherwise, all notices, demands, consents, approvals and statements required or permitted hereunder shall be in writing and shall be deemed to have been sufficiently given or served for all purposes when presented personally, three (3) days after mailing by registered or certified mail, postage prepaid, or one (1) day after delivery to a nationally recognized overnight courier service providing evidence of the date of delivery, addressed to a party at its address on the signature page hereof or of the applicable Assignment and Assumption Agreement, or at such other address of which a party shall have notified the party giving such notice in writing in accordance with the foregoing requirements.

Section 8.06. Amendments and Waivers. No amendment or material waiver of any provision of this Agreement or any other Loan Document, nor consent to any material departure by Borrower or any Guarantor therefrom, shall in any event be effective unless the same shall be in writing and signed by the party against whom such amendment, waiver or consent is sought to be enforced (it being understood, however, that the signatures of the Required Lenders and, solely for purposes of its acknowledgement thereof, Administrative Agent, shall be sufficient to bind Lenders to any such amendment, waiver or consent), and then such waiver or consent shall be effective only in the specific instance and for the specific purpose for which given; provided, however, that no amendment, waiver or consent shall, unless in writing and signed by all Lenders, do any of the following: (i) reduce the principal of, or interest on, the Notes or any fees due hereunder or any other amount due hereunder or under any other Loan Document; (ii) postpone any date fixed for any payment of principal of, or interest on, the Notes or any fees due hereunder or under any other Loan Document; (iii) change the definition of Required Lenders; (iv) release any material portion of the Mortgaged Property or other collateral for the Loan other than in accordance with the Loan Documents; (v) amend this Section or any other provision requiring the consent of all Lenders; (vi) release, in whole or in part, any Guarantor other than in accordance with the Loan Documents; or (vii) increase the Loan Amount. Without limiting the foregoing, acceptance by Administrative Agent or Lenders of any sum required to be paid pursuant hereto or any other Loan Document, after its due date, or in an amount less than the sum then due, shall not constitute a waiver by Administrative Agent or Lenders of their right to require prompt payment when due of all other such sums or to declare a default or to exercise such other rights provided herein or in the other Loan Documents for such late or reduced payment.

All communications from Administrative Agent to Lenders requesting Lenders' determination, consent, approval or disapproval (i) shall be given in the form of a written notice to each Lender, (ii) shall be accompanied by or include a description or copy of the matter or thing as to which such determination, approval, consent or disapproval is requested and (iii) shall include Administrative Agent's recommended course of action or determination in respect thereof. Each Lender shall reply promptly, but in any event within ten (10) Business Days (or five (5) Business Days with respect to any decision to accelerate or stop acceleration of the Loan) after receipt of the request therefor by Administrative Agent (the "Lender Reply Period"). Unless a Lender shall give written notice to Administrative Agent that it objects to the recommendation or determination of Administrative Agent (together with a written explanation of the reasons behind such objection) within the Lender Reply Period, such Lender shall be deemed to have approved or consented to such recommendation or determination.

Section 8.07. Assignment; Participation. Any Non-Delinquent Lender may at any time grant to one or more banks or other institutions not affiliated with Borrower or Guarantor (each a "Participant") participating interests in its Pro Rata Share of the Loan (the "Participations"). In the event of any such grant by a Lender of a Participation to a Participant, such Lender shall remain responsible for the performance of its obligations hereunder, and Borrower and Administrative Agent shall continue to deal solely and directly with such Lender in connection with such Lender's rights and obligations hereunder. Any agreement pursuant to which any Lender may grant a Participation shall provide that such Lender shall retain the sole right and responsibility to enforce the obligations of Borrower hereunder and under any other Loan Document, including, without limitation, the right to approve any amendment, modification or waiver of any provision of this Agreement or any other Loan Document; provided that such participation agreement may provide that such Lender will not agree to any modification, amendment or waiver described in clauses (i) through (vii) of Section 8.06 without the consent of the Participant.

Upon request by Borrower, each Lender agrees to provide Borrower with notice of all Participations sold by such Lender. Borrower agrees to provide all assistance reasonably requested by a Lender to enable such Lender to sell Participations as aforesaid, or make assignments of its interest in the Loan as hereinafter provided in this Section.

A Lender may at any time assign to any Eligible Assignee not affiliated with Borrower or Guarantor with the consent of Administrative Agent, which consents shall not be unreasonably withheld or delayed (such assignee, a "Consented Assignee"), or to one or more banks or other institutions which are majority owned subsidiaries of a Lender or of the parent of a Lender (each Consented Assignee or subsidiary bank or institution, an "Assignee") all or a proportionate part of all of its rights and obligations under this Agreement and its Note, and such Assignee shall assume rights and obligations, pursuant to an Assignment and Assumption Agreement executed by such Assignee and the assigning Lender, provided that, after giving effect to such assignment, in each case, the Assignee's portion of the Loan and, in the case of a partial assignment of a Lender's interest, the assigning Lender's portion of the Loan will each be equal to or greater than \$5,000,000. Upon (i) execution and delivery of such instrument, (ii) payment by such Assignee to the assigning Lender of an amount equal to the purchase price agreed between such Lender and such Assignee and (iii) payment by such Assignee to Administrative Agent of a fee, for Administrative Agent's own account, in the amount of \$3,500, such Assignee shall be a party to this Agreement and shall have all the rights and obligations of a Lender as set forth in such Assignment and Assumption Agreement, and the assigning Lender shall be released from its obligations hereunder to a corresponding extent, and no further consent or action by any party shall be required. Upon the consummation of any assignment pursuant to this paragraph, substitute notes, in the form of EXHIBIT D, shall be issued to the assigning Lender (in the case of a partial assignment) and Assignee by Borrower, in exchange for the return of the assigning Lender's original Note. All such substitute notes shall constitute "Notes" and the obligations evidenced by such substitute notes shall constitute obligations secured by the Mortgage. In connection with Borrower's execution of substitute notes as aforesaid, Borrower shall deliver to Administrative Agent such evidence of the due authorization, execution and delivery of the substitute notes and any related documents as Administrative Agent may reasonably request. If the Assignee is not incorporated under the Laws of the United States or a state thereof, it shall, prior to the first date on which interest or fees are payable hereunder for its account, deliver to Borrower and Administrative Agent certification as to exemption from deduction or withholding of any United States federal income taxes in accordance with Section 7.13.

Borrower, Administrative Agent and Lenders shall execute such modifications to the Loan Documents as shall, in the reasonable judgment of Administrative Agent, be necessary or desirable in connection with assignments in accordance with the foregoing provisions of this Section.

Any Lender may at any time assign all or any portion of its rights under this Agreement and its Note to a Federal Reserve Bank. No such assignment shall release the transferor Lender from its obligations hereunder.

Borrower recognizes that in connection with a Lender's selling of Participations or making of assignments, any or all documentation, financial statements, appraisals and other data, or copies thereof, relevant to Borrower, Guarantor or the Loan may be exhibited to and retained by any such Participant or Assignee or prospective Participant or Assignee.

Section 8.08. Setoff. In addition to (and without limitation of) any right of setoff, bankers' lien or counterclaim Administrative Agent or any Lender may otherwise have, Administrative Agent and each Lender shall be entitled, but only with the prior consent of Administrative Agent, to offset balances (general or special, time or demand, provisional or final) held by it for the account of Borrower at any of Administrative Agent's or such Lender's offices against any amount payable by Borrower to Administrative Agent or such Lender hereunder or under any other Loan Document which is not paid when due (regardless of whether such balances are then due to Borrower), in which case it shall promptly notify Borrower and (in the case of a Lender) Administrative Agent thereof; provided, however, that Administrative Agent's or such Lender's failure to give such notice shall not affect the validity thereof. Payments by Borrower hereunder or under the other Loan Documents shall be made without setoff or counterclaim.

Section 8.09. Successors and Assigns. Except as herein provided, this Agreement shall be binding upon and inure to the benefit of Borrower, Administrative Agent and Lenders and their respective heirs, personal representatives, successors and assigns. Notwithstanding the foregoing, Borrower, without the prior written consent of Lender in each instance, may not assign, transfer or set over to another, in whole or in part, all or any part of its benefits, rights, duties and obligations hereunder, including, but not limited to, performance of and compliance with conditions hereof and the right to receive the proceeds of the Loan.

Section 8.10. Severability. The provisions hereof are intended to be severable. Any provisions hereof, or the application thereof to any Person or circumstance, which, for any reason, in whole or in part, is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof (or the remaining portions of such provision) or the application thereof to any other Person or circumstance, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision (or portion thereof) or the application thereof to any Person or circumstance in any other jurisdiction.

Section 8.11. Non-Waiver; Remedies Cumulative. No failure or delay on Lender's part in exercising any right, remedy, power or privilege (hereinafter in this Section, each a "Remedy") hereunder or under any of the other Loan Documents shall operate as a waiver of any such Remedy or shall be deemed to constitute Administrative Agent's or any Lender's acquiescence in any default by Borrower or Guarantor under any of said documents. A waiver by Administrative Agent or any Lender of any Remedy hereunder or under any of the other Loan Documents on any one occasion shall not be construed as a bar to any other or future exercise thereof or of any other Remedy. The Remedies provided in said documents are cumulative, may be exercised singly or concurrently and are not exclusive of any Remedies provided therein or by Law.

Section 8.12. Certain Waivers. Borrower hereby irrevocably and unconditionally waives (i) promptness and diligence, (ii) notice of any actions taken by Administrative Agent or any Lender hereunder or under any other Loan Document or any other agreement or instrument relating hereto or thereto except to the extent otherwise provided herein, (iii) all other notices, demands and protests, and all other formalities of every kind in connection with the enforcement of Borrower's obligations hereunder and under the other Loan Documents, the omission of or delay in which, but for the provisions of this Section, might constitute grounds for relieving Borrower of any of its obligations hereunder or under the other Loan Documents, (iv) any requirement that Administrative Agent or any Lender protect, secure, perfect or insure any lien on any collateral for the Loan or exhaust any right or take any action against Borrower, Guarantor or any other Person or against any collateral for the Loan, (v) any right or claim of right to cause a marshalling of Borrower's assets and (vi) all rights of subrogation or contribution, whether arising by contract or operation of law or otherwise by reason of payment by Borrower pursuant hereto or to any other Loan Document. BORROWER FURTHER HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVES, IN CONNECTION WITH ANY SUIT, ACTION OR PROCEEDING BROUGHT BY OR ON BEHALF OF ADMINISTRATIVE AGENT OR LENDERS WITH RESPECT TO THIS AGREEMENT, THE NOTES OR OTHERWISE IN RESPECT OF THE LOAN, ANY AND EVERY RIGHT BORROWER MAY HAVE TO (w) INJUNCTIVE RELIEF, (x) A TRIAL BY JURY, (y) INTERPOSE ANY COUNTERCLAIM THEREIN, OTHER THAN A COMPULSORY COUNTERCLAIM, AND (z) HAVE THE SAME CONSOLIDATED WITH ANY OTHER OR SEPARATE SUIT, ACTION OR PROCEEDING. NOTHING CONTAINED IN THE IMMEDIATELY PRECEDING SENTENCE SHALL PREVENT OR PROHIBIT BORROWER FROM INSTITUTING OR MAINTAINING A SEPARATE ACTION AGAINST ADMINISTRATIVE AGENT OR LENDERS WITH RESPECT TO ANY ASSERTED CLAIM.

Section 8.13. Expenses; Indemnification. The Loan shall be made without cost to Lender. Borrower covenants and agrees to pay all costs, expenses and charges (including, without limitation, all fees and charges of engineers, appraisers, the Engineering Consultant and Administrative Agent's Counsel) incurred by Administrative Agent or any Lender in connection with (i) the preparation for and consummation of the transactions contemplated hereby or for the performance hereof and of the other Loan Documents, and for any services which may be required in addition to those normally and reasonably contemplated hereby and (ii) the enforcement hereof or of any or all of the other Loan Documents; provided, however, that Borrower shall not be responsible for (1) the fees and expenses of legal counsel for Lenders other than Fleet incurred in connection with said counsel's review of this Agreement and the other Loan Documents prior to execution and (2) costs, expenses and charges incurred by

Administrative Agent and Lenders in connection with the administration or syndication of the Loan. If Borrower fails to pay promptly any costs, charges or expense required to be paid by it as aforesaid, and Administrative Agent or any Lender pays such costs, charges or expenses, Borrower shall reimburse Administrative Agent or such Lender, as appropriate, on demand for the amounts so paid, together with interest thereon at the Default Rate. Borrower further agrees to indemnify Administrative Agent and each Lender and their respective directors, officers, employees and agents from, and hold each of them harmless against, (x) any and all losses arising out of or by reason of any investigation or litigation or other proceedings (including any threatened investigation or litigation or other proceedings) relating to any actual or proposed use by Borrower of the proceeds of the Loan, including, without limitation, the fees and disbursements of counsel incurred in connection with any such investigation, litigation or other proceedings and (y) any and all claims, actions, suits, proceedings, costs, expenses, losses, damages and liabilities of any kind, including in tort, penalties and interest, arising out of or by reason of any matter relating, directly or indirectly, to the Mortgage or the ownership, condition, development, construction, sale, rental or financing of the Property or Improvements or any part thereof (but excluding any such losses, liabilities, claims, damages or expenses incurred solely by reason of the gross negligence or willful misconduct of the party to be indemnified). The obligations of Borrower under this Section and under Sections 3.01, 3.03 and 6.08 shall survive the repayment of all amounts due under or in connection with any of the Loan Documents and the termination of the Loan.

Section 8.14. Gross-Up For Taxes. All payments made by Borrower under the Note and other Loan Documents shall be made free and clear of, and without deduction or withholding for or on account of, any present or future stamp or other taxes, levies, imposts, duties, charges, fees, deductions or withholdings, now or hereafter imposed, levied, collected, withheld or assessed by any Governmental Authority, excluding income taxes and franchise or other taxes (imposed in lieu of income taxes) imposed on Lender as a result of a present or former connection between Lender and the jurisdiction of the Governmental Authority imposing such tax or any political subdivision or taxing authority thereof or therein (other than any such connection arising solely from Lender's having executed, delivered or performed its obligations or received a payment under, or enforced, this Agreement or the Note). If any such non-excluded taxes, levies, imposts, duties, charges, fees, deductions or withholdings ("Non-Excluded Taxes") is required to be withheld from any amounts payable to Lender under the Note or other Loan Documents, the amounts so payable to Lender shall be increased to the extent necessary to yield to Lender (after payment of all Non-Excluded Taxes) interest or any such other amounts payable with respect to the Loan at the rates or in the amounts specified in the Note or other Loan Documents. Whenever any Non-Excluded Taxes are payable by Borrower, as promptly as possible thereafter Borrower shall send to Lender a certified copy of an original official receipt received by Borrower showing payment thereof. If Borrower fails to pay any Non-Excluded Taxes when due to the appropriate taxing authority or fails to remit to Lender the required receipts or other required documentary evidence, Borrower shall indemnify Lender for any incremental taxes, interest or penalties that may become payable by Lender as a result of any such failure. The agreements in this Section shall survive the termination of this Agreement and the payment of the Note and all other amounts payable in respect of the Loan.

Section 8.15. Counterparts. This Agreement may be executed in any number of counterparts, all of which taken together shall constitute one and the same instrument, and any party hereto may execute this Agreement by signing any such counterpart.

Section 8.16. Governing Law; Jurisdiction. This Agreement and the rights and obligations of the parties hereunder shall in all respects be governed by, and construed and enforced in accordance with, the Laws of the State of New York (without giving effect to New York's principles of conflicts of law). Borrower, Administrative Agent and each Lender hereby irrevocably submit to the non-exclusive jurisdiction of any New York State or Federal court sitting in The City of New York (or any county in New York State where any portion of the Property is located) over any suit, action or proceeding arising out of or relating to this Agreement, and Borrower hereby agrees and consents that, in addition to any methods of service of process provided for under applicable Law, all service of process in any such suit, action or proceeding in any New York State or Federal court sitting in The City of New York (or such other county in New York State) may be made by certified or registered mail, return receipt requested, directed to Borrower at the address indicated on the cover page hereof, and service so made shall be complete five (5) days after the same shall have been so mailed.

Section 8.17. Integration. The Loan Documents constitute the entire agreement among Administrative Agent, Borrower and Lenders relating to the transactions contemplated thereby (except with respect to agreements among Lenders or with Administrative Agent relating solely to compensation, consideration and the syndication of the Loan) and supersede any prior oral or written statements or agreements with respect to such transactions.

Section 8.18. Releases. Provided no Default or Event of Default exists, Borrower shall have the right to obtain the release of any of the Properties from the Mortgage encumbering the same, at Borrower's expense, so long as (i) Borrower pays to Administrative Agent for the account of Lenders an amount equal to the lesser of (x) the greater of (A) the Release Price for the Property that is the subject of such release and (B) the amount necessary to reduce the Loan to an amount which satisfies the DSC Test on the basis of Net Operating Income from the parcels not being released or (y) the then outstanding principal amount of the Loan, which amount shall be applied to the reduction of outstanding principal under the Loan, (ii) Administrative Agent receives such reasonable documentation as Administrative Agent shall request confirming that the amount of any Additional Interest secured by the Mortgage encumbering the Property which is being released shall be secured by the credit of Guarantor, and (iii) Administrative Agent receives such other documents, opinions and assurances as Administrative Agent may reasonably request. Upon any such release of a Property, such Property shall no longer constitute a "Property" hereunder and the Total Loan Commitment shall be reduced by the amount of the Release Price for such Property.

Section 8.19. Exculpation. Neither Borrower nor any Guarantor shall be personally liable for payment of the principal of the Note or interest thereon, and in the event of any failure by Borrower to pay any portion of such principal or interest, Lenders will look, with respect to the then outstanding balance of such principal and interest, solely to the Mortgaged Property and such other collateral as has been, or hereafter shall be, given to secure payment of the Note. The foregoing limitation on liability shall not impair or otherwise affect the validity or enforceability of (a) the debt evidenced by the Note or the Loan Agreement or of any other obligations evidenced by the Note, the Loan Agreement, the Mortgage or any of the Loan Documents or (b) Lenders' liens, security interests, rights and remedies (including, without limitation, the remedies of foreclosure and/or sale) with respect to the Mortgaged Property or any other property, security, collateral and/or assets (including the proceeds thereof) encumbered, pledged or assigned by the Mortgages or any other security for the Loan. In addition, the foregoing limitation on liability shall not limit anyone's obligations or be applicable with respect to: (i) liability under any guaranty(ies) or indemnity(ies) delivered or afforded to Lenders; (ii) any fraud or material misrepresentation; (iii) taxes of any kind (whether characterized as transfer, gains or other taxes) payable in connection with the foreclosure sale of the Mortgaged Property, irrespective of who pays such taxes; (iv) application of any proceeds of the Loan to any purpose other than as provided in the Loan Documents; (v) the application of any insurance or condemnation proceeds or other funds or payments other than strictly in accordance with the Loan Documents; (vi) the misapplication of any security deposits; (vii) rents, sales proceeds, or other sums received after default under the Loan Documents which are not applied to expenses of operating the Mortgaged Property or paid to Lenders or a duly appointed receiver of the Mortgaged Property; (viii) any failure to deliver to Lenders, after demand therefor, any agreements relating to the operation, management, leasing, use, occupancy or construction of the Mortgaged Property; (ix) any intentional physical waste in respect of the Mortgaged Property; (x) any failure to pay or discharge any real estate tax, other tax, assessment, fine, penalty or lien against the Mortgaged Property to the extent revenue from leases of the Mortgaged Property was available to pay same; (xi) liability as landlord under any lease(s) relating to the Mortgaged Property which liability accrued prior to Lenders' succeeding to such interest of Borrower, which Lenders are or become obligated for by virtue of Lenders succeeding to the interests of Borrower, provided, however, that such liability shall only apply with respect to any liability of Borrower under such leases which Lenders assumes pursuant to subordination, non-disturbance and attornment agreements required pursuant to the terms of such leases; (xii) liability under any agreement relating to the operation or maintenance of the Mortgaged Property which liability accrued prior to Lenders' succeeding to such interest of Borrower which Lenders are or become obligated for by virtue of Lenders succeeding to the interests of Borrower, provided, however, that such liability shall only apply with respect to agreements which are not terminable by their terms upon thirty (30) days' written notice; (xiii) liability to pay for the premiums on and keep in full force and effect insurance in respect of the Mortgaged Property in accordance with the Loan Documents to the extent revenue

from leases of the Mortgaged Property was available to pay same; or (xiv) liability for Hazardous Substances that may exist upon or be discharged from the Mortgaged Property. Borrower and any Guarantor shall in any event be and shall remain personally liable for each of the matters to which reference is made in the preceding sentence and Lenders may seek, obtain and enforce one or more money judgments in any appropriate proceeding(s) with respect thereto. The limitation on personal liability contained in this paragraph shall become automatically null and void and shall be of no further force or effect, and Borrower and each Guarantor shall be and remain personally liable for payment of the principal of the Note and interest thereon, in accordance with the terms and provisions of this Loan Agreement, in the event that Borrower, or anyone acting on behalf of Borrower, shall (A) file a petition or answer seeking any relief of any kind under the bankruptcy laws of the United States (or if an Insolvency Event shall otherwise occur), (B) assert in writing or in any legal proceedings of any kind that any provisions of any of the Loan Documents are in whole or in part unenforceable, invalid or not legally binding, or (C) fail fully to cooperate with Lenders or a receiver in Lenders' or such receiver's efforts to collect Rents directly from tenants after a default under the Loan Documents.

Section 8.20. Letters of Credit.

(a) Borrower, with the consent of Administrative Agent, may request, in lieu of advances of proceeds of the Loan, that Administrative Agent issue unconditional, irrevocable standby letters of credit (each, a "Letter of Credit") for the account of Borrower. Promptly upon Borrower's request for, and then upon issuance of, a Letter of Credit, Administrative Agent shall notify each Lender.

(b) The amount of any Letter of Credit shall be limited to the amount of proceeds of the Loan available to be advanced hereunder, it being understood that the amount of each Letter of Credit issued and outstanding shall effect a reduction, by an equal amount, of proceeds available to Borrower under the Loan. Administrative Agent's issuance of each Letter of Credit shall be subject to Borrower having satisfied all conditions precedent to its entitlement to an advance of Loan proceeds. Each Letter of Credit shall expire no later than one (1) month prior to the Maturity Date. If the Letter of Credit is returned undrawn upon or expires without being drawn upon, then the amount of Loan proceeds allocated to the Letter of Credit shall again become available to be advanced with the terms hereof.

(c) In connection with, and as a further condition to the issuance of, each Letter of Credit, Borrower shall execute and deliver to Administrative Agent an application for the Letter of Credit on Administrative Agent's standard form therefor, together with such other documents, opinions and assurances as Administrative Agent shall reasonably require, and shall pay such fees as Administrative Agent shall require.

(d) The parties hereto acknowledge and agree that, immediately upon notice from Administrative Agent of any drawing under a Letter of Credit, each Lender shall, notwithstanding the existence of a Default or Event of Default or the non-satisfaction of any conditions precedent to the making of an advance of the Loan, advance proceeds of the Loan, in an amount equal to its ratable share (based upon the undisbursed amounts of the Lenders' respective Individual Loan Commitments) of such drawing, which advance shall be made to Administrative Agent to reimburse Administrative Agent, for its own account, for such drawing. Borrower hereby irrevocably authorizes Lenders to make such advances. Each Lender further acknowledges that its obligation to fund its share of drawings under Letters of Credit as aforesaid shall survive the Lenders' termination of this Agreement or enforcement of remedies hereunder or under the other Loan Documents. In the event that any advance cannot for any reason be made on the date otherwise required above (including, without limitation, as a result of the commencement of a proceeding under any applicable bankruptcy or insolvency Law with respect to Borrower), then each Lender shall purchase (on or as of the date such advance would otherwise have been made) from Administrative Agent a participation interest in any unreimbursed drawing in an amount equal to its Pro Rata Share of such unreimbursed drawing.

(e) Borrower agrees, upon the occurrence of an Event of Default and at the written request of Administrative Agent, (i) to deposit with Administrative Agent cash collateral in the amount of all the outstanding Letters of Credit, which cash collateral shall be held by Administrative Agent as security for Borrower's obligations in connection with the Letters of Credit and (ii) to execute and deliver to Administrative Agent such documents as Administrative Agent reasonably requests to confirm and perfect the assignment of such cash collateral to Administrative Agent.

(f) In connection with each Letter of Credit, Borrower hereby covenants to pay to Administrative Agent the following fees, payable quarterly in arrears (on the first Business Day of each calendar quarter following the issuance of the Letter of Credit): (1) a fee (the "Lenders L/C Fee") for the account of Lenders, computed daily on the amount of the Letter of Credit issued and outstanding at a per annum rate equal to 0.75% and (2) a fee (the "Fronting Fee") for Administrative Agent's own account, computed daily on the amount of the Letter of Credit issued and outstanding at a rate per annum equal to 0.15%. It is understood and agreed that the last installment of the foregoing fees provided for in this paragraph (f) with respect to any particular Letter of Credit shall be due and payable on the first day of the calendar quarter following the return, undrawn, or cancellation, of such Letter of Credit. In addition, Borrower shall pay to Administrative Agent, Administrative Agent's customary administrative fees in connection with the issuance, extension, amendment and drawing of all Letters of Credit.

Section 8.21. Concerning Irrevocable Authorizations. Any and all advances made at any time by Lenders pursuant to the irrevocable authorizations granted by Section 8.20 shall require no further direction, authorization or request for disbursement from Borrower and may be made whether or not there exists a Default or Event of Default. Any and all such disbursements shall be added to the outstanding principal balance evidenced by the Notes and shall be secured by the Mortgage.

Section 8.22. Usury. Anything herein to the contrary notwithstanding, the obligations of Borrower under this Agreement and the Notes shall be subject to the limitation that payments of interest shall not be required to the extent that receipt thereof would be contrary to provisions of Law applicable to a Lender limiting rates of interest which may be charged or collected by such Lender.

Section 8.23. Documentation Satisfactory. All documentation required from or to be submitted on behalf of Borrower in connection with this Agreement and the documents relating hereto shall be subject to the prior approval of, and be satisfactory in form and substance to, Administrative Agent, its counsel and, where specifically provided herein, Lenders. In addition, the persons or parties responsible for the execution and delivery of, and signatories to, all of such documentation, shall be acceptable to, and subject to the approval of, Administrative Agent and its counsel.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, the parties have executed and delivered this Agreement as of the day and year first above written, the execution hereof by Borrower constituting a certification by the party or parties executing on its behalf that the representations and warranties made in Article IV are true and correct as of the date hereof and that each of them duly holds and is incumbent in the position indicated under his or her name.

FLEET NATIONAL BANK, a Bank of America
company (as Lender and Administrative Agent)

By

Denise M. Smyth
Vice President

Address for notices and Applicable Lending Office:

Fleet National Bank, a Bank of America company
1185 Avenue of the Americas, 16th Floor
New York, New York 10036
Attention: Ms. Denise M. Smyth
Telephone: 212/819-6144
Telefax: 212/819-6294

THE BANK OF CHINA, NEW YORK BRANCH (as Lender)

By

Name:
Title:

Address for notices and Applicable Lending Office:

The Bank of China, New York Branch
410 Madison Avenue
New York, New York 10017
Attention: Mr. Ted Louie
Telephone: 212/935-3101 x353
Telefax: 212/658-0919

RD ABSECON ASSOCIATES, L.P., a Delaware
limited partnership

By: RD Absecon, Inc., a Delaware corporation,
its general partner

By _____
Name:
Title:

RD BLOOMFIELD ASSOCIATES, LIMITED
PARTNERSHIP, a Delaware limited partnership

By: Acadia Property Holdings, LLC, its general
partner

By: Acadia Realty Limited Partnership,
its sole member

By: Acadia Realty Trust, its
general partner

By _____
Robert Masters
Senior Vice President

RD HOBSON ASSOCIATES, L.P., a Delaware
limited partnership

By: Acadia Property Holdings, LLC, its general
partner

By: Acadia Realty Limited Partnership,
its sole member

By: Acadia Realty Trust, its
general partner

By

Robert Masters
Senior Vice President

RD VILLAGE ASSOCIATES LIMITED
PARTNERSHIP, a Delaware limited partnership

By: Acadia Property Holdings, LLC, its general
partner

By: Acadia Realty Limited Partnership,
its sole member

By: Acadia Realty Trust, its
general partner

By

Robert Masters
Senior Vice President

RD WOONSOCKET ASSOCIATES LIMITED
PARTNERSHIP, a Delaware limited partnership

By: Acadia Property Holdings, LLC, its general
partner

By: Acadia Realty Limited Partnership,
its sole member

By: Acadia Realty Trust, its
general partner

By

Robert Masters
Senior Vice President

Address for notices for all Borrowers:

c/o Acadia Realty Trust
1311 Mamaroneck Avenue, Suite 260
White Plains, New York 10605
Attention: Mr. Robert Masters

The undersigned joins in the execution and authorizes the
delivery of this Loan Agreement for the purpose of accepting and agreeing to the
provisions of Section 5.20, Section 6.06, Section 6.11 and Section 8.19 hereof.

ACADIA REALTY LIMITED PARTNERSHIP

By: Acadia Realty Trust, a Maryland real estate
investment trust, its general partner

By

Robert Masters
Senior Vice President

EXHIBIT A

Assignment and Assumption Agreement

ASSIGNMENT AND ASSUMPTION AGREEMENT, dated as of _____, 200__, among [NAME OF ASSIGNING BANK] ("Assignor") and [NAME OF ASSIGNEE] ("Assignee").

Preliminary Statement

1. This Assignment and Assumption Agreement (this "Agreement") relates to the Revolving Loan Agreement (as the same may be amended from time to time, the "Loan Agreement") dated _____, 200__ among _____ ("Borrower"), the lender(s) party thereto (each a "Lender" and, collectively, "Lenders") and _____, as administrative agent ("Administrative Agent"). All capitalized terms not otherwise defined herein shall have the respective meanings set forth in the Loan Agreement.

2. Subject to the terms and conditions set forth in the Loan Agreement, Assignor has made an Individual Loan Commitment to Borrower in an aggregate principal amount of \$_____ ("Assignor's Loan Commitment").

3. The aggregate outstanding principal amount under Assignor's Loan Commitment at the commencement of business on the date hereof is \$_____.

4. Assignor desires to assign to Assignee all of the rights of Assignor under the Loan Agreement in respect of a portion of Assignor's Loan Commitment and the loan made pursuant thereto, such portion being in an amount equal to \$_____ (the "Assigned Loan and Commitment"), of which \$_____ is currently outstanding and \$_____ is still to be disbursed to Borrower pursuant to the Loan Agreement; and Assignee desires to accept assignment of such rights and assume the corresponding obligations from Assignor on such terms.

NOW, THEREFORE, in consideration of the foregoing and the mutual agreements contained herein, the parties hereto agree as follows:

SECTION 1. Assignment. Assignor hereby assigns and sells to Assignee all of the rights of Assignor under the Loan Agreement in and to the Assigned Loan and Commitment, and Assignee hereby accepts such assignment from Assignor and assumes all of the obligations of Assignor under the Loan Agreement with respect to the Assigned Loan and Commitment, including, without limitation, Assignor's obligations with respect to the undisbursed portion, if any, thereof. Upon the execution and delivery hereof by Assignor, Assignee, Administrative Agent and the payment of the amount specified in Section 2 hereof required to be paid on the date hereof, (1) Assignee shall, as of the commencement of business on the date hereof, succeed to the rights and obligations of a Lender under the Loan Agreement with an Individual Loan Commitment in an amount equal to the Assigned Loan and Commitment, and (2) the Individual Loan Commitment of Assignor shall, as of the commencement of business on the date hereof, be reduced correspondingly and Assignor released from its obligations under the Loan Agreement to the extent such obligations have been assumed by Assignee. Assignor represents and warrants that it (x) owns the Assigned Loan and Commitment free and clear of all liens and other encumbrances and (y) is legally authorized to enter into and perform this Agreement. Except as provided in the immediately preceding sentence, the assignment provided for herein shall be without representation or warranty by, or recourse to, Assignor.

SECTION 2. Payments. As consideration for the assignment and sale contemplated in Section 1 hereof, Assignee shall pay to Assignor on the date hereof, in immediately available funds, an amount equal to the outstanding principal amount under the Assigned Loan and Commitment recited in paragraph 4 of the Preliminary Statement above. Each of Assignor and Assignee hereby agrees that if it receives any amount under the Loan Agreement which is for the account of the other party hereto, it shall receive the same for the account of such other party to the extent of such other party's interest therein and shall promptly pay the same to such other party.

SECTION 3. Consent; Execution and Delivery of Note. This Agreement is conditioned upon the consent of Administrative Agent. The execution of this Agreement and Administrative Agent is evidence of this consent; [CONSENTS NOT REQUIRED FOR CERTAIN ASSIGNMENTS TO ENTITIES RELATED TO A LENDER.] Pursuant to Section 8.07 of the Loan Agreement, Borrower has agreed to execute and deliver Notes payable to the respective orders of Assignee and Assignor to evidence the assignment and assumption provided for herein. Assignee has designated as its Applicable Lending Office, and as its address for notices, the office identified as such below.

SECTION 4. Non-Reliance on Assignor. Assignor makes no representation or warranty in connection with, and shall have no responsibility with respect to, the solvency, financial condition, or statements of Borrower or any other party to any Loan Document, or the validity and enforceability of the obligations of Borrower or any other party to a Loan Document in respect of the Loan Agreement or any other Loan Document. Assignee acknowledges that it has, independently and without reliance on Assignor, and based on such documents and information as it has deemed appropriate, made its own analysis of the collateral for the Loan, credit analysis of Borrower and Guarantor and decision to enter into this Agreement and will continue to be responsible for making its own independent appraisal of the collateral for the Loan and of the business, affairs and financial condition of Borrower and the other parties to the Loan Documents.

SECTION 5. Governing Law. This Agreement shall be governed by, and construed and enforced in accordance with, the Laws of the State of New York (without giving effect to New York's principles of conflicts of law).

SECTION 6. Counterparts. This Agreement may be signed in any number of counterparts, each of which shall be an original, with the same effect as if the signatures thereto and hereto were upon the same instrument.

SECTION 7. Certain Representations and Agreements by Assignee. Assignee represents that it is legally authorized to enter into and perform this Agreement. In addition, Assignee hereby represents that it is entitled to receive any payments to be made to it under the Loan Agreement or hereunder without the withholding of any tax and agrees to furnish the evidence of such exemption as specified therein and otherwise to comply with the provisions of Section 7.13 of the Loan Agreement.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed and delivered by their duly authorized officers as of the date first above written.

[NAME OF ASSIGNOR]

By _____

Name:
Title:

[NAME OF ASSIGNEE]

By _____

Name:
Title:

Assignee's Applicable Lending Office and Address
for Notices:

[Assignee]
[Address]
Attention: _____
Telephone: (____) _____

[NAME OF ADMINISTRATIVE AGENT]

By _____

Name:
Title:

[NAME OF BORROWER]

By _____

Name:
Title:

EXHIBIT B

Notice-of-Assignment of Lease
(On Letterhead of Borrower)

_____, 200_

[Name and Address of Tenant]

Re: Lease Dated:
Lender:
Address of Lender:
Mortgage Dated:

Dear Sir/Madam:

The undersigned has assigned by a mortgage or deed of trust (the "Mortgage") dated as shown above to the Lender identified above (hereinafter "Lender") all its estate, right, title and interest in, to and under the Lease between you and the undersigned dated as set forth above, as said Lease may have been heretofore modified or amended (the "Lease"), together with all right, title and interest of the undersigned as lessor thereunder, including, without limitation, the right upon the occurrence of an Event of Default (as defined in the Mortgage) to collect and receive all earnings, revenues, rents, issues, profits and income of the property subject to the Mortgage.

[CERTAIN PROVISIONS OF THE MORTGAGE, THE TEXT OF WHICH ARE ATTACHED HERETO, RESTRICT SOME OF THE UNDERSIGNED'S RIGHTS UNDER THE LEASE. HOWEVER, S][S]aid assignment does not impair or diminish any of our obligations to you under the provisions of the Lease, nor are any such obligations imposed upon Lender, its successors or assigns.

Pursuant to said assignment you are hereby notified that in the event of a demand on you by Lender or its successors and assigns for the payment to it of the rents due under the Lease, you may, and are hereby authorized and directed to, pay said rent to Lender and we hereby agree that the receipt by you of such a demand shall be conclusive evidence of Lender's right to the receipt thereof and that the payment of the rents by you to Lender pursuant to such demand shall constitute performance in full of your obligation under the Lease for the payment of rent to the undersigned.

- - - - -

NOTE: To be sent in accordance with notice requirements of the Lease.
* To be used if property located in New York

Kindly indicate your receipt of this letter and your agreement to the effect set forth below by signing the enclosed copy thereof and mailing it to Lender at its address identified above to the attention of its Real Estate Finance Office.

[BORROWER]

By

Name:

Title:

The undersigned acknowledges receipt of the original of this letter and agrees for the benefit of Lender that it shall notify Lender of any default on the part of the landlord under the Lease which would entitle the undersigned to cancel the Lease or to abate the rent payable thereunder, and further agrees that, notwithstanding any provision of the Lease, no notice of cancellation thereof, nor of any abatement, shall be effective unless Lender has received the notice aforesaid and has failed within 30 days of the date thereof to cure, or if the default cannot be cured within 30 days has failed to commence and to diligently prosecute the cure, of landlord's default which gave rise to the right to cancel or abate.

[NAME OF TENANT]

By

-----,

its authorized officer

EXHIBIT C

Required Contents of Borrower's Counsel Opinion

(1) If Borrower, the mortgagor or grantor under the Mortgage (if different from Borrower), Guarantor or any general partner or member of any of them is a corporation, partnership, venture, limited liability company or trust, each such entity is duly organized, validly existing and in good standing under the laws of the jurisdiction of its formation, is qualified to do business (or such opinion shall specifically state that such qualification is not required) and is in good standing in the jurisdiction in which the Property is located, and has full power and authority to consummate the transactions contemplated by the Loan Documents and to execute, deliver and perform all Loan Documents to which it is a party.

(2) There are no actions, suits or proceedings pending or threatened against or affecting Borrower, Guarantor, the Mortgaged Property, the validity or enforceability of the Mortgage or the priority of the lien thereof at law, in equity or before or by any Governmental Authorities except actions, suits or proceedings which have been disclosed to Lender in writing and which are fully covered by insurance or would, if adversely determined, not substantially impair the ability of Borrower or Guarantor to pay when due any amounts which may become payable under the Note or Guaranty or to otherwise pay and perform their respective obligations in connection with the Loan; neither Borrower nor Guarantor is in default with respect to any order, writ, injunction, decree or demand of any court or Governmental Authorities.

(3) The consummation of the transactions contemplated by and the performance of the Loan Documents have not resulted and will not result in any breach of, or constitute a default under, any mortgage, deed of trust, lease, bank loan or credit agreement, corporate charter, by-laws, partnership agreement or other instrument to which Borrower or Guarantor is a party or by which either of them may be bound or affected.

(4) There exist no violations of any laws, statutes, ordinances, rules, orders, regulations or requirements of any Governmental Authorities with respect to the Improvements and that the use thereof complies with all applicable zoning and other laws, etc. and with all restrictions, covenants, leases and easements affecting the Mortgaged Property.

(5) The Property is not part of a larger tract of land owned by Borrower, its affiliates or Guarantor, or otherwise considered as part of one zoning or tax lot, or, if they are, that any authorization or variance required for the subdivision of such larger tract which a sale of the Property would entail has been obtained from all appropriate Governmental Authorities so that the Property and Improvements constitute one zoning or tax lot (including parking and utility facilities and street access, if relevant) capable of being conveyed as such.

Required Contents of Borrower's Local Counsel Opinion (and, if required by Lender, of a local counsel selected by Lender or its counsel)

(1) The Loan Documents have each been duly authorized, executed and delivered by the parties thereto (other than Lender) and, under the laws of the jurisdiction in which the Property is located (were such laws to apply), are valid and binding instruments enforceable against such parties in accordance with their respective terms, subject, however, to the qualifications that (a) some of the rights and remedies set forth in the Note and Mortgage may be limited by bankruptcy, insolvency, reorganization and other laws of general application to the enforcement of creditors' rights and (b) certain remedies and waivers contained in the Mortgage may be limited by applicable laws of said jurisdiction, none of which qualifications will materially interfere with the practical realization of the benefits and security provided by said documents except for the economic consequences of any procedural delay which may result therefrom.

(2) Considering the significant relationship that the State of New York has to the Loan, the courts of the jurisdiction in which the Property is located will, in all likelihood, honor any designations by the parties of New York as the governing law contained in the Loan Documents.

(3) The Mortgage will create the lien it purports to create on the property covered by the Mortgage and will effectively assign the leases purported to be assigned thereby if the Mortgage and any necessary UCC-1 financing statements are recorded or filed, as the case may be, and specifying local law requirements as to (1) the manner in which, and offices where, such recording and filing must be made and (2) the re-recording of the Mortgage and re-filing of the financing statements, all in order to establish, preserve and protect such lien and assignment and Lender's interest in the property covered by the Mortgage.

(4) In the event of a foreclosure or other method of enforcement of the remedies provided for in the Mortgage, any leases of the Mortgaged Property will, at the option of the holder of the Mortgage, remain in full force and effect between the lessees thereunder and such holder or any purchaser of the Mortgaged Property pursuant to such remedial action. The opinion shall state whether the foregoing results as a matter of law or by reason of compliance with Section 1.14(c) of the Mortgage.

(5) All rights of redemption in respect of the Mortgage will be extinguished upon the consummation of a sale of the Mortgaged Property pursuant to any remedial provisions provided for in the Mortgage, [or if the foregoing is not the case, the opinion shall specify the period of time which must expire following such consummation in order for said rights of redemption to be extinguished under local law, and shall state whether the applicable result obtains as a matter of law or pursuant to any waiver provided for in the Mortgage].

(6) There are no changes or additions to the Mortgage and other Loan Documents which are required by local law, and none which are customary in local practice and which would not unreasonably enhance the rights and benefits of Lender thereunder.

(7) To such other effects as Lender or its counsel may reasonably require.

EXHIBIT D

Note

\$ _____

New York, New York
_____, 200__

For value received, RD ABSECON ASSOCIATES, L.P., a Delaware limited partnership ("RD Absecon"), RD BLOOMFIELD ASSOCIATES, LIMITED PARTNERSHIP, a Delaware limited partnership ("RD Bloomfield"), RD HOBSON ASSOCIATES, L.P., a Delaware limited partnership ("RD Hobson"), RD VILLAGE ASSOCIATES LIMITED PARTNERSHIP ("RD Village"), a Delaware limited partnership and RD WOONSOCKET ASSOCIATES LIMITED PARTNERSHIP, a Delaware limited partnership ("RD Woonsocket"; RD Absecon, RD Bloomfield, RD Hobson, RD Village and RD Woonsocket, collectively and individually, as the context requires, "Maker") hereby covenant and promise to pay to the order of [NAME OF LENDER], or its successors or assigns (collectively, "Lender"), at the principal office of FLEET NATIONAL BANK, a Bank of America company, located at 1185 Avenue of the Americas, New York, New York 10036 ("Administrative Agent") for the account of the Applicable Lending Office of Lender, the principal sum of _____ Dollars (\$ _____) or, if less, the amount loaned by the Lender under its Loan to Borrower pursuant to the Loan Agreement (as defined below) and actually outstanding, in lawful money of the United States and in immediately available funds, in accordance with the terms set forth in the Loan Agreement. Maker also covenants and promises to pay interest on the unpaid principal balance hereof, for the period such balance is outstanding, in like money, at said office for the account of said Applicable Lending Office, at the time and at a rate per annum as provided in the Loan Agreement (as defined below). Any amount or principal hereof which is not paid when due, whether at stated maturity, by acceleration, or otherwise, shall bear interest from the date when due until said principal amount is paid in full, payable on demand, at the Default Rate.

The date and amount of each advance of the Loan made by Lender to Borrower under the Loan Agreement referred to below, and each payment of said Loan, shall be recorded by Lender on its books and, prior to any transfer of this Note (or, at the discretion of Lender, at any other time), may be endorsed by Lender on the schedule attached hereto and any continuance thereof.

This Note is one of the Notes referred to in the Revolving Loan Agreement dated as of the date hereof (as the same may be amended or supplemented from time to time, the "Loan Agreement") among Maker, as Borrower, the lenders named therein (including Lender), as Lenders, and Administrative Agent, as Administrative Agent for Lenders. All of the terms, conditions and provisions of the Loan Agreement are hereby incorporated by reference. All capitalized terms used herein and not defined herein shall have the meanings given to them in the Loan Agreement.

This Note is secured by the various Mortgages which contain, among other things, provisions for the prepayment of and acceleration of this Note upon the happening of certain stated events. Reference to such of the Mortgages is hereby made for a description of the "Mortgaged Property" encumbered thereby and the rights of Maker and Lenders (including Lender) with respect to such Mortgaged Property.

Maker agrees that it shall be bound by any agreement extending the time or modifying the terms of payment set forth above and in the Loan Agreement, made by or on behalf of Lenders and the owner or owners of the Mortgaged Property, whether with or without notice to Maker, and Maker shall continue liable to pay the amount due hereunder in accordance with the terms set forth herein and in the Loan Agreement, but with interest at a rate no greater than the rate of interest provided therein, according to the terms of any such agreement of extension or modification.

Should the indebtedness represented by this Note or any part thereof be collected at law or in equity, or in bankruptcy, receivership or any other court proceeding (whether at the trial or appellate level), or should this Note be placed in the hands of attorneys for collection upon default, Maker agrees to pay, in addition to the principal, interest and other sums due and payable hereon, all costs of collecting or attempting to collect this Note, including reasonable attorneys' fees and expenses.

All parties to this Note, whether principal, surety, guarantor or endorser, hereby waive presentment for payment, demand, protest, notice of protest and notice of dishonor.

This Note shall be governed by the Laws of the State of New York (without giving effect to New York's principles of conflicts of law), provided that, as to the maximum lawful rate of interest which may be charged or collected, if the Laws applicable to Lender permit it to charge or collect a higher rate than the Laws of the State of New York, then such Law applicable to Lender shall apply to Lender under this Note.

IN WITNESS WHEREOF, Maker has executed and delivered this Note as of the date first above written.

[NAME OF BORROWER]

By _____
Name:
Title:

Date	Amount of Advance	Amount of Payment	Balance Outstanding	Notation By

FINANCIAL COVENANT COMPLIANCE CERTIFICATE

This Certificate is furnished pursuant to Section 6.11(3) of that certain Revolving Loan Agreement (the "Loan Agreement") by and among RD ABSECON ASSOCIATES, L.P., RD BLOOMFIELD ASSOCIATES, LIMITED PARTNERSHIP, RD HOBSON ASSOCIATES, L.P., RD VILLAGE ASSOCIATES LIMITED PARTNERSHIP and RD WOONSOCKET ASSOCIATES LIMITED PARTNERSHIP (collectively and individually, as the context requires, "Borrower") and FLEET NATIONAL BANK, a Bank of America company (in its individual capacity and not as Administrative Agent, "Fleet"), THE BANK OF CHINA, NEW YORK BRANCH ("Bank of China") and Fleet, in its capacity as Administrative Agent, Section 6.11(3) of which Loan Agreement was agreed to and acknowledged by ACADIA REALTY LIMITED PARTNERSHIP ("Guarantor"). Capitalized terms used in this Certificate and Schedule 1 attached hereto, unless otherwise defined herein or in said Schedule 1, have the meanings given to them in the Loan Agreement.

The undersigned, the _____ of Guarantor, hereby certifies to Lender that Schedule 1 attached hereto sets forth the financial data and computations relating to Guarantor's compliance with the Liquidity Requirement, which data and computations, to the best knowledge and belief of the undersigned, are true, complete and correct.

The undersigned certifies that he/she is authorized to execute and deliver this Certificate on behalf of Guarantor.

WITNESS my hand this ____ day of _____, ____.

Name:

FINANCIAL COVENANT COMPLIANCE CERTIFICATE

This Certificate is furnished pursuant to Section 6.11(3) of that certain Revolving Loan Agreement ("Loan Agreement") by and among RD ABSECON ASSOCIATES, L.P., RD BLOOMFIELD ASSOCIATES, LIMITED PARTNERSHIP, RD HOBSON ASSOCIATES, L.P., RD VILLAGE ASSOCIATES LIMITED PARTNERSHIP and RD WOONSOCKET ASSOCIATES LIMITED PARTNERSHIP (collectively and individually, as the context requires, "Borrower") and FLEET NATIONAL BANK, a Bank of America company (in its individual capacity and not as Administrative Agent, "Fleet"), THE BANK OF CHINA, NEW YORK BRANCH ("Bank of China") and Fleet, in its capacity as Administrative Agent, Section 6.11(3) of which Loan Agreement was agreed to and acknowledged by ACADIA REALTY LIMITED PARTNERSHIP ("Guarantor"). Capitalized terms used in this Certificate and Schedule 1 attached hereto, unless otherwise defined herein or in said Schedule 1, have the meanings given to them in the Loan Agreement.

The undersigned, the _____ of Guarantor, hereby certifies to Lender that Schedule 1 attached hereto sets forth the audited financial data and computations relating to Guarantor's compliance with the Net Worth Requirement and the Liquidity Requirement, which data and computations, to the best knowledge and belief of the undersigned, are true, complete and correct.

The undersigned certifies that he/she is authorized to execute and deliver this Certificate on behalf of Guarantor.

WITNESS my hand this ____ day of _____, ____.

Name:

EXHIBIT F
AUTHORIZATION LETTER

May __, 2005

[Name and address of Administrative Agent]

Re: Revolving Loan Agreement dated as of May __, 2005
(the "Loan Agreement"; capitalized terms not
otherwise defined herein shall have the meanings
ascribed to such terms in the Loan Agreement) among
us, as Borrower, the Lenders named therein, and you,
as Administrative Agent for said Lenders

Dear Sir/Madam:

In connection with the captioned Loan Agreement, we hereby designate any of the following persons to give to you instructions, including notices required pursuant to the Loan Agreement, orally, by telephone or teleprocess, or in writing:

Michael Nelsen
Robert Masters
Richard Hartmann

Instructions may be honored on the oral, telephonic, teleprocess or written instructions of anyone purporting to be any one of the above designated persons even if the instructions are for the benefit of the person delivering them. We will furnish you with written confirmation of each such instruction signed by any person designated above (including any telecopy which appears to bear the signature of any person designated above) on the same day that the instruction is provided to you, but your responsibility with respect to any instruction shall not be affected by your failure to receive such confirmation or by its contents.

You and Lenders shall be fully protected in, and shall incur no liability to us for, acting upon any instructions which you in good faith believe to have been given by any person designated above, and in no event shall you or Lenders be liable for special, consequential or punitive damages. In addition, we agree to hold you and Lenders and your and their respective agents harmless from any and all liability, loss and expense arising directly or indirectly out of instructions that we provide to you in connection with the Loan Agreement except for liability, loss or expense occasioned by your gross negligence or willful misconduct.

Upon notice to us, you may, at your option, refuse to execute any instruction, or part thereof, without incurring any responsibility for any loss, liability or expense arising out of such refusal if you in good faith believe that the person delivering the instruction is not one of the persons designated above or if the instruction is not accompanied by an authentication method that we have agreed to in writing.

We will promptly notify you in writing of any change in the persons designated above and, until you have actually received such written notice and have had a reasonable opportunity to act upon it, you are authorized to act upon instructions, even though the person delivering them may no longer be authorized.

Very truly yours,

[BORROWERS]

By

Name:
Title:

EXHIBIT G

SOLVENCY CERTIFICATE

The person executing this certificate is the Senior Vice President and/or Chief Financial Officer of Acadia Realty Trust, the General Partner of Acadia Realty Limited Partnership, sole member of Acadia Property Holdings, LLC, the General Partner of RD _____, a _____ ("Borrower"), and is familiar with its properties, assets and businesses, and is duly authorized to execute this certificate on behalf of Borrower pursuant to Section 4.01(2) of the Revolving Loan Agreement dated the date hereof (the "Loan Agreement") among Borrower along with certain affiliated co-borrowers, the lenders party thereto (each a "Lender" and collectively, "Lenders") and Fleet National Bank, a Bank of America company, as administrative agent for Lenders (in such capacity, together with its successors in such capacity, "Administrative Agent"). In executing this Certificate, such person is acting solely in his or her capacity as the Senior Vice President and/or Chief Financial Officer of Borrower, and not in his or her individual capacity. Unless otherwise defined herein, terms defined in the Loan Agreement are used herein as therein defined.

The undersigned further certifies that he has carefully reviewed the Loan Agreement and the other Loan Documents and the contents of this Certificate and, in connection herewith, has made such investigation and inquiries as he deems reasonably necessary and prudent therefor. The undersigned further certifies that the financial information and assumptions which underlie and form the basis for the representations made in this Certificate were reasonable when made and were made in good faith and continue to be reasonable as of the date hereof.

The undersigned understands that Administrative Agent and Lenders are relying on the truth and accuracy of this Certificate in connection with the transactions contemplated by the Loan Agreement.

The undersigned certifies that Borrower is Solvent.

IN WITNESS WHEREOF, the undersigned has executed this Certificate on May 26, 2005.

By

Name:
Title:

SCHEDULE A

Payment Date	Annual Loan Amount Reduction/ Amortization Payment
June 1, 2006	\$850,000
June 1, 2007	920,000
June 1, 2008	1,000,000
June 1, 2009	1,080,000
June 1, 2010	1,175,000
June 1, 2011	1,265,000
June 1, 2012	1,375,000

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G	Solvency Certificate

ACADIA CRESCENT PLAZA LLC
(Mortgagor)

to

GREENWICH CAPITAL FINANCIAL PRODUCTS, INC.
(Mortgagee)

MORTGAGE, ASSIGNMENT OF LEASES AND RENTS
AND SECURITY AGREEMENT

Dated: As of August 31, 2005

Property Location: 715 Crescent Street Brockton,
Massachusetts

DOCUMENT PREPARED BY AND WHEN RECORDED, RETURN TO:

Kaye Scholer LLP
425 Park Avenue
New York, New York 10022-3598
Attention: Stephen Gliatta, Esq.

MORTGAGE, ASSIGNMENT OF LEASES AND RENTS AN SECURITY
AGREEMENT

THIS MORTGAGE, ASSIGNMENT OF LEASES AND RENTS AND SECURITY AGREEMENT (herein "INSTRUMENT") is made as of August 31, 2005, and is given by the mortgagor, ACADIA CRESCENT PLAZA LLC, a Delaware limited liability company whose address is c/o Acadia Realty Trust, 1311 Mamaroneck Avenue, White Plains, New York 10605, (herein "BORROWER"), to the mortgagee, GREENWICH. CAPITAL FINANCIAL PRODUCTS, INC., a corporation organized and existing under the laws of the state of Delaware, whose address is 600 Steamboat Road, Greenwich, Connecticut 06830, together with its successors, assigns and transferees (herein "LENDER").

RECITALS

A. Lender is making a secured loan to Borrower in the original principal amount of \$17,600,000 (the "LOAN"). The Loan is evidenced by that certain Promissory Note dated the date hereof made by Borrower to Lender in such principal amount (as the same may be amended, modified, restated, severed, consolidated, renewed, replaced, or supplemented from time to time, the "Note").

BORROWER, in consideration of the indebtedness herein recited, irrevocably grants, conveys, mortgages and assigns to Lender WITH MORTGAGE COVENANTS, WITH STATUTORY POWER OF SALE AND RIGHTS OF ENTRY AND POSSESSION, THE following described property located in the County of Plymouth, State of Massachusetts, and more particularly described on Exhibit "A" attached hereto and incorporated herein by reference for all purposes.

TOGETHER with all buildings, improvements and tenements now or hereafter erected on the property, and all heretofore or hereafter vacated alleys and streets abutting the property, and all easements, rights, appurtenances, rents (subject however to the assignment of rents to Lender herein), royalties, mineral, oil and gas rights and profits, water, water rights, and water stock appurtenant to the property, and all fixtures, machinery, equipment, engines, boilers, incinerators, building materials, appliances and goods of every nature whatsoever now or hereafter located in, or on, or used, or intended to be used in connection with the property, including, but not limited to, those for the purposes of supplying or distributing heating, cooling, electricity, gas, water, air and light; and all elevators, and related machinery and equipment, fire prevention and extinguishing apparatus, security and access control apparatus, plumbing, bath tubs, water heaters, water closets, sinks, ranges, stoves, refrigerators, dishwashers, disposals, washers, dryers, awnings, storm windows, storm doors, screens, blinds, shades, curtains and curtain rods, mirrors, cabinets, paneling, rugs, attached floor coverings, furniture, pictures, antennas, trees and plants, tax refunds, trade names, licenses, permits, Borrower's rights to insurance proceeds, unearned insurance premiums and chooses in action; all of which, including replacements and additions thereto and substitutions therefor, shall be deemed to be and remain a part of the real property covered by this Instrument; and all of the foregoing, together with said property are herein referred to as the "PROPERTY";

TOGETHER with all right, title and interest in, to and under any and all leases now or hereinafter in existence (as amended or supplemented from time to time) and covering space in or applicable to the Property (hereinafter referred to collectively as the "Leases" and singularly as a "LEASE"), together with all rents, earnings, income, profits, benefits and advantages arising from the Property and from said Leases and all other sums due or to become due under and pursuant thereto, and together with any and all guarantees of or under any of said Leases, and together with all rights, powers, privileges, options and other benefits of Borrower as lessor under the Leases, including, without limitation, the immediate and continuing right to receive and collect all rents, income, revenues, issues, profits, condemnation awards, insurance proceeds, moneys and security payable or receivable under the Leases or pursuant to any of the provisions thereof, whether as rent or otherwise, the right to accept or reject any offer made by any tenant pursuant to its Lease to purchase the Property and any other property subject to the Lease as therein provided and to perform all other necessary or appropriate acts with respect to such Leases as agent and attorney-in-fact for Borrower, and the right to make all waivers and agreements, to give and receive all notices, consents and releases, to take such action upon the happening of a default under any Lease, including the commencement, conduct and consummation of proceedings at law or in equity as shall be permitted under any provision of any Lease or by any law, and to do any and all other things whatsoever which the Borrower is or may become entitled to do under any such Lease together with all accounts receivable, contract rights, franchises, interests, estates or other claims, both at law and in equity, relating to the Property, to the extent not included in rent earnings and income under any of the Leases;

TOGETHER with all right, title and interest in, to and under any and all reserve, deposit or escrow accounts (the "ACCOUNTS") made pursuant to any loan document made between Borrower and Lender with respect to the Property, together with all income, profits, benefits and advantages arising therefrom, and together with all rights, powers, privileges, options and other benefits of Borrower under the Accounts, and together with the right to do any and all other things whatsoever which the Borrower is or may become entitled to do under the Accounts;

TOGETHER with all agreements, contracts, certificates, guaranties, warranties, instruments, franchises, permits, licenses, plans, specifications and other documents, now or hereafter entered into, and all rights therein and thereto, pertaining to the use, occupancy, construction, management or operation of the Property and any part thereof and any improvements or respecting any business or activity conducted on the Property and any part thereof and all right, title and interest of Borrower therein, including the right to receive and collect any sums payable to Borrower thereunder and all deposits or other security or advance payments made" by Borrower with respect to any of the services related to the Property or the operation thereof;

TOGETHER with all tradenames, trademarks, servicemarks, logos, copyrights, goodwill, books and records and all other general intangibles relating to or used in connection with the operation of the Property; and

TOGETHER with any and all proceeds resulting or arising from any of the foregoing (the Property, the Leases, the Accounts, and all other property, whether real, personal, tangible, or intangible, described above, and all proceeds thereof, may be referred to collectively as the "COLLATERAL").

THIS INSTRUMENT SECURES TO LENDER (a) the repayment of the indebtedness evidenced by the Note in the principal sum of SEVENTEEN MILLION SIX HUNDRED THOUSAND AND NO1100 DOLLARS \$17,6000,000 (the "Principal"), with interest thereon, with the balance of the indebtedness, if not sooner paid, due and payable on September 6, 2015 (the "MATURITY DATE"), and all renewals, extensions and modifications thereof; (b) the performance of the covenants and agreements of Borrower contained in an Environmental Indemnity Agreement (herein so-called) between Lender and Borrower dated of even date herewith; (c) the payment of all other sums, with interest thereon, advanced by Lender in accordance herewith to protect the security of this Instrument; and (d) the performance of the covenants and agreements of Borrower herein contained, or contained in any other Loan Document, INCLUDING BORROWER'S COVENANT TO REPAY ALL FUTURE ADVANCES (the Note, this Instrument, and all other documents or instruments given by Borrower or others and accepted by Lender for purposes of evidencing, securing, perfecting, or guaranteeing the indebtedness evidenced by the Note may be referred to as the "LOAN DOCUMENTS"). Without limitation of the foregoing, the following documents and instruments of even date herewith are also Loan Documents: (i) Assignment of Leases and Rents from Borrower to Lender, (ii) Assignment of Agreements, Licenses, Permits and Contracts from Borrower to Lender, (iii) the Clearing Account Agreement (the "CLEARING ACCOUNT AGREEMENT") among Borrower, Lender, Acadia Realty Limited Partnership ("MANAGER") and Bank of America, N.A., (iv) the Deposit Account Agreement (the "DEPOSIT ACCOUNT AGREEMENT") AMONG Borrower, Lender, Manager and Deposit Bank, (v) the Guaranty of Recourse Obligations (the "GUARANTY") made by Acadia Realty Limited Partnership, a Delaware limited partnership ("GUARANTOR"), (vi) the Certificate of Borrower and (vii) Environmental Indemnity Agreement made by Borrower for the benefit of Lender (the "ENVIRONMENTAL INDEMNITY AGREEMENT"), AS each of the foregoing may be (and each of the foregoing defined terms shall refer to such documents as they may be) amended, restated, replaced, supplemented or otherwise modified from time to time.

Borrower covenants that Borrower is lawfully seized of the estate hereby conveyed and has the right to mortgage, grant, convey and assign the Property, that the Property is unencumbered, and that Borrower will warrant and defend generally the title to the Property against all claims and demands, subject to any easements and restrictions listed in a schedule of exceptions to coverage in any title insurance policy insuring Lender's interest in the Property.

Borrower represents, warrants, covenants and agrees in favor of Lender as follows:

SECTION 1. PAYMENT OF PRINCIPAL AND INTEREST. Borrower shall promptly pay when due the principal of and interest on the indebtedness evidenced by the Note, any prepayment and late charges provided in the Note and all other sums secured by this Instrument.

SECTION 2. INTENTIONALLY DELETED.

SECTION 3. APPLICATION OF PAYMENTS. Lender may apply any payments received from or on behalf of Borrower to any of the obligations of Borrower then due under the Loan Documents, in any order determined by Lender.

SECTION 4. CHARGES; LIENS. Borrower shall pay all rents, taxes, charges assessments and impositions attributable to the Property (collectively "Taxes") when due. Unless Lender is paying such Taxes in accordance with Section 25, Borrower shall promptly furnish to Lender all notices of amounts due under this Section, and in the event Borrower shall make payment directly, Borrower shall promptly furnish to Lender receipts evidencing such payments. Except only for the liens and security interests in favor of Lender under this Instrument and the other Loan Documents, which Borrower shall pay and discharge in accordance with the Loan Documents, Borrower shall promptly discharge any lien encumbering all or any portion of or interest in the Property (unless such lien is bonded within 30 days after Borrower first receives notice of such lien), irrespective of the priority of the same. Borrower shall pay, when due, the claims of all persons supplying labor or materials to or in connection with the Property (unless such claims are the subject of a bona fide dispute in which Borrower is contesting the amount or validity thereof).

SECTION 5. HAZARD INSURANCE. Borrower shall at all times keep the improvements now existing or hereafter erected on the Property insured against all losses, hazards, casualties, liabilities and contingencies as Lender shall reasonably require and in such amounts and for such periods as Lender shall reasonably require. Borrower shall purchase and maintain policies of insurance with respect to the Property in such amounts and covering such risks as shall be satisfactory to Lender, including, but not limited to, the following:

(a) Property damage insurance covering loss or damage to the Property caused by fire, lightning, hail, windstorm, explosion, hurricane (to the extent available), vandalism, malicious mischief, and, if available and subject to subsection (i) below, coverage for damage or destruction caused by the acts of "Terrorists" (or such policies shall have no exclusion from coverage with respect thereto) and such other losses, hazards, casualties, liabilities and contingencies as are normally and usually covered by fire policies in effect where the Property is located endorsed to include all of the extended coverage perils and other broad form perils, including the standard "all risks" clauses. Such policy shall be in an amount not less than that necessary to comply with any coinsurance percentage stipulated in the policy, but not less than 100% of the full replacement cost of the improvements on the Property (without any deduction for depreciation) and shall contain a replacement cost endorsement. The deductible under such policy, if any, shall not exceed the lesser of five percent (5%) of Net Operating Income or \$25,000. Further, if any of the improvements or the use of the Property shall at any time constitute legal nonconforming structures or uses under current zoning ordinances, such policy shall contain an "Ordinance or Law Coverage" or "Enforcement" endorsement providing coverage for demolition, increased cost of construction and inability to rebuild.

(b) Broad form boiler and machinery insurance in an amount equal to the lesser of 100% of the full replacement cost of the building (without any deduction for depreciation) in which the boiler or similar vessel is located, or \$2,000,000. In addition, Lender may require a rider to such policy to extend such coverage to electrical machinery and equipment, air conditioning, refrigeration, and mechanical objects!!

(c) If the Property is in an area prone to geological phenomena, including, but not limited to, sinkholes, mine subsidence or earthquakes, insurance covering such risks in an amount equal to 100% of the full replacement cost of the improvements on the Property (without any deduction for depreciation), and with a maximum permissible deductible equal to the lesser of \$25,000 or 10% of the face value of the policy.

(d) Flood insurance if the Property is in an area now or hereafter designated by the Federal Emergency Management Agency as a Zone "A" & "V" Special Hazard Area, or such other Special Hazard Area if Lender so requires in its sole discretion. Such policy shall be in an amount equal to 100% of the full replacement cost of the improvements on the Property (without any deduction for depreciation), and shall have a maximum permissible deductible of \$3,000.

(e) Business interruption or rent loss insurance in an amount equal to the gross income or rentals from the Property for an indemnity period of eighteen months, such amount being adjusted annually.

(f) During any period of reconstruction, renovation or alteration of the Property in excess of 10% of the Note, a completed value, "All Risks" Builders Risk form or "Course of Construction" insurance policy in non-reporting form and in an amount satisfactory to Lender in Lender's sole discretion.

(g) Commercial General Liability insurance covering bodily injury and death in an amount not less than \$1,000,000 per occurrence and \$2,000,000 in the aggregate with no deductible, together with at least \$25,000,000 excess and/or umbrella liability insurance for any and all claims.

(h) If required by applicable state laws, worker's compensation or employer's liability insurance in accordance with such laws.

(i) Notwithstanding anything in subsection (a) above to the contrary, Borrower shall be required to obtain and maintain coverage in its property insurance policy (or by a separate policy) against loss or damage by terrorist acts provided that such coverage is available. Borrower shall obtain such coverage from a carrier which otherwise satisfies the rating criteria specified in this Section 5 (a "QUALIFIED CARRIER") or in the event that such coverage is not available from a Qualified Carrier, Borrower shall obtain such coverage from the highest rated insurance company providing such coverage. If such coverage with respect to terrorist acts is available as aforesaid, Borrower shall obtain and maintain such coverage in an amount equal to 100% of the "Full Replacement Cost" of the Property.

(j) Such other insurance and endorsements, if any, as Lender may reasonably require from time to time, or which are required by the Loan Documents.

Each carrier providing any insurance, or portion thereof, required by this Section shall be issued by companies approved by Lender and licensed to do business in the State, with a claims paying ability rating of "A" or better by S&P (and the equivalent by any other Rating Agency) and a rating of A:X or better in the current Best's Insurance Reports; provided, that, the liability insurance required under paragraph (g) of this Section shall be issued by companies approved by Lender and licensed to do business in the State, with a claims paying ability rating of "A" or better by S&P (and the equivalent by any other Rating Agency) and a rating of A:X or better in the current Best's Insurance Reports. Borrower shall cause all insurance (except general public

liability insurance) carried in accordance with this Section to be payable to Lender as a mortgagee and not as a coinsured, and, in the case of all policies of insurance carried by each lessee for the benefit of Borrower, if any, to cause all such policies to be payable to Lender as Lender's interest may appear. All premiums on insurance policies shall be paid, in the manner provided under Section 25(d) hereof, or in such other inane as Lender may designate in writing.

All insurance policies and renewals thereof (i) shall be in a form acceptable to Lender, (ii) shall provide for a term of not less than one year, (iii) shall provide by way of endorsement, rider or otherwise that such insurance policy shall not be canceled, endorsed, altered, or reissued to effect a change in coverage unless such insurer shall have first given Lender 30 days prior written notice thereof, (iv) shall include a standard mortgagee clause in favor of and in form acceptable to Lender, (v) shall provide for claims to be made on an occurrence basis, except that boiler and machinery coverage may be made on an accident basis, and (vi) shall contain an agreed value clause updated annually (if the amount of coverage under such policy is based upon the replacement cost of the Property). All property damage insurance policies (except for flood and earthquake policies) must automatically reinstate after each loss.

Notwithstanding anything to the contrary contained herein, the insurance coverages required under this Section 5 may be effected under a blanket policy or policies covering the Property and other property and assets not constituting a part of the security for the Loan; provided that Borrower shall provide evidence reasonably satisfactory to Lender that the insurance premiums for the Property are separately allocated under such policy to the Property and that (i) payment of such allocated amount shall maintain the effectiveness of such policy as to the Property notwithstanding the failure of payment of any other portion of premiums, and (ii) overall insurance limits will under no circumstance limit the amount that will be paid in respect of the Property, and provided further that any such blanket policy shall contain an amendment setting forth that (A) the aggregate limit under such policy shall apply separately to each property covered thereunder, and (B) unless otherwise agreed to by Lender (which consent shall not be unreasonably withheld), the limit of such policy shall be a "true blanket limit" and not limited by a schedule of values for the properties covered thereby (any such blanket policies which complies with such conditions, an "ACCEPTABLE BLANKET POLICY").

Lender shall have the right to hold the policies, and Borrower shall promptly furnish to Lender all renewal notices and all receipts of paid premiums. Not less than five (5) days prior to the expiration date of any insurance policy required hereunder, a certificate of insurance evidencing the renewal of such policy, together with evidence satisfactory to Lender of payment in full of the annual premium therefor, shall be delivered by Borrower to Lender. Not more than forty-five (45) days after to the expiration date of any insurance policy required hereunder, Borrower shall deliver to Lender a renewal insurance policy in form satisfactory to Lender.

If the Property is damaged or destroyed, in whole or in part, by fire or other casualty (a "Casualty"), Borrower shall give immediate written notice thereof to Lender and to the insurance carrier. If a Casualty covered by any of the policies of insurance (an "INSURED CASUALTY") occurs where the loss does not exceed \$1,000,000, provided no Event of Default has occurred and is continuing, Borrower may settle and adjust any claim without the prior consent of Lender; provided such adjustment is carried out in a competent and timely manner, and Borrower is hereby authorized to collect and receipt for the insurance proceeds.

In the event of an Insured Casualty where the loss equals or exceeds \$1,000,000 (a "Significant Casualty"), Borrower may settle and adjust any claim with the prior consent of Lender (which consent shall not be unreasonably withheld or delayed) unless an Event of Default has occurred and is continuing in which case Lender may settle and adjust any claim without the consent of Borrower and agree with the insurer(s) on the amount to be paid on the loss, which settlement and adjustment shall be in Lender's sole and absolute discretion. The proceeds with respect to any Significant Casualty shall be due and payable solely to Lender and held by Lender in the Casualty/Condemnation Subaccount and disbursed in accordance herewith. If Borrower or any party other than Lender is a payee on any check representing insurance proceeds with respect to a Significant Casualty, Borrower shall immediately endorse, and cause all such third parties to endorse, such check payable to the order of Lender. Borrower hereby irrevocably appoints Lender as its attorney-in-fact, coupled with an interest, to endorse such check payable to the order of Lender. Borrower further authorizes Lender, at Lender's option, (a) to hold the balance of such proceeds with respect to any Significant Casualty to be used to reimburse Borrower for the cost of reconstruction or repair of the Property or (b) subject to the immediately following paragraph, to apply such proceeds to the payment of the sums secured by this Instrument whether or not then due, in any order. The expenses incurred by Lender in the settlement, adjustment and collection of any insurance proceeds shall become part of the Debt and shall be reimbursed by Borrower to Lender upon demand.

Lender shall not exercise Lender's option to apply insurance proceeds to the payment of the sums secured by this Instrument if all of the following conditions are met: (i) no Event of Default has occurred which is then continuing; (ii) Lender determines that there will be sufficient funds to restore and repair the Property to the Pre-existing Condition (as hereinafter defined); (iii) Lender agrees in writing that the rental income of the Property, after restoration and repair of the Property to the Pre-existing Condition, will be sufficient to meet all operating costs and other expenses, payments for reserves and loan repayment obligations (including any obligations under any permitted subordinate financing) relating to the Property and maintain a Debt Service Coverage Ratio of at least 1.25 to 1.0; (iv) Lender determines that restoration and repair of the Property to the Pre-existing Condition will be completed within one year of the date of the loss or casualty to the Property, but in no event later than six months prior to the Maturity Date; (v) less than 30 percent of the total floor area of the improvements has been damaged, destroyed or rendered unusable as a result of such fire or other casualty; (vi) tenant leases demising in the aggregate at least 65% of the total rentable space at the Property in effect as of the date of the occurrence of such fire or other casualty remain in full force and effect during and after the completion of the restoration and repair of the Property; and (vii) Lender is reasonably satisfied that the Property can be restored and repaired as nearly as possible to the condition it was in immediately prior to such casualty and in compliance with all applicable zoning, building and other laws and codes (the "Pre-existing Condition"). If Lender elects to make the insurance proceeds available for the restoration and repair of the Property, Borrower agrees that, if at any time during the restoration and repair, the cost of completing such restoration and repair, as determined by Lender, exceeds the undisbursed insurance proceeds, Borrower shall, immediately upon demand by Lender, deposit the amount of such excess with Lender, and Lender shall first disburse such deposit to pay for the costs of such restoration and repair on the same terms and conditions as the insurance proceeds are disbursed.

If the insurance proceeds are held by Lender to reimburse Borrower for the cost of restoration and repair of the Property, then Borrower shall restore the Property to the equivalent of its original condition or such other condition as Lender may approve in writing, and Borrower shall promptly begin such restoration and at all times thereafter diligently prosecute such restoration to completion. Lender may, at Lender's option, condition disbursement of said proceeds on Lender's approval of such plans and specifications of an architect satisfactory to Lender, contractor's cost estimates, architect's certificates, waivers of liens, sworn statements of mechanics and materialmen and such other evidence of costs, percentage completion of construction, application of payments; and satisfaction of liens as Lender may reasonably require. If the insurance proceeds are applied to the payment of the sums secured by this Instrument, any such application of proceeds to principal shall not extend or postpone the due dates of the monthly installments due under the Note, under Section 25(d) hereof, or otherwise under the Loan Documents, or change the amounts of such installments. If the Property is sold at foreclosure or pursuant to power of sale or if Lender acquires title to the Property, Lender shall have all of the right, title and interest of Borrower in and to any insurance policies and unearned premiums thereon and in and to the proceeds resulting from any damage to the Property prior to such sale or acquisition.

SECTION 6. PRESERVATION AND MAINTENANCE OF PROPERTY. Borrower (a) shall not commit waste or permit impairment or deterioration of the Property, (b) shall not abandon the Property, (c) shall restore or repair promptly and in a good and workmanlike manner all or any part of the Property to the equivalent of its original condition, or such other condition as Lender may approve in writing, in the event of any damage, injury or loss thereto, whether or not insurance proceeds are available to cover in whole or in part the costs of such restoration or repair, (d) shall keep the Property, including improvements, fixtures, equipment, machinery and appliances thereon in good repair and shall replace fixtures, equipment, machinery and appliances on the Property when necessary to keep such items in good repair, (e) shall comply with all laws, ordinances, regulations and requirements of any governmental body applicable to the Property, (f) shall provide for management of the Property by Acadia Realty Limited Partnership, or otherwise provide for professional third-party management of the Property by a commercial property manager with substantial experience in managing properties of the applicable kind, and otherwise satisfactory to Lender, pursuant to a contract approved by Lender in writing, unless such requirement shall be waived by Lender in writing, (g) shall generally operate and maintain the Property in a manner to ensure maximum rentals, and (h) shall give notice in writing to Lender of and, unless otherwise directed in writing by Lender, appear in and defend any action or proceeding purporting to affect the Property, the security of this instrument or the rights or powers of Lender. Neither Borrower nor any tenant or other person shall remove, demolish or alter any improvement now existing or hereafter erected on the Property or any fixture, equipment, machinery or appliance in or on the Property except when incident to the replacement of fixtures, equipment, machinery and appliances with items of like kind.

SECTION 7. USE OF PROPERTY. Unless required by applicable law or unless Lender has otherwise agreed in writing, Borrower shall not allow changes in the use for which all or any part of the Property was intended at the time this Instrument was executed. Borrower shall not subdivide the Property or initiate or acquiesce in a change in the zoning classification of the Property without Lender's prior written consent.

SECTION 8. PROTECTION OF LENDER'S SECURITY. If Borrower fails to perform the covenants and agreements contained in this Instrument, or if any action or proceeding is commenced which affects the Property or title thereto or the interest of Lender therein, including, but not limited to, eminent domain, insolvency, code enforcement, or arrangements or proceedings involving a bankrupt or decedent, Lender, at Lender's option, may make such appearances, disburse such sums and take such action as Lender deems necessary, in its sole discretion, to protect Lender's interest, including, but not limited to, (i) disbursement of attorney's fees, (ii) entry upon the Property to make repairs, (iii) procurement of satisfactory insurance as provided herein, (iv) the payment of any Taxes then due and payable, and (v) payment of any other amounts contemplated in any of the Loan Documents. Any amounts disbursed by Lender pursuant to this Section, with interest thereon, shall become additional indebtedness of Borrower secured by this Instrument. Unless Borrower and Lender agree to other terms of payment, such amounts shall be immediately due and payable upon demand and shall bear interest from the date of disbursement at the rate then applicable to principal under the Note unless collection from Borrower of interest at such rate would be contrary to applicable law, in which event such amounts shall bear interest at the highest rate which may be collected from Borrower under applicable law. Nothing contained in this Section or elsewhere in any of the Loan Documents shall require Lender to incur any expense or take any action hereunder.

SECTION 9. INSPECTION. Lender may make or cause to be made reasonable entries upon and inspections of the Property including, but not limited to, Phase I and/or Phase II environmental audits and inspections.

SECTION 10. BOOKS AND RECORDS. Borrower shall keep and maintain at all times at Borrower's address stated herein, or such other place as Lender may approve in writing, complete and accurate books of accounts and records adequate to reflect correctly the results of the operation of the Property and copies of all written contracts, leases and other instruments which affect the Property. Such books, records, contracts, leases and other instruments shall be subject to examination and inspection at any reasonable time by Lender.

Borrower shall furnish to Lender annually, within 120 days after each calendar year, a complete copy of Borrower's annual financial statements prepared as a compilation (without a review and without disclosures) by a "big four" accounting firm or another independent certified public accountant reasonably acceptable to Lender, each in accordance with GAAP or a federal income tax basis of accounting, in either case, consistently applied, and containing balance sheets and statements of profit and loss for Borrower and the Property in such detail as Lender may reasonably request. Each such statement (x) shall be in form and substance satisfactory to Lender, (y) shall set forth the financial condition and the income and expenses for the Property for the immediately preceding calendar year, including statements of annual Net Operating Income as well as (1) a list of commercial tenants, if any, occupying more than twenty percent of the rentable space of the Property, (2) a breakdown showing (a) the year in which each commercial Lease then in effect expires, and (b) the percentage of rentable space covered by such commercial Lease as stated in such Lease, and (z) shall be accompanied by an Officer's Certificate (as defined in Section 25 hereof) certifying (1) that such statement is true, correct, complete and accurate and presents fairly the financial condition of the Property and has been prepared in accordance with GAAP or a federal income tax basis of accounting, in either case, consistently applied, and (2) whether there exists an Event of Default, and if so, the nature thereof, the period of time it has existed and the action then being taken to remedy it.

On or before the 45th day after the end of each three-month fiscal quarter of Borrower (which may include months for which reports shall have been submitted under the prior sentence), Borrower shall deliver to Lender management prepared financial statements for such quarter. Each set of such financial statements (i) shall consist of an operating statement of income and expenses of the Property, (ii) shall be in form and detail reasonably satisfactory to Lender and (iii) shall be accompanied by an Officer's Certificate certifying that the applicable statements are true, complete, and accurate and do not omit to state any material information. All of such financial statements shall provide information for the applicable month or quarter and on a year-to-date basis (and at the end of the fourth quarter, for the year).

Borrower shall furnish, together with the foregoing financial statements and at any other time upon Lender's request, a rent schedule for the Property, certified by Borrower, showing the name of each tenant, and for each tenant, the space occupied, the lease expiration date, the rent payable and the rent paid.

In addition to the above delivery of financial statements and rent schedule, Borrower shall deliver to Lender updated versions of such financial statements at any other time upon Lender's request, including operating statements of income and expenses of the Property. Borrower shall also furnish to Lender, during any Cash Management Period, the Annual Budget in accordance with Section 28(h) of this Instrument. Further, Borrower shall provide to Lender, as soon as the same are available to Borrower, all financial statements and sales reports received from any tenant at the Property.

SECTION 11. CONDEMNATION. Borrower shall promptly give Lender notice of the actual or threatened commencement of any condemnation or eminent domain proceeding affecting the Property (a "CONDEMNATION") and shall deliver to Lender copies of any and all papers served in connection with such Condemnation. Following the occurrence of a Condemnation, Borrower, regardless of whether an Award is available, shall promptly proceed to restore, repair, replace or rebuild the Property in accordance with Legal Requirements to the extent practicable to be of at least equal value and of substantially the same character (and to have the same utility) as prior to such Condemnation. If a Condemnation occurs where the award or payment in respect thereof (an "Award") does not exceed \$500,000 or which results in the taking of 5% or less of the Property, provided no Event of Default has occurred and is continuing, Borrower may make any compromise, adjustment or settlement in connection with such Condemnation without the prior consent of Lender; provided such adjustment is carried out in a competent and timely manner, and Borrower is hereby authorized to collect and receipt for the Award. In the event of a Condemnation where the Award is in excess of \$500,000 or which results in the taking of more than 5% of the Property, Lender is hereby irrevocably appointed as Borrower's attorney-in-fact, coupled with an interest, with exclusive power to collect, receive and retain any Award and, so long as no Event of Default is continuing, with Borrower's consent (which consent shall not be unreasonably withheld or delayed) to make any compromise, adjustment or settlement in connection with such Condemnation. Borrower shall cause any Award that is payable to Borrower to be paid directly to Lender. Lender shall hold such Award in the Casualty/Condemnation Subaccount and disburse such Award in accordance with the terms hereof.

Borrower authorizes Lender to apply such Award, after the deduction of Lender's expenses incurred in the collection of such amounts, at Lender's option, to restoration or repair of the Property or to payment of the sums secured by this Instrument, whether or not then due, in the order determined by Lender, with the balance, if any, to Borrower. Unless Borrower and Lender otherwise agree in writing, any application of proceeds to principal shall not extend or postpone the due date of the monthly installments due hereunder or under any of the Loan Documents or change the amount of such installments. Borrower agrees to execute such further evidence of assignment of any awards, proceeds, damages or claims arising in connection with such condemnation or taking as Lender may require.

SECTION 12. BORROWER AND LIEN NOT RELEASED. From time to time, Lender may, at Lender's option, without giving notice to or obtaining the consent of Borrower, Borrower's successors or assigns or of any junior lienholder or guarantors, without liability on Lender's part and notwithstanding Borrower's breach of any covenant or agreement of Borrower in this Instrument, extend the time for payment of said indebtedness or any part thereof, reduce the payments thereon, release anyone liable on any of said indebtedness, accept a renewal note or notes therefor, modify the terms and time of payment of said indebtedness, release from the lien of this Instrument any part of the Property, take or release other or additional security, reconvey any part of the Property, consent to any map or plan of the Property, consent to the granting of any easement, join in any extension or subordination agreement, and agree in writing with Borrower to modify the rate of interest or period of amortization of the Note or change the amount of the monthly installments payable thereunder. Any actions taken by Lender pursuant to the terms of this Section shall not affect the obligation of Borrower or Borrower's successors or assigns to pay the sums secured by this Instrument and to observe the covenants of Borrower contained herein, shall not affect the guaranty of any person, corporation, partnership or other entity for payment of the indebtedness secured hereby, and shall not affect the lien or priority of lien hereof on the Property. Borrower shall pay Lender a reasonable service charge, together with such title insurance premiums and attorney's fees as may be incurred at Lender's option, for any such action if taken at Borrower's request.

SECTION 13. UNIFORM COMMERCIAL CODE SECURITY AGREEMENT. This Instrument is intended to be a security agreement pursuant to the Uniform Commercial Code for any of the items specified above as part of the Collateral which, under applicable law, may be subject to a security interest pursuant to the Uniform Commercial Code, and Borrower hereby grants Lender a security interest in said items. Borrower agrees that Lender may file this Instrument, or a reproduction thereof, in the real estate records or other appropriate index, as a financing statement for any of the items specified above as part of the Collateral. Any reproduction of this Instrument or of any other security agreement or financing statement shall be sufficient as a financing statement. In addition, Borrower agrees to execute and deliver to Lender, upon Lender's request, any financing statements, as well as extensions, renewals and amendments thereof, and reproductions of this Instrument in such form as Lender may require to perfect a security interest with respect to said items. Borrower shall pay all costs of filing such financing statements and any extensions, renewals, amendments and releases thereof, and shall pay all reasonable costs and expenses of any record searches for financing statements Lender may reasonably require. Without the

prior written consent of Lender, Borrower shall not create or suffer to be created pursuant to the Uniform Commercial Code any other security interest in said items, including replacements and additions thereto. Upon Borrower's breach of any covenant or agreement of Borrower contained in this Instrument, including the covenants to pay when due all sums secured by this Instrument, Lender shall have the remedies of a secured party under the Uniform Commercial Code and, at Lender's option, may also invoke the remedies provided herein or in any of the Loan Documents, or pursuant to any applicable law as to such items. In exercising any of said remedies, Lender may proceed against the items of real property and any items of personal property specified above as part of the Collateral separately or together and in any order whatsoever, without in any way affecting the availability of Lender's remedies under the Uniform Commercial Code or of the remedies provided herein or in any of the Loan Documents. For purposes of the Security Agreement and the fixture filing, the Borrower shall constitute the "DEBTOR" and shall have the address specified in the first paragraph of this Instrument and the Lender shall constitute the "SECURITY PARTY" and shall have the address specified in the first paragraph of this Instrument.

SECTION 14. LEASES OF THE PROPERTY. Borrower shall comply with and observe Borrower's obligations as landlord under all leases of the Property or any part thereof. Borrower will not lease any portion of the Property for any use contrary to the existing character of the Property except with the prior written approval of Lender. Borrower may execute or modify, without Lender's prior written consent, any lease of space at the Property now existing or hereafter made which affects less than 10,000 square feet of space at the Property and provided the term of such lease is five years or less (an "EXEMPT LEASE") provided such lease:

(i) is on a standard lease form pre-approved by Lender;

(ii) is at a net effective rent (after taking into account any free rent, construction allowances or other concessions granted by landlord) no less than the current actual rent or fair market rent then prevailing for similar properties and leases in the market area;

(iii) contains rent or other concessions which are legally required or are otherwise customary and reasonable for similar properties and leases in the market area;

(iv) represents a bona fide arm's length transaction;

(v) does not permit any use which would violate any provision of any existing lease or is otherwise inconsistent with the uses and quality of existing tenants;

(vi) is provided to Lender within ten days after execution;

(vii) as modified or amended does not become a lease which fails to satisfy the criteria for an Exempt Lease pursuant to this Section;

(viii) as modified or amended does not materially modify the financial terms of Borrower's standard form of lease or materially reduce the rights and remedies of the Borrower or Lender under said standard lease;

(ix) is subordinate by its terms to this Instrument provided that Lender shall have agreed to provide such tenant with a non-disturbance agreement in form and substance reasonably acceptable to Lender; provides that the tenant thereunder is required to attorney to Lender, such attornment to be effective upon Lender's acquisition of title to the Property; that the tenant agrees to execute such further evidences of attornment as Lender may from time to time request; that the attornment of the tenant shall not be terminated by foreclosure; that in no event shall Lender, as holder of this Instrument or as successor landlord, be liable to the tenant for any act or omission of any prior landlord or for any liability or obligation of any prior landlord occurring prior to the date that Lender or any subsequent owner acquire title to the Property; and that Lender may, at Lender's option, accept or reject such attornment.

Borrower shall be required to obtain Lender's consent, which shall not be unreasonably withheld, for the creation of any lease and subleases at the Property other than an Exempt Lease. The request for approval of each such proposed lease shall be made to Lender in writing and Borrower shall furnish to Lender (and any loan servicer specified from time to time by Lender): (i) such biographical and financial information about the proposed tenant as Lender may reasonably require in conjunction with its review, (ii) a copy of the proposed form of lease, and (iii) a summary of the material terms of such proposed lease (including, without limitation, rental terms and the term of the proposed lease and any options). Lender's failure to approve or disapprove any such lease or sublease within ten (10) Business Days after Lender's receipt of such request shall be deemed to constitute Lender's approval thereof.

As to all leases other than Exempt Leases, Borrower shall not, without the prior written consent of Lender (which shall not be unreasonably withheld), (i) cancel, amend or modify any such lease, (ii) approve any assignment, sublease or underlease of any such lease, or (iii) cancel or modify any guaranty, or release any security deposit or letter of credit constituting security pertaining to any such lease. Lender's failure to approve or disapprove any of the matters described in the preceding sentence within ten (10) Business Days after Lender's receipt of such request shall be deemed to constitute Lender's approval thereof.

Borrower shall promptly send Lender copies of any notices of default received from the tenant under any lease; and will enforce (short of terminating such lease) the performance by the tenant of the tenant's obligations under any lease.

Except for security deposits, no lease, whether an Exempt Lease or otherwise, shall provide for payment of rent more than one month in advance, and Borrower shall not under any circumstances collect any such rent more than one month in advance.

Borrower, at Lender's request, shall furnish Lender with executed copies of all leases hereafter made of all or any part of the Property, and all leases hereafter entered into (other than Exempt Leases) will be in form and substance subject to the approval of Lender. All leases of the Property or a separate agreement in recordable form and substance satisfactory to Lender shall specifically provide that such leases are subordinate to this Instrument; that the tenant attorns to Lender, such attornment to be effective upon Lender's acquisition of title to the Property; that the tenant agrees to execute such further evidences of attornment as Lender may from time to time request; that the attornment of the tenant shall not be terminated by foreclosure; that in no event shall Lender, as holder of this Instrument or as successor landlord, be

liable to the tenant for any act or omission of any prior landlord or for any liability or obligation of any prior landlord occurring prior to the date that Lender or any subsequent owner acquire title to the Property; and that Lender may, at Lender's option, accept or reject such attornment. Notwithstanding the foregoing, Lender agrees to enter into a non-disturbance agreement with any tenant at the Property, which agreement shall be in form and substance and on terms and conditions reasonably acceptable to Lender. Except as otherwise provided in this Section, Borrower shall not, without Lender's written consent, (1) execute, modify, surrender or terminate, either orally or in writing, any lease at the Property now existing or hereafter made of all or any part of the Property, (2) permit an assignment or sublease of a lease, or (3) request or consent to the subordination of any lease of all or any part of the Property to any lien subordinate to this Instrument. Notwithstanding the foregoing and provided that (i) no Event of Default is continuing and (ii) the total occupancy level at the Property remains in excess of 92% (after giving effect to the termination in question), Borrower may, without Lender's consent, terminate a Lease which covers less than 7,000 rentable square feet provided that (i) the tenant under such Lease is in default under such Lease and (ii) Borrower shall give Lender not less than thirty (30) days prior written notice specifying the date on which Borrower will terminate such Lease. If Borrower becomes aware that any tenant proposes to do, or is doing, any act or thing which may give rise to any right of set-off against rent, Borrower shall (i) take such steps as shall be reasonably calculated to prevent the accrual of any right to a set-off against rent, (ii) notify Lender thereof and of the amount of said set-offs, and (iii) within ten days after such accrual, reimburse the tenant who shall have acquired such right to set-off or take such other steps as shall effectively discharge such set-off and as shall assure that rents thereafter due shall continue to be payable without set-off or deduction.

Upon Lender's request, Borrower shall absolutely assign to Lender, by written instrument satisfactory to Lender, all leases now existing or hereafter made of all or any part of the Property and all security deposits made by tenants in connection with such leases of the Property. Upon assignment by Borrower to Lender of any leases of the Property, Lender shall have all of the rights and powers possessed by Borrower prior to such assignment and Lender shall have the right to modify, extend or terminate such existing leases and to execute new leases, in Lender's sole discretion.

SECTION 15. TRANSFERS OF THE PROPERTY OR BENEFICIAL INTERESTS IN BORROWER.

(a) As used in this Section 15 and elsewhere in this Instrument, the following capitalized terms shall have the respective meanings set forth below:

(i) "CONTROL": with respect to any Person, either (i) ownership directly or indirectly of 49% or more of all equity interests in such Person or (ii) the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such Person, through the ownership of voting securities, by contract or otherwise.

(ii) "Key Principals": Acadia Realty Limited Partnership, a Delaware limited partnership, and Acadia Realty Trust, a Maryland real estate investment trust,

(iii) "PERMITTED ENCUMBRANCES": (i) the liens created by the Loan Documents, (ii) all liens and other matters disclosed in Lender's title insurance policy, (iii) liens, if any, for Taxes not yet due and payable and not delinquent and (iv) any workers', mechanics' or other similar liens on the Property provided that any such Lien is bonded or discharged within 30 days after Borrower first receives notice of such lien and (v) such other title and survey exceptions as Lender approves in writing in Lender's discretion.

(iv) "Permitted Transfers": (i) a Lease entered into in accordance with the Loan Documents, (ii) a Permitted Encumbrance, (iii) a Transfer and Assumption, (iv) provided that no Event of Default shall then exist, (1) a Transfer of an indirect interest in Borrower other than the membership interest held by Acadia Realty Limited Partnership (the "SOLE MEMBER"), (2) a Transfer of publicly traded shares in Acadia Realty Trust or (3) a Transfer of an interest in the Sole Member to any Person, in either case, provided that (A) such Transfer shall not (x) cause the transferee (other than any Key Principal), together with its Affiliates, to acquire Control of Borrower or the Sole Member or to increase its direct or indirect interest in Borrower or in the Sole Member to an amount which equals or exceeds 49% or (y) result in Borrower or the Sole Member no longer being Controlled by any Key Principal, (B) after giving effect to such Transfer, Key Principals (in the aggregate) shall continue to own at least 51% of all equity interests (direct or indirect) in Borrower, (C) Borrower shall give Lender notice of such Transfer together with copies of all instruments effecting such Transfer not less than 10 days prior to the date of such Transfer, and (D) the legal and financial structure of Borrower and its members and the single purpose nature and bankruptcy remoteness of Borrower and its members after such Transfer, shall satisfy Lender's then current applicable underwriting criteria and requirements, (v) provided that no Event of Default shall then exist, a Transfer of a direct or indirect interest in Borrower or Sole Member that occurs by devise or bequest or by operation of law upon the death of a natural person that was the holder of such interest to a member of the immediate family of such interest holder or a trust established for the benefit of such immediate family member, provided that (A) no such Transfer shall result in a change of the day to day operations of the Property, (B) Borrower shall give Lender notice of such Transfer together with copies of all instruments effecting such Transfer not less than 20 days after the date of such Transfer, (C) the legal and financial structure of Borrower and Sole Member, and the single purpose nature and bankruptcy remoteness of Borrower and Sole Member after such Transfer, shall satisfy Lender's then current applicable underwriting criteria and requirements, (D) if any such Transfer would result in a change of Control of Borrower or Sole Member and occurs prior to the occurrence of a Secondary Market Transaction, such Transfer is approved by Lender in writing within 30 Business Days after any such Transfer, and (E) if any such Transfer would result in a change of Control of Borrower or Sole Member and occurs after the occurrence of a Secondary Market Transaction, Borrower, at Borrower's sole cost and expense, shall, within 30 Business Days after any such Transfer, (a) deliver (or cause to be delivered) if required by Lender or any Rating Agency a Rating Comfort Letter to Lender, (b) obtain the prior written consent of Lender which shall not be unreasonably withheld and (c) reimburse Lender for all reasonable expenses incurred by Lender in connection with such Transfer, or (vi) provided that no Event of Default shall then exist, a Transfer of a direct or indirect interest in Borrower or Sole Member to any Person (other than any Key Principal) (the "New Sponsor"), pursuant to which, after giving effect to such Transfer, the New Sponsor, together with its Affiliates, acquires Control of Borrower or the Sole Member or holds a direct or indirect interest in Borrower or in Sole Member in an amount equaling or exceeding 49% provided that (A) Lender consents to such Transfer, which consent shall not be unreasonably

withheld, (B) Borrower delivers to Lender evidence reasonably satisfactory to Lender showing that, after giving effect to such Transfer, Borrower and Sole Member remain in full compliance with Section 29 hereof, as the provisions thereof may be modified by Lender taking into account the ownership structure of New Sponsor and its Affiliates, (C) if the Loan (as defined in Section 32(e) hereof), by itself or together with other loans, has been the subject of a Secondary Market Transaction, then Lender shall have received a Rating Comfort Letter from the applicable Rating Agencies, (D) if the Loan has not been the subject of a Secondary Market Transaction, then Lender shall have determined in its reasonable discretion (taking into consideration such factors as Lender may determine, including the attributes of the loan pool in which the Loan might reasonably be expected to be securitized) that no rating for any securities that would be issued in connection with such securitization will be diminished, qualified, or withheld by reason of such Transfer to New Sponsor, (E) the identity, experience, and financial condition of the New Sponsor shall be satisfactory to Lender in its reasonable discretion, (F) a replacement guarantor(s) (the identity, experience and financial condition of which shall be satisfactory to Lender in its reasonable discretion) shall execute and deliver to Lender any and all documents reasonably required by Lender, in form and substance reasonably required by Lender, in Lender's sole discretion, after which Guarantor shall be released from all liabilities and obligations under the Guaranty, and (G) counsel to New Sponsor and replacement guarantor(s) shall deliver to Lender opinions in form and substance satisfactory to Lender as to such matters as Lender shall reasonably require, which may include opinions as to substantially the same matters as were required in connection with the origination of the Loan.

(v) "PERSON": any individual, corporation, partnership, limited liability company, joint venture, estate, trust, unincorporated association, any other person or entity, and any federal, state, county or municipal government or any bureau, department or agency thereof and any fiduciary acting in such capacity on behalf of any of the foregoing.

(vi) "RATING AGENCY": each of Standard & Poor's Ratings Services, a division of The McGraw-Hill Companies, Inc. ("S&P"), Moody's Investors Service, Inc. ("MOODY'S"), and Fitch IBCA Duff & Phelps ("Fitch") or any other nationally-recognized statistical rating organization to the extent any of the foregoing have been engaged by Lender or its designee in connection with or in anticipation of any Secondary Market Transaction.

(vii) "RATING COMFORT LETTER": a letter issued by each of the applicable Rating Agencies which confirms that the taking of the action referenced to therein will not result in any qualification, withdrawal or downgrading of any existing ratings of Securities created in a Secondary Market Transaction.

(viii) "SECONDARY MARKET TRANSACTION": any of (i) the sale, assignment, or other transfer of all or any portion of the loan evidenced by the Note and this Instrument or the Loan Documents or any interest therein to one or more investors, (ii) the sale, assignment, or other transfer of one or more participation interests in the loan evidenced by the Note and this Instrument or Loan Documents to one or more investors, or (iii) the transfer or deposit of all or any portion of the loan evidenced by the Note and this Instrument or Loan Documents to or with one or more trusts or other entities which may sell certificates or other instruments to investors evidencing an ownership interest in the assets of such trust or the right to receive income or proceeds therefrom.

(ix) "TRANSFER": any sale, conveyance, transfer, lease or assignment, or the entry into any agreement to sell, convey, transfer, lease or assign, whether by law or otherwise, of, on, in or affecting (i) all or part of the Property (including any legal or beneficial direct or indirect interest therein), (ii) any direct or indirect interest in Borrower (including any profit interest), or (iii) any direct or indirect interest in the Sole Member.

(x) "TRANSFER AND ASSUMPTION": is defined in paragraph (c) of this Section 15.

(b) Borrower shall not directly or indirectly make, suffer or permit the occurrence of any Transfer other than a Permitted Transfer.

(c) Notwithstanding the foregoing, Borrower shall have a one-time right to Transfer the Property to another party (the "TRANSFeree BORROWER") and have the Transferee Borrower assume all of Borrower's obligations under the Loan Documents, and have replacement guarantors and indemnitors assume all of the obligations of the indemnitors and guarantors of the Loan Documents (collectively, a "TRANSFER AND ASSUMPTION"). Borrower may make a written application to Lender for Lender's consent to the Transfer and Assumption, subject to the conditions set forth in subparagraphs (i) and (ii) of this paragraph (c). Together with such written application, Borrower will pay to Lender the reasonable review fee then required by Lender. Borrower also shall pay on demand all of the reasonable costs and expenses incurred by Lender, including reasonable attorneys' fees and expenses, and including the fees and expenses of Rating Agencies and other outside entities, in connection with considering any proposed Transfer and Assumption, whether or not the same is permitted or occurs.

(i) Lender's consent, which may be withheld in Lender's reasonable discretion, to a Transfer and Assumption shall be subject to the following conditions:

(2) Borrower has submitted to Lender true, correct and complete copies of any and all information and documents of any kind reasonably requested by Lender concerning the Property, Transferee Borrower, replacement guarantors and indemnitors and Borrower;

(3) Evidence reasonably satisfactory to Lender has been provided showing that the Transferee Borrower and such of its Affiliates as shall be designated by Lender comply and will comply with Section 29 hereof, as those provisions may be modified by Lender taking into account the ownership structure of Transferee Borrower and its Affiliates;

(4) if the Loan (as defined in Section 32(e) hereof), by itself or together with other loans, has been the subject of a Secondary Market Transaction, then Lender shall have received a Rating Comfort Letter from the applicable Rating Agencies;

(1)

No Event of Default has occurred and is continuing;

(5) If the Loan has not been the subject of a Secondary Market Transaction, then Lender shall have determined in its reasonable discretion (taking into consideration such factors as Lender may determine, including the attributes of the loan pool in which the Loan might reasonably be expected to be securitized) that no rating for any securities that would be issued in connection with such securitization will be diminished, qualified, or withheld by reason of the Transfer and Assumption;

(6) Borrower shall have paid all of Lender's reasonable costs and expenses in connection with considering the Transfer and Assumption, and shall have paid the amount reasonably requested by Lender as a deposit against Lender's costs and expenses in connection with effecting the Transfer and Assumption;

(7) Borrower, the Transferee Borrower, and the replacement guarantors and indemnitors shall have indicated in writing in form and substance reasonably satisfactory to Lender their readiness and ability to satisfy the conditions set forth in subsection (ii) below; and

(8) The identity, experience, and financial condition of the Transferee Borrower and the replacement guarantors and indemnitors shall be satisfactory to Lender in its reasonable discretion.

(ii) If Lender consents to the Transfer and Assumption, the Transferee Borrower and/or Borrower as the case may be, shall immediately deliver the following to Lender:

(1) Borrower shall deliver to Lender an assumption fee in the amount of 1.00% of the then unpaid Principal;

(2) Borrower, Transferee Borrower and the original and replacement guarantors and indemnitors shall execute and deliver to Lender any and all documents reasonably required by Lender, in form and substance reasonably required by Lender, in Lender's sole discretion;

(3) Counsel to the Transferee Borrower and replacement guarantors and indemnitors shall deliver to Lender opinions in form and substance satisfactory to Lender as to such matters as Lender shall reasonably require, which may include opinions as to substantially the same matters as were required in connection with the origination of the Loan;

(4) Borrower shall cause to be delivered to Lender, an endorsement (relating to the change in the identity of the vestee and execution and delivery of the Transfer and Assumption documents) to Lender's title insurance policy in form and substance acceptable to Lender, in Lender's reasonable discretion (the "ENDORSEMENT"); and

(5) Borrower shall deliver to Lender a payment in the amount of all remaining unpaid costs incurred by Lender in connection with the Transfer and Assumption, including but not limited to, Lender's reasonable attorneys fees and expenses, all recording fees, and all fees payable to the title company for the delivery to Lender of the Endorsement.

SECTION 16. FURTHER ENCUMBRANCES. Except only for the liens and security interests in favor of Lender under this Instrument and the other Loan Documents, without Lender's prior written consent, which Lender may withhold in its sole discretion, Borrower shall not execute, cause, allow or suffer any mortgage, deed of trust, deed to secure debt, assignment of leases or rents, statutory lien, mechanic's lien or other similar involuntary lien (with respect to any such statutory lien, mechanic's lien or other similar involuntary lien, unless such lien is bonded or discharged within 30 days after Borrower first receives notice of such lien), irrespective of its priority, to encumber all or any portion of the Property or the leases, rents or profits thereof, or any interest in any of the foregoing.

SECTION 17. GENE INDEMNITY. In addition to any other indemnification obligation set forth elsewhere in the Loan Documents, Borrower shall, at its sole cost and expense, protect, defend, indemnify, release and hold harmless the Lender and its shareholders, directors, officers, agents, employees, contractors, attorneys, servicers, and successors and assigns (the "IIIDEMNILED PARTIES") from and against any and all claims, suits, liabilities (including, without limitation, strict liabilities), actions, proceedings, obligations, debts, damages, losses, costs, expenses, diminutions in value, fines, penalties, charges, fees, expenses, judgments, awards, amounts paid in settlement, or punitive damages, of whatever kind or nature (including, but not limited to attorneys' fees and other costs of defense) (the "LOSSES") imposed upon or incurred by or asserted against any Indemnified Parties and directly or indirectly arising out of or in any way relating to any one or more of the following (but excluding Losses arising out of Lender's gross negligence or willful misconduct): (a) ownership of this Instrument or any of the Loan Documents, or ownership of the Property or any interest therein, or demand for or receipt of any Rents; (b) any amendment to, or restructuring of, any of the Loan Documents or the obligations evidenced or secured thereby; (c) any and all lawful action that may be taken by Lender in connection with the enforcement of the provisions of any of the Loan Documents, whether or not suit is filed in connection with same, or in connection with Borrower, any guarantor or indemnitor and/or any member, partner, joint venturer or shareholder thereof becoming a party to a voluntary or involuntary federal or state bankruptcy, insolvency or similar proceeding; (d) any accident, injury to or death of persons or loss of or damage to property occurring in, on or about the Property or any part thereof or on the adjoining sidewalks, curbs, adjacent property or adjacent parking areas, streets or ways; (e) any use, nonuse or condition in, on or about the Property or any part thereof or on the adjoining sidewalks, curbs, adjacent property or adjacent parking areas, streets or ways; (f) any failure on the part of Borrower to perform or be in compliance with any of the terms of any of the Loan Documents; (g) performance of any labor or services or the furnishing of any materials or other property in respect of the Property or any part thereof; (h) the failure of any person to file timely with the Internal Revenue Service an accurate Form 1099-B, Statement for Recipients of Proceeds from Real Estate, Broker and Barter Exchange Transactions, which may be required in connection with this Instrument, or to supply a copy thereof in a timely fashion to the recipient of the proceeds of the transaction in connection with which this Instrument is made; (i) any failure of the Property to be in

compliance with any applicable laws; (j) the enforcement by any Indemnified Party of the provisions of this Section; (k) any and all claims and demands whatsoever which may be asserted against Lender by reason of any alleged obligations or undertakings on its part to perform or discharge any of the terms, covenants, or agreements contained in any Lease; (l) the payment of any commission, charge or brokerage fee to anyone which may be payable in connection with the funding of the loan evidenced by the Note; or (m) any misrepresentation made by Borrower in any of the Loan Documents. Any amounts payable to any Indemnified Party by reason of the application of this Section shall become immediately due and payable upon demand and shall bear interest at rate then applicable to principal outstanding under the Note.

SECTION 18. ASSIGNMENT OF RENTS; APPOINTMENT OF RECEIVER; LENDER IN POSSESSION. As part of the consideration for the indebtedness evidenced by the Note, Borrower hereby absolutely and unconditionally assigns and transfers to Lender all the rents and revenues of the Property, including those now due, past due, or to become due by virtue of any lease or other agreement for the occupancy or use of all or any part of the Property, regardless of to whom the rents and revenues of the Property are payable. Borrower hereby authorizes Lender or Lender's agents to collect the aforesaid rents and revenues and hereby directs each tenant of the Property to pay such rents to Lender or Lender's agents; provided, however, that prior to written notice given by Lender to Borrower of an Event of Default, Borrower shall collect and receive all rents and revenues of the Property as trustee for the benefit of Lender and Borrower, to apply the rents and revenues so collected to the sums secured by this Instrument in any order determined by Lender, so long as no such Event of Default has occurred, to the account of Borrower, it being intended by Borrower and Lender that this assignment of rents constitutes an absolute assignment and not an assignment for additional security only. Upon delivery of written notice by Lender to Borrower of an Event of Default, and without the necessity of Lender entering upon and taking and maintaining full control of the Property in person, by agent or by a court-appointed receiver, Lender shall immediately be entitled to possession of all rents and revenues of the Property as specified in this Section as the same become due and payable, including, but not limited to, rents then due and unpaid, and all such rents shall immediately upon delivery of such notice and during the continuance of such Event(s) of Default be held by Borrower as trustee for the benefit of Lender only; provided, however, that the written notice by Lender to Borrower of such Event(s) of Default shall contain a statement that Lender exercises its rights to such rents. Borrower agrees that commencing upon delivery of such written notice of Borrower's breach by Lender to Borrower, each tenant of the Property shall make such rents payable to and pay such rents to Lender or Lender's agents on Lender's written demand to any tenant therefor, delivered to such tenant personally, by mail or by delivering such demand to the tenant at its location in the Property, without any liability on the part of said tenant to inquire further as to the existence of" a default by Borrower. Borrower hereby covenants that Borrower has not executed any prior assignment of said rents, that Borrower has not performed, and will not perform, any acts or has not executed, and will not execute, any instrument which would prevent Lender from exercising its rights under this Section, and that at the time of execution of this Instrument there has been no anticipation or prepayment of any of the rents of the Property for more than one month prior to the due dates of such rents. Borrower covenants that Borrower will not hereafter collect or accept payment of any rents of the Property more than one month prior to the due dates of such rents. Borrower further covenants that Borrower will execute and deliver to Lender such further assignments of rents and revenues of the Property as Lender may from time to time request.

Upon an Event of Default, or upon Borrower's breach of any material covenant of Borrower as landlord or lessor under any lease beyond applicable notice and cure periods, Lender shall be entitled to the appointment of a receiver for the Property, without notice to Borrower or any other person or entity and Lender may in person, -by agent or by a courtappointed receiver, regardless of the adequacy of Lender's security, enter upon and take and maintain full control of the Property in order to perform all acts necessary and appropriate for the operation and maintenance thereof including, but not limited to, the execution, cancellation or modification of leases, the collection of all rents and revenues of the Property, the enforcement or fulfillment of any terms, condition or provision of any lease, the making of repairs to the Property and the execution or termination of contracts providing for the management or maintenance of the Property, all on such terms as are deemed best to protect the security of this Instrument. In the event Lender elects to seek the appointment of a receiver for the Property upon Borrower's breach of any covenant or agreement of Borrower in this Instrument, Borrower hereby expressly consents to the appointment of such receiver. Lender or the receiver shall be entitled to receive a reasonable fee for so managing the Property.

All rents and revenues collected subsequent to delivery of written notice by Lender to Borrower that an Event of Default has occurred and during the continuance of such Event of Default shall be applied first to the costs, if any, of taking control of and managing the Property and collecting the rents, including, but not limited to, attorney's fees, receiver's fees, premiums on receiver's bonds, costs of repairs to the Property, premiums on insurance policies, Taxes, and the costs of discharging any obligation or liability of Borrower as lessor or landlord of the Property and then to the sums secured by this Instrument. Lender or the receiver shall have access to the books and records used in the operation and maintenance of the Property and shall be liable to account only for those rents actually received. Other than for Lender's gross negligence or willful misconduct under this Section, Lender shall not be liable to Borrower, anyone claiming under or through Borrower or anyone having an interest in the Property by reason of anything done or left undone by Lender under this Section.

If the rents of the Property are not sufficient to meet the costs, if any, of taking control of and managing the Property and collecting the rents, any funds expended by Lender for such purposes shall become indebtedness of Borrower to Lender secured by this Instrument pursuant to Section 8 hereof. Unless Lender and Borrower agree in writing to other terms of payment, such amounts shall be payable upon notice from Lender to Borrower requesting payment thereof and shall bear interest from the date of disbursement at the rate stated in the Note unless payment of interest at such rate would be contrary to applicable law, in which event such amounts shall bear interest at the highest rate which may be collected from Borrower under applicable law.

Any entering upon and taking and maintaining of control of the Property by Lender or the receiver and any application of rents as provided herein shall not cure or waive any default hereunder or invalidate any other right or remedy of Lender under applicable law or provided herein. This assignment of rents of the Property shall terminate at such time as this Instrument ceases to secure indebtedness held by Lender.

SECTION 1.9. DEFAULTS; ACCELE TI No REMEDIES. Each of the following shall constitute an "Event of Default" under this Instrument:

(a) Any failure of Borrower to pay any money as and when due under the Note or under any of the other Loan Documents;

(b) Any breach of Sections 5, 15, 16, or 29 of this Instrument, or the Environmental Indemnity Agreement;

(c) Other than as specified in items (a) or (b) above, any breach of any covenant, representation, warranty, or other obligation of Borrower or any guarantor or indemnitor under the Note, this Instrument, or any of the other Loan Documents, which breach is not completely cured on or before the 30th day after notice of the same from Lender to Borrower; provided however that if the default is capable of cure but with diligence cannot be cured within such period of 30 days, and if Borrower shall have given Lender evidence satisfactory to Lender that Borrower has commenced the cure within 10 days after the first notice of default and at all times after such commencement has pursued such cure diligently, then such period shall be extended for so long as is reasonably necessary, but in no event beyond the 60th day after the original notice of default.

If Lender shall have the right to exercise any of its remedies by reason of any default as to which there is no grace period or by reason of expiration of any grace period without cure of any applicable default, then there shall be no requirement of notice and time to cure for any other or subsequent default.

Upon the occurrence and during the continuance of any Event of Default, Lender may, at Lender's option, declare all of the sums secured by this Instrument to be immediately due and payable without further demand, and may exercise any and all remedies permitted hereunder, under any of the Loan Documents, or pursuant to applicable law. Without limitation of the foregoing, Lender may invoke the power of sale granted herein. Borrower acknowledges that the power of sale herein granted may be exercised by Lender without prior judicial hearing. Borrower has the right to bring an action to assert the non-existence of a breach or any other defense of Borrower to acceleration and sale. Lender shall be entitled to collect from Borrower all costs and expenses incurred in pursuing such remedies, including, but not limited to, reasonable attorney's fees and costs of environmental reports, appraisals, documentary evidence, abstracts, and title reports.

Any deed delivered to the purchaser at any sale pursuant hereto may be without any covenant or warranty, expressed or implied. The recitals in the deed shall be prima facie evidence of the truth of the statements made therein. The proceeds of the sale shall be applied in the following order: (a) to all costs and expenses of the sale, including, but not limited to, fees for any foreclosure services, attorney's fees and costs of title evidence; (b) to all sums secured by this Instrument in such order as Lender, in Lender's sole discretion, directs; and (c) the excess, if any, to the person or persons legally entitled thereto.

SECTION 20. ACCELERATION IN CASE OF BORROWER'S INSOLVENCY. If Borrower shall voluntarily file a petition under Title 11 of the U.S. Code (the "Act"), as such Act may from time to time be amended, or under any similar or successor

Federal statute relating to bankruptcy, insolvency, arrangements or reorganizations, or under any state bankruptcy or insolvency act, or file an answer in any involuntary proceeding admitting insolvency or inability to pay debts, or if Borrower shall fail to obtain a vacation of involuntary proceedings brought for the reorganization, dissolution or liquidation of Borrower, within 120 days of the filing of such involuntary proceeding, or if Borrower shall be adjudged a bankrupt, or if a trustee or receiver shall be appointed for Borrower or Borrower's property, or if the Property shall become subject to the jurisdiction of a Federal bankruptcy court or similar state court, or if Borrower shall make an assignment for the benefit of Borrower's creditors, or if there is an attachment, execution or other judicial seizure of any portion of Borrower's assets and such seizure is not discharged within 10 days, then Lender may, at Lender's option, declare all of the sums secured by this Instrument to be immediately due and payable without prior notice to Borrower, and Lender may invoke any remedies permitted or provided for herein or in any of the Loan Documents or pursuant to applicable law. Any attorney's fees and other expenses incurred by Lender in connection with Borrower's bankruptcy or any of the other aforesaid events shall be additional indebtedness of Borrower secured by this Instrument pursuant to Section 8 hereof.

SECTION 21. REMEDIES CUMULATIVE. Each remedy provided in this Instrument is distinct and cumulative to all other rights or remedies under this instrument or afforded by law or equity, and may be exercised concurrently, independently, or successively, in any order whatsoever.

SECTION 22. WAIVER OF STATUTE OF LIMITATIONS. Borrower hereby waives the right to assert any statute of limitations as a bar to the enforcement of the lien of this Instrument or to any action brought to enforce the Note or any other obligation secured by this Instrument.

SECTION 23. WAIVER OF MARSHALLING. Notwithstanding the existence of any other security interest in the Property held by Lender or by any other party, Lender shall have the right to determine the order in which any or all of the Property shall be subjected to the remedies provided herein. Lender shall have the right to determine the order in which any or all portions of the indebtedness secured hereby are satisfied from the proceeds realized upon the exercise of the remedies provided herein. Borrower, any party who consents to this Instrument and any party who now or hereafter acquires a security interest in the Property and who has actual or constructive notice hereof hereby waives any and all right to require the marshalling of assets in connection with the exercise of any of the remedies permitted by applicable law or provided herein.

SECTION 24. RELEASE. Upon payment of all sums secured by this Instrument, Lender shall release this Instrument. Borrower shall pay Lender \$100 for the release of this Instrument.

SECTION 25. CASH MANAGEMENT ARRANGEMENTS.

(a) As used in this Section 25 and elsewhere in this Instrument and the other Loan Documents, the following capitalized terms shall have the respective meanings set forth below:

"Approved Capital Expenses": Capital Expenses incurred by Borrower; provided, that, during a Cash Management Period, such Capital Expenses shall either be (i) included in the Approved Capital Budget (as defined in Section 28(h) hereof) for the current calendar month or (ii) approved by Lender.

"Approved Leasing Expenses": actual out-of-pocket expenses incurred by Borrower and payable to third parties (including Affiliates of Borrower or Guarantor, provided that, such expenses payable to Affiliates of Borrower or Guarantor shall satisfy the conditions set forth below) in leasing space at the Property pursuant to Leases entered into in accordance with the Loan Documents, including brokerage commissions and tenant improvements, which expenses (i) are (A) specifically approved by Lender in connection with approving the applicable Lease, (B) incurred in the ordinary course of business and on market terms and conditions in connection with Leases which do not require Lender's approval under the Loan Documents, or (C) otherwise approved by Lender, which approval shall not be unreasonably withheld or delayed, and (ii) are substantiated by executed Lease documents and brokerage agreements.

"APPROVED OPERATING EXPENSES": during a Cash Management Period, operating expenses incurred by Borrower which (i) are included in the Approved Operating Budget (as defined in Section 28(h) hereof) for the current calendar month, (ii) are for real estate taxes, insurance premiums, electric, gas, oil, water, sewer or other utility service to the Property or (iii) have been approved by Lender.

"AVAILABLE CASH": as of each Payment Date during the continuance of Cash Management Period, the amount of Rents, if any, remaining in the Deposit Account after the application of all of the payments required under clauses (i) through (vi) of paragraph (1) of this Section 25.

"BUSINESS DAY": any day other than a Saturday, Sunday or any day on which commercial banks in New York, New York are authorized or required to close.

"CALCULATION DATE": the last day of each calendar quarter.

"CASH MANAGEMENT PERIOD": shall commence upon Lender giving notice to the Clearing Bank of the occurrence of any of the following: (i) the Maturity Date, (ii) an Event of Default, (iii) if, as of any Calculation Date, the Debt Service Coverage Ratio is less than 1.10:1 (A "DSCR CASH MANAGEMENT PERIOD'), or (iv) the commencement of a Rollover Sweep Period; and shall end upon Lender giving notice to the Clearing Bank that the sweeping of funds into the Deposit Account may cease, which notice Lender shall only be required to give if (1) the Loan and all other obligations under the Loan Documents have been repaid in full or (2) the Maturity Date has not occurred and (A) with respect for the matters described in clause (ii) above, such Event of Default has been cured and no other Event of Default has occurred and is continuing or (B) with respect to the matter described in clause (iii) above, Lender has determined that the Property has achieved a Debt Service Coverage Ratio of at least 1.10:1 for two consecutive Calculation Dates or (C) with respect to the matter described in clause (iv) above, the subject Rollover Sweep Period has ended.

"GEARING ACCOUNT": the account maintained by Borrower at the Clearing Bank as more fully described in the Clearing Account Agreement.

"Debt": the unpaid Principal, all interest accrued and unpaid thereon, any Prepayment Consideration (as defined in the Note) and all other sums due to Lender in respect of the loan evidenced by the Note and this Instrument or under any Loan Document.

"DEBT SERVICE": with respect to any particular period, the scheduled principal and interest payments due under the Note in such period.

"DEBT SERVICE COVERAGE RATIO": as of any date, the ratio calculated by Lender of (i) the Net Operating Income for the 12-month period ending with the most recently completed calendar month to (ii) the Debt Service with respect to such period (but assuming, only for the purpose of calculating the Debt Service Coverage Ratio, that the Amortization Commencement Date (as defined in the Note) has already occurred).

"DEFAULT RATE": the rate of five percent per annum in excess of the rate provided in the first paragraph of the Note, or, if such increased rate of interest may not be collected from Borrower under applicable law, then at the maximum increased rate of interest which may be collected from Borrower under applicable law, if either (a) any installment under the Note or any other amount owing thereunder or under any of the other Loan Documents is not received by the holder hereof within five calendar days after the same is due, or (b) any other Event of Default occurs, in each case, only while such installment remains past due or such other Event of Default remains uncured.

"DEPOSIT ACCOUNT": an Eligible Account at the Deposit Bank controlled by Lender.

"DEPOSIT BANK": Wachovia Bank, National Association, or such other bank or depository selected by Lender in its discretion.

"ELIGIBLE INSTITUTION": A depository institution insured by the Federal Deposit Insurance Corporation the short term unsecured debt obligations or commercial paper of which are rated at least A-1 by S&P, P--1 by Moody's and F-1+ by Fitch. In the case of accounts in which funds are held for thirty (30) days or less or, in the case of letters of credit or accounts in which funds are held for more than thirty (30) days, the long term unsecured debt obligations of which are rated at least "AA" by Fitch and S&P and "Aa2" by Moody's.

"INTEREST PERIOD": (i) the period from the date hereof through the first day thereafter that is the 5th day of a calendar month and (ii) each period thereafter from the 6th day of each calendar month through the 5th day of the following calendar month; except that the Interest Period, if any, that would otherwise commence before and end after the Maturity Date shall end on the Maturity Date.

"GOVERNMENTAL AUTHORITY": any court, board, agency, commission, office or authority of any nature whatsoever for any governmental unit (federal, state, county, district, municipal, city or otherwise) now or hereafter in existence.

"LEGAL REQUIREMENTS": statutes, laws, rules, orders, regulations, ordinances, judgments, decrees and injunctions of Governmental Authorities affecting Borrower, any Loan Document or all or part of the Property or the construction, ownership, use, alteration or operation thereof, whether now or hereafter enacted and in force, and all permits, licenses and authorizations and regulations relating thereto, and all covenants, agreements, restrictions and encumbrances contained in any instrument, either of record or known to Borrower, at any time in force affecting all or part of the Property.

"MAJOR LEASE": (i) that certain Lease between Topps of Brockton, Inc., as landlord, and Stop & Shop, Inc., as tenant, dated as of May 10, 1966, as amended by letter agreements dated May 24, 1966, February 3, 1970, February 22, 1973 and June 7, 1983, as amended by that certain Amendment of Lease dated January 31, 1996, as amended by letter agreements dated March 19, 1986, March 31, 1986, May 6, 1993 and May 28, 1993, as amended by that certain 1993 Amendment of Lease dated April 30, 1993, as assigned by Stop & Shop, Inc. to Bradlees New England, Inc. ("BRADLEES") by that certain Assignment of Lease dated June 7, 1988 and by that certain Assignment and Assumption dated June 17, 1988, as assigned by Bradlees to Home Depot U.S.A. Inc. ("HOME DEPOT TENANT") by that certain Assignment of Lease effective March 16, 2001, as amended by that certain Amendment of Lease between Acadia Realty Limited partnership (successor-in-interest to Topps of Brockton, Inc.) and Home Depot Tenant dated as of May 7, 2002 (as further amended, modified or assigned) and (ii) that certain Lease for Supermarket Premises Located on Crescent Street (Route 27) Brockton, Massachusetts between Shaw's Supermarkets, Inc. ("SHA)VS TENANT"), as tenant, and Marvin L. Slomowitz, as landlord, dated as of March 19, 1986, as amended by that certain First Amendment of Lease dated as of October 20, 1987 (as further amended, modified or assigned).

"MAJOR TENANT": any tenant under a Major Lease.

"NET OPERATING INCOME": for any period, the actual net operating income of the Property determined on a cash basis of accounting, after deducting therefrom deposits to (but not withdrawals from) any reserves required under this Instrument, and without giving credit for (i) non-recurring extraordinary items of income; or (ii) rent payable under leases where the tenant thereunder is not open for business (i.e. "goes dark").

"OFFICER'S CERTIFICATE": a certificate delivered to Lender by Borrower which is signed by a senior executive officer of the Sole Member.

"PAYMENT DATE": the 6th day of each calendar month or, upon Lender's exercise of its right to change the Payment Date in accordance with the terms and conditions of the Note, the New Payment Date (as defined in the Note) (in either case, if such day is not a Business Day, the Payment Date shall be the first Business Day thereafter). The first Payment Date hereunder shall be November 6, 2005.

"PERMITTED INVESTMENTS": any investment suitable for the investment of escrows and reserves established under mortgage loans included in a Securitization in which some or all of the certificates issued are rated "AAA" (or the equivalent rating) by the Rating Agencies, as the standards therefor are established from time to time, or such investments which are otherwise reasonably acceptable to Lender. If the Loan is subject to a Securitization, then the Rating Agencies referred to immediately above shall be the Rating Agencies that have rated the securities issued in such Securitization.

"RENTS": all rents, rent equivalents, moneys payable as damages (including payments by reason of the rejection of a lease in a bankruptcy proceeding) or in lieu of rent or rent equivalents, royalties (including all oil and gas or other mineral royalties and bonuses), income, fees, receivables, receipts, revenues, deposits (including security, utility and other deposits), accounts, cash, issues, profits, charges for services rendered, and other payment and consideration of whatever form or nature received by or paid to or for the account of or benefit of Borrower, Manager or any of their agents or employees from any and all sources arising from or attributable to the Property, including all receivables, customer obligations, installment payment obligations and other obligations now existing or hereafter arising or created out of the sale, lease, sublease, license, concession or other grant of the right of the use and occupancy of the Property or rendering of services by Borrower, Manager or any of their agents or employees and proceeds, if any, from business interruption or other loss of income insurance.

"ROLLOVER SWEEP EVENT": (i) the date that is twelve (12) months prior to the stated expiration (including any renewal term) of a Major Lease (i.e., October 31, 2055 for Home Depot Tenant; December 31, 2041 for Shaw's Tenant); (ii) the date required under a Major Lease by which the applicable Major Tenant is required to give notice of its exercise of a renewal option thereunder (and such renewal has not been so exercised) (i.e. October 31, 2020 for Home Depot Tenant; April 5, 2011 for Shaw's Tenant); (iii) the occurrence of the early termination or early cancellation of a Major Lease; (iv) if any Major Tenant at the Property shall discontinue its business at its premises (i.e., "goes dark") or give notice that it intends to discontinue its business; (v) upon a default under a Major Lease by the Major Tenant thereunder beyond any applicable notice and cure period; or (vi) the bankruptcy or insolvency proceeding of a Major Tenant (and the subject lease has not been affirmed or assumed and assigned).

"ROLLOVER SWEEP PERIOD": shall commence upon the occurrence of a Rollover Sweep Event, and shall end upon the earlier to occur of: (A) the date on which Lender has determined that sufficient funds have been collected in the Rollover Reserve Subaccount to cover the anticipated tenant improvement costs and leasing commissions in connection with the re-tenanting of the space(s) that gave rise to such Rollover Sweep Period; (B) if the portion of the Property which was the subject of the Rollover Sweep Event has been leased to a new tenant pursuant to a Lease entered into in accordance with the provisions of this Instrument (1) the receipt by Lender of evidence reasonably satisfactory to Lender that all Approved Leasing Expenses in connection therewith have been paid in full and (2) the receipt by Lender of an estoppel certificate from such new tenant in which such new tenant certifies that the Lease is in full force and effect, all conditions precedent to the commencement of rent under such Lease have been satisfied, such new tenant has accepted delivery of the demised premises and the payment of rent under such Lease has commenced. Notwithstanding the foregoing, if any Rollover Sweep Period is triggered by the occurrence of (a) an event discussed in clause (v) of the definition of Rollover Sweep Event, such Rollover Sweep Period shall also end if the subject Major Tenant default has been cured and no other Major Tenant default has occurred for a period of six (6) consecutive months following such time or (b) an event described in clause (vi) of the definition of Rollover Sweep Event, such Rollover Sweep Period shall also end upon the assumption of the applicable lease by the tenant thereunder pursuant to Section 365 of the Bankruptcy Code.

(b) CASH MANAGEMENT ARRANGEMENTS. Borrower shall cause all Rents to be transmitted directly by non-residential tenants of the Property into a trust account (the "Clearing Account") maintained by Borrower at a local bank selected by Borrower, which shall at all times be an Eligible Institution (the "CLEARING BANK") as more fully described in the Clearing Account Agreement. Without in any way limiting the foregoing, all Rents received by Borrower or Manager shall be deposited into the Clearing Account within one Business Day of receipt. Funds deposited into the Clearing Account shall be swept by the Clearing Bank on a daily basis into Borrower's operating account at the Clearing Bank, unless a Cash Management Period is continuing, in which event such funds shall be swept on a daily basis into an Eligible Account (as defined in the Deposit Account Agreement) at the Deposit Bank controlled by Lender (the "DEPOSIT ACCOUNT") and applied and disbursed in accordance with this Instrument. Funds in the Deposit Account shall be invested at Lender's discretion only in Permitted Investments. Lender will also establish subaccounts of the Deposit Account which shall at all times be Eligible Accounts (and may be ledger or book entry accounts and not actual accounts) (such subaccounts are referred to herein as "SUBACCOUNTS"). The Deposit Account and any Subaccount will be under the sole control and dominion of Lender, and Borrower shall have no right of withdrawal therefrom. Borrower shall pay for all expenses of opening and maintaining all of the above accounts.

(c) REQUIRED REPAIRS.

(i) COMPLETION OF REQUIRED REPAIRS. Borrower shall perform and complete each item of the repairs and environmental remedial work at the Property described on Schedule 2 (the "REQUIRED REPAIRS") within six (6) months of the date hereof or such shorter period of time for such item set forth on Schedule 2.

(ii) REQUIRED REPAIRS RESERVES. On the date hereof, Borrower shall deposit with Lender the aggregate amount set forth on Schedule 2 as being required to complete the Required Repairs and Lender shall cause such amount to be transferred to a Subaccount (the "REQUIRED REPAIRS SUBACCOUNT"). Provided no Default or Event of Default shall have occurred and is continuing, Lender shall disburse funds held in the Required Repairs Sub account to Borrower, within 15 days after the delivery by Borrower to Lender of a request therefor (but not more often than once per month), in increments of at least \$5,000, accompanied by the following items (which items shall be in form and substance satisfactory to Lender): (i) an Officer's Certificate (A) certifying that the Required Repairs or any portion thereof which are the subject of the requested disbursement have been completed in a good and workmanlike manner and in accordance with all applicable laws, (B) identifying each Person that supplied materials or labor in connection with such Required Repairs or any portion thereof and (C) stating that each such Person has been or, upon receipt of the requested disbursement, will be paid in full with respect to the portion of the Required Repairs which is the subject of the requested disbursement; (ii) copies of appropriate lien waivers or other evidence of payment satisfactory to Lender; (iii) at Lender's option, a title search for the Property indicating that it is free from all liens not previously approved by Lender; (iv) a copy of each license required to be obtained with respect to the portion of the Required Repairs which is the subject of the requested disbursement; and (v) such other evidence as Lender shall reasonably

request that the Required Repairs which are the subject of the requested disbursement have been completed and paid for. Provided no Default or Event of Default shall have occurred and is continuing, upon Borrower's completion of all Required Repairs in accordance with this Section, Lender shall release any funds remaining in the Required Repairs Subaccount, if any, to Borrower.

(d) TAXES AND INSURANCE.

(i) Borrower shall pay to Lender on each Payment Date (1) one-twelfth of the yearly Taxes that Lender estimates will be payable during the next 12 months in order to accumulate with Lender sufficient funds to pay all such Taxes at least 30 days prior to their respective due dates and" (2) one-twelfth of the insurance premiums that Lender estimates will be payable for the renewal of a separate "stand-alone" policy providing the coverage afforded by the insurance policies required under this Instrument upon the expiration thereof in order to accumulate with Lender sufficient funds to pay all such insurance premiums at least 30 days prior to the expiration of the insurance policies. Such amounts will be transferred by Lender to a Subaccount (the "TAX AND INSURANCE SUBACCOUNT"). Provided that no Event of Default has occurred and is continuing, Lender will (a) apply funds in the Tax and Insurance Subaccount to payments of Taxes required to be made by Borrower pursuant to this Instrument, provided that Borrower has promptly supplied Lender with notices of all Taxes due, or (b) reimburse Borrower for payments of (x) Taxes and (y) insurance premiums paid in connection with the purchase of a separate "stand-alone" policy providing the coverage afforded by the insurance policies required under this Instrument upon the expiration thereof, in each case, due upon presentation of evidence acceptable to Lender of such payment by Borrower; subject, however, to Borrower's right to contest Taxes in accordance with this Instrument. In making any payment or reimbursement relating to Taxes and insurance premiums, Lender may do so according to any bill, statement or estimate procured from the appropriate public office (with respect to taxes) or insurer or agent (with respect to insurance premiums), without inquiry into the accuracy of such bill, statement or estimate or into the validity of any tax, assessment, sale, forfeiture, tax lien or title or claim thereof. If Lender determines in its reasonable judgment that the funds in the Tax and Insurance Subaccount will be insufficient to pay (or in excess of) the Taxes or insurance premiums next coming due, Lender may increase (or decrease) the monthly contribution required to be made by Borrower to the Tax and Insurance Subaccount. Notwithstanding the foregoing, so long as any Acceptable Blanket Policy is in effect with respect to any of the policies required pursuant to Section 5 above, payments required under the foregoing clause (2) shall be suspended to the extent that insurance premiums relate to such Acceptable Blardcet Policy(ies).

(ii) Intentionally Deleted.

(e) CAPITAL EXPENSE RESERVES. Borrower shall pay to Lender on each Payment Date an amount initially equal to one-twelfth of the product obtained by multiplying \$0.20 by the aggregate number of rentable square feet of space in the Property. Lender will transfer such amounts into a Subaccount (the "CAPITAL RESERVE SUBACCOUNT"). Provided that no Event of Default has occurred and is continuing, Lender shall disburse funds held in the Capital Reserve Subaccount to Borrower, within 15 days after the delivery by Borrower to Lender of a request therefor (but not more often than once per month), in increments of at least \$5,000 provided that (1) such disbursement is for an Approved Capital

Expense; (ii) Lender shall have (if it desires) verified (by an inspection conducted at Borrower's expense) performance of the work associated with such Approved Capital Expense; and (iii) the request for disbursement is accompanied by (A) an Officer's Certificate certifying (1) that such funds will be used to pay or reimburse Borrower for Approved Capital Expenses and a description thereof, (2) that all outstanding trade payables (other than those to be paid from the requested disbursement or those constituting Permitted Indebtedness) have been paid in full, (3) that the same has not been the subject of a previous disbursement, and (4) that all previous disbursements have been used to pay the previously identified Approved Capital Expenses, and (B) for any such disbursement of more than \$25,000, at Lender's option (which option shall be exercised in Lender's reasonable judgment), a title search for the Property indicating that the Property is free from all Liens, claims and other encumbrances not previously approved by Lender and (C) such other evidence as Lender shall reasonably request that the Approved Capital Expenditures at the Property to be funded by the requested disbursement have been completed and are paid for or will be paid upon such disbursement to Borrower.

(f) ROLLOVER RESERVES. Borrower shall pay to Lender \$3,800 on each Payment Date (the "MONTHLY ROLLOVER PAYMENT"); provided, however, Borrower shall not be required to make any Monthly Rollover Payment on any Payment Date when the balance on deposit in the Rollover Reserve Subaccount is equal to or greater than \$125,000 (excluding any amounts deposited pursuant to the fourth sentence of this subsection (f)). Additionally, if a Rollover Sweep Period has commenced, and no other Cash Management Period is then continuing, then on the immediately succeeding Payment Date and on each Payment Date thereafter during the continuance of such Rollover Sweep Period, all Available Cash shall be paid to Lender. Lender will transfer such amounts into a Subaccount (the "ROLLOVER RESERVE SUBACCOUNT"). Borrower shall also pay to Lender for transfer into the Rollover Reserve Subaccount all payments received from tenants in connection with the early termination or cancellation of any Leases, including fees, penalties and commissions. Provided that no Event of Default has occurred and is continuing, Lender shall disburse funds held in the Rollover Reserve Subaccount to Borrower, within 15 days after the delivery by Borrower to Lender of a request therefor (but not more often than once per month), in increments of at least \$5,000, provided (i) such disbursement is for an Approved Leasing Expense; (ii) Lender shall have (if it desires) verified (by an inspection conducted at Borrower's expense) performance of any construction work associated with such Approved Leasing Expense; and (iii) the request for disbursement is accompanied by (A) an Officer's Certificate certifying (1) that such funds will be used only to pay (or reimburse Borrower for) Approved Leasing Expenses and a description thereof, (2) that all outstanding trade payables (other than those to be paid from the requested disbursement or those constituting Permitted Indebtedness) have been paid in full, (3) that the same has not been the subject of a previous disbursement, and (4) that all previous disbursements have been used only to pay (or reimburse Borrower for) the previously identified Approved Leasing Expenses, and (B) reasonably detailed supporting documentation as to the amount, necessity and purpose therefor. Provided that no Event of Default has occurred and is continuing, the remaining funds in the Rollover Reserve Subaccount (to the extent not drawn upon pursuant to this Section 25(f)) allocable to any specific portion of the commercial space at the Property which is the subject of the Rollover Sweep Event will be disbursed to Borrower within 10 days after written request therefor, provided that Borrower has delivered (i) evidence reasonably satisfactory to Lender that (y) such commercial space has been re-let pursuant to Leases entered into in accordance with this Instrument and (z) all Approved

Leasing Expenses which have been incurred or which Lender anticipates will be incurred with respect to such space have been paid in full and (ii) an estoppel certificate from the applicable tenant occupying such portion of the commercial space at the Property in a form reasonably satisfactory to Lender pursuant to which such tenant certifies to Lender that (1) such tenant has taken occupancy of its demised premises, (2) all of the conditions precedent to such tenant's obligation to commence the payment of rent under its Lease have been satisfied (including Borrower's contribution to the cost of any tenant improvement work) and (3) such tenant has commenced the payment of rent under its Lease.

(g) OPERATING EXPENSE SUBACCOUNT. During a Cash Management Period, Borrower shall pay to Lender on or before each Payment Date the monthly amount set forth in the Approved Operating Budget for the following month as being necessary for payment of Approved Operating Expenses at the Property for such month, which amounts shall be transferred into a Subaccount for the payment of Approved Operating Expenses (the "OPERATING EXPENSE SUBACCOUNT"). Provided no Event of Default has occurred and is continuing, Lender shall disburse funds held in the Operating Expense Subaccount to Borrower, within 15 days after delivery by Borrower to Lender of a request therefor (but not more often than once per month), in increments of at least \$1,000, provided (i) such disbursement is for an Approved Operating Expense; and (ii) such disbursement is accompanied by (A) an Officer's Certificate certifying (1) that such funds will be used to pay Approved Operating Expenses and a description thereof, (2) that all outstanding trade payables (other than those to be paid from the requested disbursement or those constituting Permitted Indebtedness) have been paid in full, (3) that the same has not been the subject of a previous disbursement, and (4) that all previous disbursements have been or will be used to pay the previously identified Approved Operating Expenses, and (B) reasonably detailed documentation' satisfactory to Lender as to the amount, necessity and purpose therefor.

(h) CASUALTY/CONDEMNATION SUBACCOUNT. Borrower shall pay, or cause to be paid, to Lender all insurance proceeds or Awards due to any Casualty or Condemnation which Borrower is required to deposit with Lender to be transferred to a Subaccount (the "CASUALTY/CONDEMNATION SUBACCOUNT") in accordance with the provisions of Sections 5 and 11. All amounts in the Casualty/Condemnation Subaccount shall be disbursed in accordance with the provisions of Sections 5 and 11.

(i) SECURITY DEPOSITS. Borrower shall keep all security deposits under Leases at a separately designated account under Borrower's control at the Clearing Bank (and in the case of a letter of credit, assigned with full power of attorney and executed sight drafts to Lender) so that the security deposits shall not be commingled with any other funds of Borrower (such account, the "SECURITY DEPOSIT ACCOUNT"). Upon the occurrence and during the continuance of an Event of Default, Borrower shall, upon Lender's request, if permitted by applicable Legal Requirements, turn over to Lender the security deposits (and any interest theretofore earned thereon) under Leases, to be held by Lender in a Subaccount (the "SECURITY DEPOSIT SUBACCOUNT") subject to the terms of the Leases. Security deposits held in the Security Deposit Subaccount will be released by Lender upon notice from Borrower together with such evidence as Lender may reasonably request that such security deposit is required to be returned to a tenant pursuant to the terms of a Lease or may be applied as Rent pursuant to the rights of Borrower under the applicable Lease. Any letter of credit or other instrument that Borrower receives in lieu of a cash security

deposit under any Lease entered into after the date hereof shall (i) be maintained in full force and effect in the full amount unless replaced by a cash deposit as hereinabove described and (ii) if permitted pursuant to any Legal Requirements, name Lender as payee or mortgagee thereunder (or at Lender's option, be fully assignable to Lender).

(j) CASH COLLATERAL SUBACCOUNT. If a Cash Management Period shall have commenced, then on the immediately succeeding Payment Date and on each Payment Date thereafter during the continuance of such Cash Management Period, all Available Cash shall be paid to Lender, which amounts shall be transferred by Lender into a Subaccount (the "CASH COLLATERAL SUBACCOUNT") as cash collateral for Borrower's obligations under the Loan Documents. At Lender's option, during the continuance of a Rollover Sweep Period, any funds that have been deposited into the Cash Collateral Subaccount may be transferred by Lender into the Rollover Reserve Subaccount, to be applied and disbursed in accordance with the provisions of Section 25(f) hereof. Any funds in the Cash Collateral Subaccount Account and not previously disbursed or applied shall be disbursed to Borrower upon the termination of such Cash Management Period. Lender shall have the right, but not the obligation, at any time (i) during the continuance of an Event of Default or (ii) subsequent to the second Calculation Date following the commencement of a Cash Management Period (whether or not an Event of Default is then continuing), in its sole and absolute discretion to apply all sums then on deposit in the Cash Collateral Subaccount to Borrower's obligations under the Loan Documents, in such order and in such manner as Lender shall elect in its sole and absolute discretion, including to make a prepayment of principal (together with the Prepayment Consideration (as defined in the Note) applicable thereto). Additionally, Lender shall have the right, but not the obligation, at any time subsequent to the second Calculation Date following the commencement of a DSCR Cash Management Period (whether or not an Event of Default is then continuing), in its sole and absolute discretion to apply all sums then on deposit in the Cash Collateral Subaccount towards a partial Defeasance (as defined in the Note) of the Loan (together with any Defeasance costs associated therewith), and Borrower shall execute such documents and take such other actions necessary to satisfy the Defeasance requirements set forth in Section 3 of the Note.

(k) GRANT OF SECURITY INTEREST; APPLICATION OF FUNDS. As security for payment of the Loan and the performance by Borrower of all other terms, conditions and provisions of the Loan Documents, Borrower hereby pledges and assigns to Lender, and grants to Lender a security interest in, all Borrower's right, title and interest in and to all Rents and in and to all payments to or monies held in the Clearing Account, the Deposit Account, all Subaccounts created pursuant to this Instrument (collectively, the "CASH MANAGEMENT ACCOUNTS"). Borrower hereby grants to Lender a continuing security interest in, and agrees to hold in trust for the benefit of Lender, all Rents in its possession prior to the (i) payment of such Rents to Lender or (ii) deposit of such Rents into the Clearing Account. Borrower shall not, without obtaining the prior written consent of Lender, further pledge, assign or grant any security interest in any Cash Management Account, or permit any lien to attach thereto, or any levy to be made thereon, or any UCC Financing Statements, except those naming Lender as the secured party, to be filed with respect thereto. This Instrument is, among other things, intended by the parties to be a security agreement for purposes of the UCC. Upon the occurrence and during the continuance of an Event of Default, Lender may apply any sums in any Cash Management Account in any order and in any manner as Lender shall elect in Lender's discretion without seeking the appointment of a receiver and without adversely affecting the rights of Lender to foreclose the Lien of the Instrument

or exercise its other rights under the Loan Documents. Cash Management Accounts shall not constitute trust funds and may be commingled with other monies held by Lender. All interest which accrues on the funds in any Cash Management Account (other than the Tax and Insurance Subaccount) shall accrue for the benefit of Borrower and shall be taxable to Borrower and shall be added to and disbursed in the same manner and under the same conditions as the principal sum on which said interest accrued. Upon repayment in full of Borrower's obligations under the Loan Documents, all remaining funds in the Subaccounts, if any, shall be promptly disbursed to Borrower.

(1) PROPERTY CASH FLOW ALLOCATION.

(i) During any Cash Management Period, all Rents deposited into the Deposit Account during the immediately preceding Interest Period shall be applied on each Payment Date as follows in the following order of priority: (i) First, to make payments into the Tax and Insurance Subaccount as required under paragraph (d) of this Section 25; (ii) Second, to pay the monthly portion of the fees charged by the Deposit Bank in accordance with the Deposit Account Agreement; (iii) Third, to Lender to pay the principal and interest due under the Note on such Payment Date (plus, if applicable, interest at the Default Rate and all other amounts, other than those described under other clauses of this paragraph (1) of this Section 25, then due to Lender under the Loan Documents); (iv) Fourth, to make payments into the Capital Reserve Subaccount as required under paragraph (e) of this Section 25; (v) Fifth, to make payments of the Monthly Rollover Payment into the Rollover Reserve Subaccount, as required under paragraph (f) of this Section 25; (vi) Sixth, to make payments for Approved Operating Expenses as required under paragraph (g) of this Section 25; (vii) Seventh, during the continuance of a Rollover Sweep Period (and if no other Cash Management Period is then continuing) to make payments in an amount equal to all remaining Available Cash on such Payment Date into the Rollover Reserve Subaccount as required under paragraph (f) of this Section 25; and (viii) Lastly, during the continuance of a Cash Management Period described in clauses (i), (ii) or (iii) of the defined term "Cash Management Period", to make payments in an amount equal to all remaining Available Cash on such Payment Date into the Cash Collateral Subaccount in accordance with paragraph (j) of this Section 25. Upon the termination of any Cash Management Period, provided no Event of Default is then continuing, any funds in the Operating Expense Subaccount and not previously disbursed or applied shall be fully disbursed to Borrower.

(ii) The failure of Borrower to make all of the payments required under clauses (i) through (viii) of paragraph (i) above in full on each Payment Date shall constitute an Event of Default under this Instrument; provided, however, if adequate funds are available in the Deposit Account for such payments, the failure by the Deposit Bank to allocate such funds into the appropriate Subaccounts shall not constitute an Event of Default. Notwithstanding anything to the contrary contained in this Section 25, after the occurrence and during the continuance of an Event of Default, Lender may apply all Rents deposited into the Deposit Account and other proceeds of repayment in such order and in such manner as Lender shall elect.

SECTION 26. NONRECOURSE LOAN. Subject to the provisions of this Section, and notwithstanding any provision of the Loan Documents other than this Section, the personal liability of Borrower, and of any general partner of Borrower, to pay the principal of and interest on the debt evidenced by the Note and any other agreement evidencing Borrower's obligations under the Note shall be limited to (a) the Collateral, (b) the personal property described in and pledged under any Loan Document other than this Instrument, and (c) the rents, profits, issues, products and income of the Property, including any received or collected by or on behalf of Borrower after an Event of Default.

Except as provided in this Section, Lender shall not seek (a) any judgment for a deficiency against Borrower, any general partner or member of Borrower, or Borrower's successors or assigns, in any action to enforce any right or remedy under the Note, this Instrument or the other Loan Documents, or (b) any judgment on the Note except as may be necessary in any action brought under the Instrument to enforce the lien against the Property or any other Collateral.

Notwithstanding the foregoing, Borrower and any general partner of Borrower shall be fully and personally liable for payment and performance of all obligations set forth in the Loan Documents, including the payment of all principal, interest, and other amounts under the Note, in the event of (i) the occurrence of an uncured default under Sections 15, 16 or 29 of this Instrument, or (ii) the occurrence of any condition or event described in Section 20 (except that in the event of involuntary proceedings described therein, neither Borrower nor any general partner of Borrower shall be fully and personally liable under this Section 26 unless either Borrower or any general partner of Borrower or any Person owning an interest (directly or indirectly) in Borrower or any general partner of Borrower consents to, aids, solicits, supports, or otherwise cooperates or colludes to cause such event or fails to contest such event).

Further, Borrower and any general partner of Borrower shall be personally liable in the amount of any loss, damage or cost resulting from (a) fraud or intentional misrepresentation by Borrower in connection with obtaining the loan evidenced by the Note, (b) insurance proceeds, condemnation awards, or other sums or payments attributable to the Property not applied in accordance with the provisions of the Loan Documents (except to the extent that Borrower did not have the legal right, because of a bankruptcy, receivership or similar judicial proceeding, to direct disbursement of such sums or payments), (c) all rents, profits, issues, products and income of the Property received or collected by or on behalf of Borrower after and during an Event of Default and not applied to payment of principal and interest due under the Note, and to the payment of actual and reasonable operating expenses of the Property, as they become due or payable (except to the extent that such application of such funds is prevented by bankruptcy, receivership, or similar judicial proceeding in which Borrower is legally prevented from directing the disbursement of such sums), (d) misappropriation (including failure to turn over to Lender on demand following an Event of Default) of tenant security deposits and rents collected in advance, or of funds held by Borrower for the benefit of another party, or (e) Borrower's failure to pay transfer fees and charges due Lender under the Loan Documents in connection with any subordinate financing or any transfer of all or any part of the Property, or any interest therein, from Borrower to Borrower's transferee, or transfer of any beneficial interest in Borrower (if Borrower is not a natural person or persons but is a corporation, partnership, limited liability company, trust or other legal entity) other than a Permitted Transfer, or (f) failure by Borrower, any general partner of Borrower, or any

indemnitor or guarantor to comply with the covenants, obligations, liabilities, warranties and representations contained in the Environmental Indemnity Agreement or otherwise pertaining to environmental matters, or (g) in the event Lender has waived (or Borrower has failed to pay) the monthly collection for real and personal property taxes, assessments, insurance premiums, or ground rents, then failure by Borrower to pay any or all such taxes, assessments, premiums and rents, or (h) in the event that Lender has waived (or Borrower has not complied with) the requirement for third party property management, then any management fee taken by Borrower or any principal or affiliate of Borrower after an Event of Default, or (i) breach of any of Sections 15, 16 or 29 of this Instrument, or (j) the occurrence of any condition or event described in Section 20 (except that in the event of involuntary proceedings described therein, neither Borrower nor any general partner of Borrower shall be fully and personally liable under this Section 26 unless either Borrower or any general partner of Borrower or any Person owning an interest (directly or indirectly) in Borrower or any general partner of Borrower consents to, aids, solicits, supports, or otherwise cooperates or colludes to cause such event or fails to contest such event).

No provision of this Section shall (i) affect the enforcement of the Environmental Indemnity Agreement or any guaranty or similar agreement executed in connection with the debt evidenced by the Note, (ii) release or reduce the debt evidenced by the Note, (iii) impair the lien of this Instrument, (iv) impair the rights of Lender to enforce any provisions of this Instrument, (v) limit Lender's ability to obtain a deficiency judgment or judgment on the Note or otherwise against Borrower to the extent necessary to obtain any amount for which Borrower may be liable in accordance with this Section.

SECTION 27. REPRESENTATIONS OF BORROWER. The Borrower hereby represents and warrants to Lender the following:

(a) Organization. Borrower is a limited liability company, validly existing and in good standing under the laws of Delaware. There are no proceedings or actions pending, threatened or contemplated for the liquidation, termination or dissolution of Borrower.

(b) Rent Roll. Borrower has delivered to Lender a certified rent roll (the "RENT ROLL"), a copy of which is attached hereto as Schedule 3, which constitutes a true, correct, and complete list of each and every lease affecting the Property (for each commercial tenant, together with all extensions and amendments thereof) (the "EXISTING LEASES"); Borrower has delivered to Lender a true, correct, and complete copy of each of the Existing Leases which are entered into by commercial or retail tenants; and there are no other leases, assignments, modifications, extensions, renewals, or other agreements of any kind whatsoever (written or oral) outstanding with respect to the leases or the Property.

(c) Leases. Unless otherwise specified in the Rent Roll:
(i) the Existing Leases are in full force and effect;

(ii) Borrower has not given any notice of default to any tenant under an Existing Lease (an "EXISTING TENANT") which remains uncured;

(iii) no Existing Tenant has any set off, claim or defense to the enforcement of any Existing Lease;

(iv) no Existing Tenant is in arrears in the payment of rent for more than 30 days, additional rent or any other charges whatsoever due under any Existing Lease; or, to the knowledge of Borrower, is materially in default in the performance of any other obligations of such Existing Tenant under the applicable Existing Lease; and

(v) Borrower has completed all work or alterations required of the landlord or lessor under each Existing Lease; and all of the other obligations of landlord or lessor under the Existing Leases have been performed.

(d) Rents. The Rent Roll truly and completely discloses all annual and monthly rents payable by all Existing Tenants, including all percentage rents, if any, expiration dates of the Existing Leases, and the amount of security deposit being held by Borrower under each Existing Lease, if any; and Borrower has not granted any Existing Tenant any rent concessions (whether in form of cash contributions, work agreements, assumption of an Existing Tenant's other obligations, or otherwise) or extensions of time whatsoever not reflected in such Rent Roll.

(e) Lease Issues. There are no legal proceedings commenced (or, to the best of the knowledge of the Borrower, threatened) against Borrower by any Existing Tenant; no rental in excess of one month's rent has been prepaid under any of the Existing Leases; each of the Leases is valid and binding on the parties thereto in accordance with its terms; and the execution of this Instrument and the other Loan Documents will not constitute an event of default under any of the Existing Leases.

(f) Security Deposits. Borrower currently holds the security deposits (if any) specified in the Existing Leases and has not given any credit, refund, or set off against such security deposits to any person.

(g)

Intentionally Deleted.

(h) No Undisclosed Tenants. Except for Borrower, there are no persons or entities occupying space in the Property as tenants other than the persons or entities specifically named in the Existing Leases.

(i) Title. Except as specifically listed in the schedule of exceptions to coverage in the title policy insuring Lender's interest in the Property, Borrower is now in possession of the Property; Borrower's possession of the Property is peaceable and undisturbed; Borrower does not know any facts by reason of which any claim to the Property, or any part thereof, might arise or be set up adverse to Borrower; and the Property is free and clear of (i) any lien for Taxes (except real property taxes not yet due and payable for the calendar year in which this Instrument is being executed), and (ii) any easements, rights-of-way, restrictions, encumbrances, liens or other exceptions to title by mortgage, decree, judgment, agreement, instrument, or, to the knowledge of Borrower, proceeding in any court. The Permitted Encumbrances (as defined in Section 15 hereof) do not materially and adversely affect the value, operation or use of the Property, or Borrower's ability to repay the Loan. This Instrument when properly recorded in the appropriate records, together

with any UCC Financing Statements required to be filed in connection therewith, will create (i) a valid, perfected first priority lien on the Borrower's interest in the Property and (ii) valid and perfected first priority security interests in and to, and perfected collateral assignments of, all personalty (including the Leases), all in accordance with the terms thereof, in each case subject only to any applicable Permitted Encumbrances. There are no pending or proposed special or other assessments for public improvements or otherwise affecting the Property, or any contemplated improvements to the Property that may result in such special or other assessments.

(j) Liens. All charges for labor, materials or other work of any kind furnished in connection with the construction, improvement, renovation or rehabilitation of the Property or any portion thereof have been paid in full, and no unreleased affidavit claiming a lien against the Property, or any portion thereof, for the supplying of labor, materials or services for the construction of improvements on the Property has been executed or recorded in the mechanic's lien or other appropriate records in the county in which the Property is located.

(k) Compliance with Law. The Property and the current and contemplated uses of the Property are in compliance with all applicable federal, state and municipal laws, rules, regulations and ordinances, applicable restrictions, zoning ordinances, building codes and regulations, building lines and easements, including, without limitation, federal and state environmental protection law and the Americans with Disabilities Act of 1990, the Fair Housing Amendments Act of 1988, all state and local laws or ordinances related to handicapped access, and any statute, rule, regulation, ordinance, or order of governmental bodies or regulatory agencies, or any order or decree of any court adopted or enacted with respect thereto; no governmental authority having jurisdiction over any aspect of the Property has made a claim or determination that there is any such violation; the Property is not included in any area identified by the Secretary of Housing and Urban Development pursuant to the Flood Disaster Protection Act of 1973, as amended, as an area having special flood hazards; and all permits, licenses and the like which are necessary for the operation of the Property have been issued and are in full force and effect.

(1) Adverse Changes; Full and Accurate Disclosure. There have been no material adverse changes, financial or otherwise, in the condition of Borrower from that disclosed to Lender in the loan application submitted to Lender by Borrower, or in any supporting data submitted in connection with the Loan, and all of the information contained therein was true and correct when submitted and is now substantially and materially true and correct on the date hereof. No statement of fact made by Borrower in any Loan Documents contains any untrue statement of a material fact or omits to state any material fact necessary to make statements contained therein not misleading. There is, no material fact presently known to Borrower that has not been disclosed to Lender which adversely affects, or, as far as Borrower can foresee, might adversely affect, the Property or the business, operations or condition (financial or otherwise) of Borrower. All financial data, including the statements of cash flow and income and operating expense, that have been delivered to Lender in respect of Borrower and the Property (i) are true, complete and correct in all material respects, (ii) accurately represent the financial condition of Borrower and the Property as of the date of such reports, and (iii) to the extent prepared by an independent certified public accounting firm, have been prepared in accordance with GAAP or federal income tax basis of accounting, in either case, consistently applied throughout the periods covered, except as disclosed

therein. Borrower has no contingent liabilities, liabilities for taxes, unusual forward or long-term commitments, unrealized or anticipated losses from any unfavorable commitments or any liabilities or obligations not expressly permitted by this Instrument. Since the date of such financial statements, there has been no materially adverse change in the financial condition, operations or business of Borrower or the Property from that set forth in said financial statements.

(m) Claims, Litigation. There is no claim, litigation or condemnation proceeding pending, or, to the knowledge of the Borrower, threatened, against the Property or Borrower, which would be likely to have a material adverse affect on the Property or Borrower's ability to perform its obligations in the connection with the Loan.

(n) Single Purpose. Borrower does not own any real property or assets other than the Property and does not operate any business other than the management and operation of the Property.

(o) Bankruptcy. No proceedings in bankruptcy or insolvency has ever been instituted by or against Borrower or any affiliate thereof, and no such proceeding is now pending or contemplated.

(p) Solvency. Borrower is, and if there are any general partners or members of Borrower, such partners or members are, solvent pursuant to the laws of the United States, as reflected by the entries in Borrower's books and records and as reflected by the actual facts.

(q) Enforceability of Loan Documents. The Loan Documents have been duly authorized, executed and delivered by Borrower and constitute valid and binding obligations of Borrower, enforceable against Borrower in accordance with their respective terms. No approval, consent, order or authorization of any governmental authority and no designation, registration, declaration or filing with any governmental authority is required in connection with the execution and delivery of the Note, this Instrument or any other Loan Document. Neither Borrower nor any guarantor or indemnitor has any defense or offset to the enforcement of any Loan Document, or any claim against Lender. Neither Borrower nor any guarantor or indemnitor has any right whatsoever against Lender other than the express contractual obligations of Lender set forth in the Loan Documents. Any rights or claims contrary to this provision, whether known or unknown, are hereby expressly waived.

(r) Non-contravention. The execution and delivery of the Loan Documents will not violate or contravene in any way the articles of incorporation or bylaws or partnership agreement, articles of organization or operating agreement as the case may be, of Borrower or any indenture, agreement or instrument to which Borrower is a party or by which it or its property may be bound, or be in conflict with, result in a breach of or constitute a default under any such indenture, agreement or other instrument, result in the creation or imposition of any lien, charge or encumbrance of any nature whatsoever upon any of the property or assets of Borrower, except as contemplated by the provisions of such Loan Documents, and no action or approval with respect thereto by any third person is required.

(s) Homestead. No part of the Property is all or a part of Borrower's homestead or the homestead of anyone.

(t) Utilities. The Property is served by all utilities required for the current or contemplated use thereof. All utility service is provided by public utilities and the Property has accepted or is equipped to accept such utility service.

(u) Public Roads. All public roads and streets necessary for service of and access to the Property for the current or contemplated use thereof have been completed, are serviceable and all-weather and are physically and legally open for use by the public.

(v) Water and Sewers. The Property is serviced by public water and sewer systems.

(w) casualty.

(x) Damage. The Property is free from damage caused by fire or other Waste Disposal. All liquid and solid waste disposal, septic and sewer systems located on the Property are in a good and safe condition and repair and in compliance with all applicable laws.

(y) Agreements. Borrower is not a party to any agreement or instrument or subject to any restriction which might adversely affect Borrower or the Property, or Borrower's business, properties, operations or condition, financial or otherwise. Borrower is not in default in any material respect in the performance, observance or fulfillment of any of the obligations, covenants or conditions contained in any Permitted Encumbrance or any other agreement or instrument to which it is a party or by which it or the Property is bound.

(z) No Plan Assets. As of the date hereof and throughout the entire term of the loan evidenced by the Note and this Instrument (the "Term") (i) Borrower is not and will not be an "employee benefit plan," as defined in Section 3(3) of ERISA, subject to Title I of ERISA, (ii) none of the assets of Borrower constitutes or will constitute "plan assets" of one or more such plans within the meaning of 29 C.F.R. Section 2510.3-101, (iii) Borrower is not and will not be a "governmental plan" within the meaning of Section 3(32) of ERISA, and (iv) transactions by or with Borrower are not and will not be subject to state statutes regulating investment of, and fiduciary obligations with respect to, governmental plans.

(aa) Federal Reserve Regulations; Investment Company Act. No part of the proceeds of the loan evidenced by the Note, this Instrument and the other Loan Documents will be used for the purpose of purchasing or acquiring any "margin stock" within the meaning of Regulation U of the Board of Governors of the Federal Reserve System or for any other purpose that would be inconsistent with such Regulation U or any other regulation of such Board of Governors, or for any purpose prohibited by Legal Requirements (as defined in Section 25 hereof) or any Loan Document. Borrower is not (i) an "investment company" or a company "controlled" by an "investment company," within the meaning of the Investment Company Act of 1940, as amended; (ii) a "holding company" or a "subsidiary company" of a "holding company" or an "affiliate" of either a "holding company" or a "subsidiary company" within the meaning of the Public Utility Holding Company Act of 1935, as amended; or (iii) subject to any other federal or state law or regulation which purports to restrict or regulate its ability to borrow money.

(bb) Fraudulent Transfer. Borrower has not entered into the loan evidenced by the Note, this instrument and the other Loan Documents, or any Loan Document with the actual intent to hinder, delay, or defraud any creditor, and Borrower has received reasonably equivalent value in exchange for its obligations under the Loan Documents. Giving effect to the transactions contemplated by the Loan Documents, the fair saleable value of Borrower's assets exceeds and will, immediately following the execution and delivery of the Loan Documents, exceed Borrower's total liabilities, including subordinated, unliquidated, disputed or contingent liabilities, including the maximum amount of its contingent liabilities or its debts as such debts become absolute and matured. Borrower's assets do not and, immediately following the execution and delivery of the Loan Documents will not, constitute unreasonably small capital to carry out its business as conducted or as proposed to be conducted. Borrower does not intend to, and does not believe that it will, incur debts and liabilities (including contingent liabilities and other commitments) beyond its ability to pay such debts as they mature (taking into account the timing and amounts to be payable on or in respect of obligations of Borrower).

(cc) No Other Debt. There is no indebtedness with respect to the Property or any excess cash flow or any residual interest therein, whether secured or unsecured, other than Permitted Encumbrances and Permitted Indebtedness (as defined in Section 28(i) hereof).

(dd) Flood Zone. No portion of the Property is located in an area as identified by the Federal Emergency Management Agency as an area having special flood hazards.

SECTION 28. BORROWER'S ADDITIONAL COVENANTS. Borrower hereby covenants, agrees and undertakes as follows:

(a) Alterations of Property. Borrower shall not undertake or commence any alterations of any improvements on the Property the cost of which is in excess of five percent of the then original principal amount of the Note, without the prior written consent of Lender, not to be unreasonably withheld; provided, however, that Lender may, in its sole and absolute discretion, withhold consent to any alteration the cost of which is reasonably estimated to exceed \$2,000,000.

(b) Further Assurances. Borrower shall from time to time, at the request of Lender, (i) promptly correct any defect, error or omission which may be discovered in the contents of this Instrument or in any other Loan Document or in the execution or acknowledgment thereof; (ii) execute, acknowledge, deliver and record and/or file such further documents or instruments (including, without limitation, further mortgages, security agreements, financing statements, continuation statements, assignments of rents or leases and environmental indemnity agreements) and perform such further acts and provide such further assurances as may be necessary, desirable or proper, in Lender's opinion, to carry out more effectively the purposes of this Instrument and such other instruments and to subject to the liens and security interests hereof and thereof any property intended by the terms hereof or thereof to be covered hereby or thereby, including specifically, but without limitation, any renewals, additions, substitutions, replacements, or appurtenances to the Property; provided that such documents or instruments do not materially increase

Borrower's liability under the Loan Documents; and (iii) execute, acknowledge, deliver, procure, and file and/or record any document or instrument (including specifically, but without limitation, any financing statement) deemed advisable by Lender to protect the liens and the security interests herein granted against the rights or interests of third persons; provided that such documents or instruments do not materially increase Borrower's liability under the Loan Documents. Borrower will pay all reasonable costs connected with any of the foregoing in this paragraph.

(c) Mortgage Taxes. Borrower shall at any time any law shall be enacted imposing or authorizing the imposition of any tax upon this Instrument, or upon any rights, titles, liens or security interests created hereby, or upon the obligations secured hereby or any part thereof, immediately pay all such taxes; provided that, if such law as enacted makes it unlawful for Borrower to pay such tax, Borrower shall not pay nor be obligated to pay such tax, and in the alternative, Borrower may, in the event of the enactment of such a law, and must, if it is unlawful for Borrower to pay such taxes, prepay the obligations secured hereby in full within 60 days after demand therefor by Lender.

(d) Minerals. Borrower shall not permit any drilling or exploration for or extraction, removal or production of any mineral, natural element, compound or substance from the surface or subsurface of the Property regardless of the depth thereof or the method of mining or extraction thereof.

(e) Maintenance of Borrower and Sole Member Names. Borrower shall not change, or permit Sole Member to change, its name, identity (including its trade name or names) or employer identification number, in any such case, without notifying Lender of such change in writing at least thirty (30) days prior to the effective date of such change. Borrower shall deliver, or cause Sole Member to deliver, to Lender, prior to or contemporaneously with the effective date of any such change, any financing statement or financing statement change reasonably required by Lender, if any, to establish or maintain the validity, perfection and priority of the security interests granted herein.

(f) Costs and Expenses. Borrower shall pay on demand all reasonable and bona fide out-of-pocket costs, fees and expenses and other expenditures, including, but not limited to, reasonable attorneys' fees and expenses, paid or incurred by Lender to third parties incident to this Instrument or any other Loan Document (including, but not limited to, reasonable attorneys' fees and expenses in connection with the negotiation, preparation and execution hereof and of any other Loan Document and any amendment hereto or thereto, any release hereof, any consent, approval or waiver hereunder or under any other Loan Document, the making of any advance under the Note, and any suit to which Lender is a party involving this Instrument or the Property) or incident to the enforcement of the obligations secured hereby or the exercise of any right or remedy of Lender under any Loan Document.

(g) Compliance with Laws. Borrower shall maintain and keep the Property in compliance in all material respects with all applicable legal requirements (including with respect to parking (and any required striping thereof) and applicable zoning and land use laws, regulations and ordinances).

(h) Annual Budget. Borrower shall prepare and submit (or shall cause Manager to prepare and submit) to Lender within thirty (30) days after a Cash Management Period and by November 30th of each year thereafter during the Term until such Cash Management Period has ended, for approval by Lender, which approval shall not be unreasonably withheld or delayed, a proposed pro forma budget for the Property for the succeeding calendar year (the "ANNUAL BUDGET", and each Annual Budget approved (or deemed approved pursuant to the terms of this Section 28(h)) by Lender is referred to herein as the "APPROVED ANNUAL BUDGET"), and, promptly after preparation thereof, any revisions to such Annual Budget. Lender's failure to approve or disapprove any Annual Budget or revision within 30 days after Lender's receipt thereof shall be deemed to constitute Lender's approval thereof. The Annual Budget shall consist of (i) an operating expense budget showing, on a month-by-month basis, in reasonable detail, each line item of the Borrower's anticipated operating income and operating expenses (on a cash and accrual basis), including amounts required to establish, maintain and/or increase any monthly payments required hereunder (and once such Annual Budget has been approved (or deemed approved pursuant to the terms of this Section 28(h)) by Lender, such operating expense budget shall be referred to herein as the "APPROVED OPERATING BUDGET"), and (ii) a Capital Expense budget showing, on a month-by-month basis, in reasonable detail, each line item of anticipated Capital Expenses (and once such Annual Budget has been approved (or deemed approved pursuant to the terms of this Section 28(h)) by Lender, such Capital Expense budget shall be referred to herein as the "APPROVED CAPITAL BUDGET"). UNTIL such time that any Annual Budget has been approved (or deemed to have been approved pursuant to the terms of this Section 28(h)) by Lender, the prior Approved Annual Budget shall apply for all purposes hereunder (with such adjustments as reasonably determined by Lender (including increases for any non-discretionary expenses)).

(i) Indebtedness. Borrower shall not directly or indirectly create, incur or assume any indebtedness other than the indebtedness evidenced by the Loan Documents and unsecured trade payables incurred in the ordinary course of business relating to the ownership and operation of the Property which do not exceed, at any time, a maximum amount of 2% of the original amount of the Loan and are paid within sixty (60) days of the date incurred (collectively, "PERMITTED INDEBTEDNESS").

SECTION 29. COVENANTS WITH RESPECT TO SINGLE PURPOSE, INDEBTEDNESS, OPERATIONS, FUNDAMENTAL CHANGES OF BORROWER.

(a) Pertaining to Borrower. Borrower represents, warrants and covenants as of the date of hereof and until such time as the indebtedness secured hereby is paid in full, that Borrower

(i) does not own and will not own any assets other than the Property (including incidental personal property necessary for the operation thereof and proceeds therefrom) or direct or indirect ownership interests in Borrower (the "OWNERSHIP INTERESTS");

(ii) was and will be organized solely for the purpose of owning the Property and is not engaged and will not engage in any business, directly or indirectly, other than the ownership, management and operation of the Property or the Ownership Interests;

(iii) has not entered and will not enter into any contract or agreement with any partner, member, shareholder, trustee, beneficiary, principal or affiliate of any Borrower Party except upon terms and conditions that are intrinsically fair and substantially similar to those that would be available on an arms-length basis with third parties other than such affiliate;

(iv) has not incurred and will not incur any debt, secured or unsecured, direct or contingent (including guaranteeing any obligation), other than (i) the obligations secured by this Instrument, and (ii) trade payables or accrued expenses incurred in the ordinary course of business of operating the Property which (1) do not exceed, at any time, (a) with respect to Borrower, a maximum amount of 2% of the original amount of the Principal, and (b) with respect to Sole Member, \$10,000 and (2) are paid within sixty (60) days of the date incurred;

(v) has not made and will not make any loan or advances to any person or entity;

(vi) has remained and will remain solvent and pay its own liabilities, indebtedness, and obligations of any kind from its own separate assets as the same shall become due;

(vii) has not, and without the unanimous consent of all of its partners, directors or members, as applicable, will not, with respect to itself or to any other entity in which it has a direct or indirect legal or beneficial ownership interest (A) file a bankruptcy, insolvency or reorganization petition or otherwise institute insolvency proceedings or otherwise seek any relief under any laws relating to the relief from debts or the protection of debtors generally, (B) seek or consent to the appointment of a receiver, liquidator, assignee, trustee, sequestrator, custodian or any similar official for such entity or for all or any portion of such entity's properties, (C) make any assignment for the benefit of such entity's creditors or (D) take any action that might cause such entity to become insolvent;

(viii) has done or caused to be done and will do all things necessary to preserve its existence, and will not, nor will any partner, member, shareholder, trustee, beneficiary, or principal amend, modify or otherwise change its partnership certificate, partnership agreement, articles of incorporation, by-laws, articles of organization, operating agreement, or other organizational documents in any manner except as necessary to reflect Permitted Transfers;

(ix) has maintained and shall continuously maintain its existence and be qualified to do business in all states necessary to carry on its business, specifically including in the case of Borrower, the state where the Property is located;

(x) has conducted and operated and will conduct and operate its business as presently conducted and operated;

(xi) has maintained and will maintain books and records and bank accounts separate from those of its partners, members, shareholders, trustees, beneficiaries, principals, affiliates, and any other person or entity;

(xii) has been and will be, and at all times has held and will hold itself out to the public as, a legal entity separate and distinct from any other (including any of its partners, members, shareholders, trustees, beneficiaries, principals and affiliates), and not as a department or division of any entity;

(xiii) has not failed and will not fail to correct any known misunderstanding regarding the separate identity of such entity;

(xiv) has and will maintain adequate capital for the normal obligations reasonably foreseeable in a business of its size and character and in light of its contemplated business operations;

(xv) has not and will not seek, acquiesce in, or suffer or permit its liquidation, dissolution or winding up, in whole or in part;

(xvi) has not entered and will not enter into any transaction of merger or consolidation, or acquire by purchase or otherwise all or substantially all of the business or assets of, or any stock of beneficial ownership of, any person or entity;

(xvii) has not commingled and will not commingle or permit to be commingled its funds or other assets with those of any other person or entity;

(xviii) has and will maintain its assets in such a manner that it is not costly or difficult to segregate, ascertain or identify its individual assets from those of any other person or entity;

(xix) except as expressly provided for in the Loan Documents, does not and will not hold itself out to be responsible for the debts or obligations of any other person or entity;

(xx) except as expressly provided for in the Loan Documents, has not and will not guarantee or otherwise become liable on or in connection with any obligation of any other person or entity;

(xxi) has not done or shall not do any act which would make it impossible to carry on its ordinary business;

(xxii) has not and will not possess or assign the Property for other than a business or company purpose;

(xxiii) has not held and shall not hold its assets other than in its name;

(xxiv) has paid and will pay its own liabilities, including the salaries of its own employees, out of its own funds and assets;

(xxv) has observed and will observe all partnership, corporate or limited liability company formalities, as applicable;

(xxvi) has maintained and will maintain an arm's-length relationship with its Affiliates;

(xxvii) has not and will not acquire obligations or securities of its partners, members or shareholders;

(xxviii) has allocated and will allocate fairly and reasonably shared expenses, including shared office space, and uses separate stationery, invoices and checks;

(xxix) except in connection with the Loan, has not pledged and will not pledge its assets for the benefit of any other Person;

(xxx) has not identified and will not identify its partners, members or shareholders, or any Affiliate of any of them, as a division or part of it;

(xxxi) has and will have no obligation to indemnify its partners, officers, directors, members or Special Members (as defined below), as the case may be, or has such an obligation that is fully subordinated to the Debt and will not constitute a claim against it if cash flow in excess of the amount required to pay the Debt is insufficient to pay such obligation; and

(xxxii) will consider the interests of its creditors in connection with all corporate, partnership or limited liability actions, as applicable.

(xxxiii) has not instituted and shall not institute proceedings to be adjudicated bankrupt or insolvent; consent to the institution of bankruptcy or insolvency proceedings against it; file a petition seeking, or consent to, reorganization or relief under any applicable federal or state law relating to bankruptcy; consent to the appointment of a receiver, liquidator, assignee, trustee, sequestrator (or other similar official) of it or a substantial part of its property; or make any assignment for the benefit of creditors; or admit in writing its inability to pay its debts generally as they become due;

(xxxiv) has and will have an operating agreement which provides that the business and affairs of Borrower shall be managed by or under the direction of a board of one or more directors designated by Sole Member,

(xxxv) has and will have an operating agreement which provides that, as long as any portion of the Debt remains outstanding, (A) upon the occurrence of any event that causes Sole Member to cease to be a member of Borrower (other than (x) upon an assignment by Sole Member of all of its limited liability company interest in Borrower and the admission of the transferee, if permitted pursuant to the organizational documents of Borrower and the Loan Documents, or (y) the resignation of Sole Member and the admission of an additional member of Borrower, if permitted pursuant to the organizational documents of Borrower and the Loan Documents), the person acting as the sole member of borrower (the "SPECIAL MEMBER") of Borrower shall, without any action of any Person and simultaneously with Sole Member ceasing to be a member of Borrower, automatically be admitted as the Special Member and shall preserve and continue the existence of Borrower without dissolution, (B) no Special Member may resign or transfer its rights as Special Member unless (x) a successor

Special Member has been admitted to Borrower as a Special Member, and (y) such successor Special Member has also accepted its appointment as a Special Member and (C) except as expressly permitted pursuant to the terms of this Agreement, Sole Member may not resign and no additional member shall be admitted to Borrower; (v) has and will have an operating (,) agreement which provides that, as long as any portion of the Debt remains outstanding, (A) Borrower shall be dissolved, and its affairs shall be wound up only upon the first to occur of the following: (x) the termination of the legal existence of the last remaining member of Borrower or the occurrence of any other event which terminates the continued membership of the last remaining member of Borrower in Borrower unless the business of Borrower is continued in a manner permitted by its operating agreement or the Delaware Limited Liability Company Act (the "DELAWARE ACT") or (y) the entry of a decree of judicial dissolution under Section 18-802 of the Delaware Act; (B) upon the occurrence of any event that causes the last remaining member of Borrower to cease to be a member of Borrower or that causes Sole Member to cease to be a member of Borrower (other than (x) upon an assignment by Sole Member of all of its limited liability company interest in Borrower and the admission of the transferee, if permitted pursuant to the organizational documents of Borrower and the Loan Documents, or (y) the resignation of Sole Member and the admission of an additional member of Borrower, if permitted pursuant to the organizational documents of Borrower and the Loan Documents), to the fullest extent permitted by law, the personal representative of such member shall be authorized to, and shall, within 90 days after the occurrence of the event that terminated the continued membership of such member in Borrower, agree in writing to continue the existence of Borrower and to the admission of the personal representative or its nominee or designee, as the case may be, as a substitute member of Borrower, effective as of the occurrence of the event that terminated the continued membership of such member in Borrower; (C) the bankruptcy of Sole Member or a Special Member shall not cause such member or Special Member, respectively, to cease to be a member of Borrower and upon the occurrence of such an event, the business of Borrower shall continue without dissolution; (D) in the event of dissolution of Borrower, Borrower shall conduct only such activities as are necessary to wind up its affairs (including the sale of the assets of Borrower in an orderly manner), and the assets of Borrower shall be applied in the manner, and in the order of priority, set forth in Section 18-804 of the Delaware Act; and (E) to the fullest extent permitted by law, each of Sole Member and the Special Members shall irrevocably waive any right or power that they might have to cause Borrower or any of its assets to be partitioned, to cause the appointment of a receiver for all or any portion of the assets of Borrower, to compel any sale of all or any portion of the assets of Borrower pursuant to any applicable law or to file a complaint or to institute any proceeding at law or in equity to cause the dissolution, liquidation, winding up or termination of Borrower.

(xxxvi) shall comply with all (and shall not suffer to be inaccurate any) of the assumptions, statements, certifications, representations, warranties and covenants regarding or made by Borrower contained in or appended to any opinion of Borrower's legal counsel delivered in connection with the transaction in which the Loan Documents are executed.

SECTION 30. NOTICE. All notices given under this Instrument shall be in writing, and sent to the other party at its address set forth below or at such other address as such party may designate by notice to the other party and shall be deemed given on the earliest of (i) actual receipt, duly evidenced by any commercially reasonable means, (ii) three Business Days after mailing, by certified or registered U.S. Mail, return receipt requested, postage prepaid, (iii) one Business Day after timely delivery, fee prepaid, to a national

overnight delivery service (such as FedEx, Purolater Courier, U.P.S. Next Day Air), (iv) the date of transmission of notice sent by telecopier or facsimile machine (with a copy thereof sent in accordance with clause (ii) above) provided notice was transmitted on a Business Day, otherwise notice shall be deemed given on the next Business Day.

The applicable addresses are as follows: To Borrower:

c/o Acadia Realty Trust
1311 Mamaroneck
Avenue White Plains,
New York 10605
Attention: Robert Masters, Esq.
Telephone No.: (914) 288-8139
Facsimile No.: (914) 428-3646

With a Copy to:

c/o Acadia Realty Trust
1311 Mamaroneck Avenue
White Plains, New York 10605
Attention: Michael Nelsen
Telephone No.: (914) 288-8138
Facsimile No.: (914) 288-2138

To Lender:

Greenwich Capital Financial Products, Inc.
600 Steamboat Road
Greenwich, Connecticut 06830
Attention: Commercial Mortgage Loan Department
Telephone No.: (203) 618-2373
Facsimile No.: (203) 629-8363

With a Copy to:

Kaye Scholer LLP
425 Park Avenue
New York, New York 10022
Attention: Stephen Gliatta, Esq.
Telephone No.: (212) 836-8618
Facsimile No.: (212) 836-8689

Borrower hereby requests that any notice of default or notice of sale in any judicial or nonjudicial foreclosure proceeding be mailed to Borrower at its address as specified herein.

SECTION 31. UNIFORM INSTRUMENT; GOVERNING LAW; SEVERABILITY. This form of instrument combines uniform covenants for national use and non-uniform covenants with limited variations by jurisdiction to constitute a uniform security instrument covering real property and related fixtures and personal property. THIS INSTRUMENT WAS NEGOTIATED IN THE STATE OF NEW YORK, AND MADE BY BORROWER AND ACCEPTED BY LENDER IN THE STATE OF NEW YORK WHICH STATE THE PARTIES AGREE HAS A SUBSTANTIAL RELATIONSHIP TO THE PARTIES AND TO THE UNDERLYING TRANSACTION EMBODIED HEREBY, AND IN ALL RESPECTS, INCLUDING, WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, MATTERS OF CONSTRUCTION, VALIDITY AND PERFORMANCE, THIS INSTRUMENT AND THE OBLIGATIONS ARISING HEREUNDER SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK APPLICABLE TO CONTRACTS MADE AND PERFORMED IN SUCH STATE (WITHOUT REGARD TO PRINCIPLES OF CONFLICT LAWS) AND ANY APPLICABLE LAW OF THE UNITED STATES OF AMERICA, EXCEPT THAT AT ALL TIMES THE PROVISIONS FOR THE CREATION, PERFECTION, AND ENFORCEMENT OF THE LIENS CREATED PURSUANT TO THE LOAN DOCUMENTS SHALL BE GOVERNED BY AND CONSTRUED ACCORDING TO THE LAW OF THE STATE IN WHICH THE PROPERTY IS LOCATED, IT BEING UNDERSTOOD THAT, TO THE FULLEST EXTENT PERMITTED BY THE LAW OF SUCH STATE, THE LAW OF THE STATE OF NEW YORK SHALL GOVERN THE VALIDITY AND THE ENFORCEABILITY OF ALL LOAN DOCUMENTS AND THE DEBT. TO THE FULLEST EXTENT PERMITTED BY LAW, BORROWER HEREBY UNCONDITIONALLY AND IRREVOCABLY WAIVES ANY CLAIM TO ASSERT THAT THE LAW OF ANY OTHER JURISDICTION GOVERNS THIS INSTRUMENT OR THE OTHER LOAN DOCUMENTS, AND THIS INSTRUMENT AND THE OTHER LOAN DOCUMENTS SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK PURSUANT TO SECTION 5-1401 OF THE NEW YORK GENERAL OBLIGATIONS LAW. In the event that any provision of this Instrument or the Note conflicts with applicable law, such conflict shall not affect other provisions of this Instrument or the Note which can be given effect without the conflicting provisions, and to this end the provisions of this Instrument and the Note are declared to be severable. In the event that any applicable law limiting the amount of interest or other charges permitted to be collected from Borrower is interpreted so that any charge provided for in this Instrument or in the Note, whether considered separately or together with other charges levied in connection with this Instrument and the Note, violates such law, and Borrower is entitled to the benefit of such law, such charge is hereby reduced to the extent necessary to eliminate such violation. The amounts, if any, previously paid to Lender in excess of the amounts payable to Lender pursuant to such charges as reduced shall be applied by Lender to reduce the principal of the indebtedness evidenced by the Note. For the purposes of determining whether any applicable law limiting the amount of interest or other charges permitted to be collected from Borrower has been violated, all indebtedness which is secured by this Instrument or evidenced by the Note and which constitutes interest, as well as all other charges levied in connection with such indebtedness which constitute interest, shall be deemed to be allocated and spread over the stated term of the Note. Unless otherwise required by applicable law, such allocation and spreading shall be effected in such a manner that the rate of interest computed thereby is uniform throughout the stated term of the Note.

SECTION 32. RESTRUCTURING LOAN, SECONDARY MARKET TRANSACTIONS.

(a) Secondary Market Transactions Generally. Lender shall have the right to engage in one or more Secondary Market Transactions (as defined in Section 15 hereof), and to structure and restructure all or any part of the Loan, including without limitation in multiple tranches, as a wraparound loan, or for inclusion in a REMIC or other Securitization (as defined in Section 15 hereof). Without limitation, Lender shall have the right to cause the Note and this Instrument to be split into a first and a second mortgage loan in whatever proportion Lender determines, and thereafter to engage in Secondary Market Transactions with respect to all or any part of the indebtedness and loan documentation. Borrower acknowledges that it is the intention of the parties that all or a portion of the Loan will be securitized and that all or a portion of the Loan (either itself, or in combination with other loans) will be rated by one or more Rating Agencies (as defined in Section 15 hereof). Borrower further acknowledges that additional structural modifications may be required to satisfy issues raised by any Rating Agencies.

(b) Cooperation; Limitations. Borrower shall use all reasonable efforts and cooperate reasonably and in good faith with Lender in effecting any such restructuring or Secondary Market Transaction. Such cooperation shall include without limitation, executing and delivering such reasonable amendments to the Loan Documents as Lender may request, provided however that no such amendment shall on an over-all basis modify (i) the interest rate payable under the Note; (ii) the stated maturity date of the Note, (iii) the amortization of the principal amount of the Note, (iv) any other economic terms of the Loan, or (v) the non-recourse provisions of the Loan. Such cooperation also shall include using best efforts to obtain such certificates and assurances from governmental entities and others as Lender may request. Borrower shall not be required to incur any cost in connection with such restructure or Secondary Market Transaction or to provide additional collateral that was not initially contemplated by the parties to effect any such restructuring or Secondary Market Transaction.

(c) Information. Borrower shall provide such information and documents relating to the Borrower and its principals, the manager of the Property, the Property and the business and operations of all of the foregoing as Lender may reasonably request in connection with any such Secondary Market Transaction. Lender shall be permitted to share all such information with the investment banking firms, Rating Agencies, accounting firms, law firms, other third party advisory firms, potential investors, and other parties involved in any proposed Secondary Market Transaction. Any such information may be incorporated into offering documents for the Secondary Market Transactions. Lender and all of the aforesaid third-party advisors and professional firms and investors shall be entitled to rely upon such information, and Borrower shall indemnify, defend, and hold harmless Lender from and against any losses, claims, damages and liabilities that arise out of or are based upon any actual or alleged untrue or misleading statement of material fact contained in such information or the actual or alleged omission of any material fact without which such information is materially misleading. Lender may publicize the existence of the Loan in connection with Lender's Secondary Market Transaction activities or otherwise.

(d) Additional Provisions. In any Secondary Market Transaction, Lender may transfer its obligations under the Loan Documents (or may transfer the portion thereof corresponding to the transferred portion of the obligations of Borrower), and thereafter Lender shall be relieved of any obligations under the Loan Documents arising after the date of said transfer with respect to the transferred interest. Each transferee investor shall be deemed to be a "Lender" under the applicable Loan Documents.

(e) Certain Definitions. As used herein, the following terms have the meanings indicated:

"LOAN": all obligations of Borrower under the Loan Documents.

"SECURITIZATION": mean a rated offering of securities representing direct or indirect interests in one or more mortgage loans or the right to receive income therefrom.

SECTION 33. SUCCESSORS AND ASSIGNS BOUND. This Instrument and the other Loan Documents shall be binding upon and inure to the benefit of Borrower and Lender and their respective successors and assigns forever, subject to Section 15 hereof. Notwithstanding the foregoing, Lender shall have no liability under any of the Loan Documents for any matter arising after Lender transfers its interest in the Note to any successor. However, Lender shall continue to have the benefit of all rights having accrued under the Loan Documents theretofore, and all rights under all obligations of indemnification set forth in the Loan Documents for matters arising theretofore, then, and thereafter.

SECTION 34. FORBEARANCE BY LENDER NOT A WAIVER. Any forbearance by Lender in exercising any right or remedy hereunder, or otherwise afforded by applicable law, shall not be a waiver of or preclude the exercise of any right or remedy. The acceptance by Lender of payment of any sum secured by this Instrument after the due date of such payment shall not be a waiver of Lender's right to either require prompt payment when due of all other sums so secured or to declare a default for failure to make prompt payment. The procurement of insurance or the payment of taxes or other liens or charges by Lender shall not be a waiver of Lender's right to accelerate the maturity of the indebtedness secured by this Instrument, nor shall Lender's receipt of any awards, proceeds or damages, whether as proceeds of insurance or condemnation awards or otherwise, operate to cure or waive Borrower's default in payment of sums secured by this Instrument.

SECTION 35. ESTOPPEL CERTIFICATE. Borrower shall within ten days of a written request from Lender furnish Lender with a written statement, duly acknowledged, setting forth the sums secured by this Instrument and any right of set-off, counterclaim or other defense which exists against such sums and the obligations of this Instrument and attaching true, correct and complete copies of the Note, this Instrument and any other Loan Documents and any and all modifications, amendments and substitutions thereof

SECTION 36. WAIVER OF JURY TRIAL. BORROWER HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVES ANY RIGHT THE BORROWER MAY HAVE TO A TRIAL BY JURY IN RESPECT TO ANY LITIGATION BASED HEREON, OR ARISING OUT OF, UNDER OR IN CONJUNCTION WITH THE NOTE, THIS INSTRUMENT, ANY OTHER LOAN DOCUMENT, ANY OTHER AGREEMENT CONTEMPLATED TO BE EXECUTED IN CONNECTION HERewith, OR ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENTS (WHETHER VERBAL OR WRITTEN) OR ACTIONS OF EITHER PARTY.

SECTION 37. MISCELLANEOUS.

(a) No Oral Change. No provision of this instrument or any of the other Loan Documents may be modified, amended, waived, extended, changed, discharged or terminated orally or by any act or failure to act on the part of Borrower or Lender, except only by an agreement in writing signed by the party against whom enforcement of any modification, amendment, waiver, extension, change, discharge or termination is sought.

(b) Liability. If Borrower consists of more than one person, the obligations and liabilities of each such person hereunder and under the other Loan Documents shall be joint and several.

(c) Captions. The captions and headings of the Sections, paragraphs, and other provisions of this Instrument are for convenience only and are not to be used to interpret or define the provisions hereof.

(d) Duplicate Originals; Counterparts. This Instrument and any of the Loan Documents may be executed in any number of duplicate originals and each duplicate original shall be deemed to be an original. This Instrument and any of the Loan Documents may be executed in multiple counterparts.

(e) Number and Gender. Whenever the context may require, any pronouns used herein or in any of the Loan Documents shall include the corresponding masculine, feminine or neuter forms, and the singular form of nouns and pronouns shall include the plural and vice versa.

(f) Subrogation. If any or all of the proceeds of the Note have been used to extinguish, extend or renew any indebtedness heretofore existing against the Property, then, to the extent of the funds so used, Lender shall be subrogated to all of the rights, claims, liens, titles, and interests existing against the Property heretofore held by, or in favor of, the holder of such indebtedness and such former rights, claims, liens, titles, and interests, if any, are not waived but rather are continued in full force and effect in favor of Lender and are merged with the lien and security interest created herein as cumulative security for the performance and repayment of the obligations secured hereby.

(g) Entire Agreement. The Note, this Instrument and the other Loan Documents constitute the entire understanding and agreement between Borrower and Lender pertaining to the subject matter hereof and thereof, and supersede all prior written or oral understandings and agreements between Borrower and Lender with respect thereto, including the prior agreements evidenced by any application or commitment issued in connection with this transaction. Borrower hereby acknowledges that, except as incorporated in writing in the Loan Documents, there are not, and were not, and no persons are or were authorized by Lender to make, any representations, understandings, stipulations, agreements or promises, oral or written, with respect to the transaction which is the subject of the Loan Documents, except only to the extent expressly set forth in the Loan Documents.

(h) Action through Agents. In exercising any rights hereunder or under any of the Loan Documents or taking any actions provided for herein or therein, Lender may act through its employees, agents or independent contractors as authorized by Lender.

SECTION 38. STATE OF MASSACHUSETTS PROVISIONS.

(a) In the event of any inconsistencies between the terms and conditions of this Article 38 and the other terms and conditions of this Instrument, the terms and conditions of this Article 38 shall control and be binding.

(b) Statutory Power of Sale. This Instrument is upon the STATUTORY CONDITION and the other conditions set forth herein, for any breach of which Lender shall have the STATUTORY POWER OF SALE.

[REMAINDER OF PAGE LEFT INTENTIONALLY BLANK]

IN WITNESS WHEREOF, Lender and Borrower have executed this Instrument or has caused the same to be executed by its representatives thereunto duly authorized.

BORROWER:

ACADIA CRESCENT PLAZA LLC, a Delaware limited liability company

By: _____
Name: Robert Masters
Title: Senior Vice President

LENDER:

GREENWICH CAPITAL FINANCIAL PRODUCTS, INC., a Delaware corporation

By: _____
Name:
Title:

[GRAPHIC OMITTED]
[GRAPHIC OMITTED]

IN WITNESS WHERE OF, Lender and Borrower have executed this Instrument or has caused the same to be executed by its representatives thereunto duly authorized.

ACADIA CRESCENT PLAZA LLC, a Delaware
limited liability company

By: _____
Name: Robert Masters
Title: Senior Vice President

LENDER:

GREENWICH CAPITAL FINANCIAL PRODUCTS,
INC., a Delaware corporation

By: _____
Name: Steve Anderson
Title: Managing Director

ACKNOWLEDGMENT

STATE OF _____

COUNTY OF) _____

On this 3rd day of _____ 2005, before me, the undersigned notary public, personally appeared Robert sters, proved to me through satisfactory evidence of identification, which was a driver's license, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he signed it voluntarily for its stated purpose, as Senior Vice President of Acadia Crescent Plaza LLC, a Delaware limited liability company.

Notary Public

My Commission expires _____

LORI M. SWEDLOW
C TYNo 01 SW491 New York

Qualified in Nassau County
Commission Expires Dec. 14, 2005

/s/ LORI M. SWEDLOW

STATE OF sv <. i cu- L_____)
ss.:

COUNTY OF D r

ld' _____)

On this "30 day of) S t 2005, before me, the undersigned notary public, personally appeared A6,p d&rip.-i, proved to me through satisfactory evidence of identification, which was a driver's license, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he signed it voluntarily for its stated purpose, as-.t -tom, f'e Q-,/of Greenwich Capital Financial Products, Inc. a Delaware corporation.

Notary Public
My commission expires_____

(NOTARIAL SEAL) My commission expires:

[GRAPHIC OMITTED][GRAPHIC OMITTED]

ANNU L/ T

NOTARY PU1LI

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EXHIBIT A
LEGAL DESCRIPTION OF REAL ESTATE

PARCEL 1:

That certain parcel of vacant land located on the southerly side of Crescent Street, Brockton, Plymouth County, Massachusetts, and shown as Lot C1 on a Plan entitled "Plan of Land in Brockton, Mass.", Owner: Robert E. Naser, dated September 17, 1982, prepared by Loring H. Jacobs Co., Division of Boston Survey Consultants, Inc., recorded with the Plymouth County Registry of Deeds as Plan No. 668 of 1982 in Plan Book 23, Page 387.

Said Lot C1 containing 59,837 S.F. according to said Plan.

Together with a Right of Way as shown on said Plan for the benefit of Lot C1 as set forth in a Deed from Robert E. Naser to Elizabeth Kelly, Trustee of Lancaster Realty Trust dated November 24, 1982, recorded in Book 5254, Page 144.

PARCEL 2:

A parcel of land containing 22,544 Acres on a plan entitled "Plan of Land, Brockton, Mass., Owned by Marvin L. Slomowitz", Scale 1" = 50', June 5, 1985, prepared by Linenthal Eisenberg Anderson, Inc., which plan is recorded with the Plymouth County Registry of Deeds in Plan Book 31, Page 721.

Together with the right to use of the utility lines and/or services and other rights in, to and under the following instruments benefiting the land, all as shown on that certain "Plan of Crescent Street Plaza, Brockton, Massachusetts, Prepared for Marvin L. Slomowitz and Metropolitan Life Insurance Company", dated June 20, 1988, and last revised October 14, 1988, by Linenthal Eisenberg Anderson, Inc. (the "Survey"): (a) Drainage Easement recorded in Book 1689, Page 111, and shown on Plan entitled "Plan of Brockton owned by Harry A. Campitt and David T. Chase", dated April 12, 1966, recorded as Plan No. 39301 of 1966 as supplemented by Agreement between Marvin L. Slomowitz and the City of Brockton recorded in Book 6664, Page 140 and (b) Easement recorded in Book 3638, Page 403.

SCHEDULE 2

REQUIRED REPAIRS

Full depth asphalt repairs and overlay	\$12,000
Repair curbs	\$1,600
Repair fencing	\$500
Gutter and downspout replacement	\$1,600
Repair masonry pilaster at pedestrian walkway	\$1,000
Investigate and repair roof leaks	\$3,000

Total:	\$19,700
125%	\$24,625

SCHEDULE 3

Rent Roll

See Attached.

atabaso; Bldg Status:

 AKR PROD Rent Roll Page: 1
 All Crescent Plaza Date: 8/31/2005
 813112005 Time: 12:27 PM

 Occupant Name Rent Start Expirafilon GLA Monthly Annual Monthly Expense Monthly
 Sgft Base Rent Rate PSF Cost Recovery Stop Other Income

Future Rent increases -
 PSF
 Cal Date Monthly Amount

Vacant Suites
 0031 -30101 Vacant
 Occupled
 Suites

7,500

11/3012008 2,480 5,833.33 28,23

0031 -31001 BANK BOSTONICB RICHARD ELLIS, 4/2411992
 0031 -31002 BROCKTON CVS #861 313011987 11312008 8,750 11,571.92 15,87 2,399.81
 0031 -31003 CARDSMART RETAIL CORP. #8 611711999 6130/2006 3,020 2,403.42 9.55 349.96
 0031 -31004 FASHION BUG #670 111211994 1/31/2010 17,000
 0031 -31005 DOTS INC. #258 8/1211993 1/3112008 4,400 3,750.00 10.23 805.81
 0031 -31006 FEN Q.CHEN DBA DOLLAR SHOP 911612003 9/30/2008 2,624 2,702.72 12,36 686,84

0031 -31007 GAMESTOP INC, ST#2225 4/2412003 4/3012008 1,518 1,707.75 13,50 398,49
 0031 .31008 GENERAL NUTRITION CORP., #3297 9/911995 9130/2005 1,500 1,375.00 11,00 655.86
 0031 -31009 HOME DEPOT USA INC., 02611 311512001 10131/2021 106,760 50,177.20 5.64 14,990.01

0031 -31010 Sleepy's, Inc. 8126/2005 11/30/2010 7,500 7,500.00 12,00 900.00
 0031 31011 MASSACHUSETTS DENTAL GROU 7/1/1996 613012006 1,500 1,760.00 14.06 406.60
 0031 -31012 PAYLESS 9HOESOURCE #4467 1012311992 1013112007 3,500 3,208.33 11.00 605.80
 0031 -31013 SHAWS SUPERMARKET INC., 47407 41111987 1213112012 50,225 43,080.00 10.29 6,461.20

Totals: Oc cupled Wt: 96.56% 13 Units 210,777 135,069.67 26,662,38 0.00
 Leased/Unocupled Sgft: 0 Units 0
 VacantSgft 3.44% 1 Units 7,500
 Total SgIt 14 Units 218,277 135,069.67

FMR 101112005 2,783.63 12,7\$
 PMR 1011/2006 2,866.72 13.11
 FMR 1011/2007 2,952.00 13.50

FMR 111112008 55,159.33 6.20
 FMR 1111/2016 60,675.27 6.62
 FMR 1111/2021 66,725.00 7.50
 FMR 1111/2026 73,397.50 8.25
 FMR 1111/2031 80,781.73 9.08
 FMR 11/1/2036 88,966.67 10.00
 FMR 111112041 97,863.33 11,00
 FMR 111112046 107,649.66 12,10

Occupant Name	Rent Start	Expiration	GLA Sgft	Base	Monthly Rent	Annual Rate PSF	Monthly Cost	Recovery	Expense Stop	Monthly -- Other Income
---------------	------------	------------	-------------	------	-----------------	--------------------	-----------------	----------	-----------------	----------------------------

Future Rent increases -
 PSF
 Cal Date Monthly Amount

Total Crescent Plaza:			96.56%	13 Units	\$ 210,777		135,069.67		28,662.38	0.00
Occupied Sqh:										
Leased/Unoccupied				0 Units			0			
Sgft										
Vacant Sgft:			3.44%	1 Units	7,500					
Total Sgft:				14 Units	218,277		135,069.67			
Grind Total:										0.00
Occupied Still:			96.56%	13 Units	210,777		135,069.67		26,652.33	
Leased/Unoccupied				0 Units			0			
Sgft										
Vacant Sgft:			3.44%	1 Units	7,500					
Total Sgft:				14 Units	218,277		135,069.67			

PACESETTER/RAMAPO ASSOCIATES
(Mortgagor)

to

GREENWICH CAPITAL FINANCIAL PRODUCTS, INC.
(Mortgagee)

MORTGAGE, ASSIGNMENT OF LEASES AND RENTS
AND SECURITY AGREEMENT

Dated: As of October 17, 2005

Property Location: Pacesetter Shopping Center

Pomona, New York

DOCUMENT PREPARED BY AND WHEN RECORDED, RETURN TO:

Kaye Scholer LLP
425 Park Avenue
New York, New York 10022-3598
Attention: Stephen Gliatta, Esq.

THIS MORTGAGE DOES NOT COVER REAL PROPERTY PRINCIPALLY IMPROVED BY ONE OR MORE
STRUCTURES CONTAINING, IN THE AGGREGATE, NOT MORE THAN SIX RESIDENTIAL DWELLING
UNITS, EACH HAVING ITS OWN SEPARATE COOKING FACILITIES

MORTGAGE, ASSIGNMENT OF LEASES AND RENTS AND SECURITY
AGREEMENT

, THIS MORTGAGE, ASSIGNMENT OF LEASES AND RENTS AND SECURITY AGREEMENT
(herein "INSTRUMENT") is made as of October 17, 2005, and is given by the
mortgagor, PACESETTER! APO ASSOCIATES, a New York limited partnership whose
address is c/o Acadia Realty Trust, 1311 Mamaroneck Avenue, White Plains, New
York 10605, (herein "BORROWER"), to the mortgagee, GREENWICH CAPITAL FINANCIAL
PRODUCTS, INC., a corporation organized and existing under the laws of the
state of Delaware, whose address is 600 Steamboat Road, Greenwich, Connecticut
06830, together with its successors, assigns and transferees (herein "LENDER").

RECITALS

Lender is making a secured loan to Borrower in the original principal amount of \$12,500,000 (the "LOAN"). The Loan is evidenced by that certain Promissory Note dated the date hereof made by Borrower to Lender in such principal amount (as the same may be amended, modified, restated, severed, consolidated, renewed, replaced, or supplemented from time to time, the "NOTE").

BORROWER, in consideration of the indebtedness herein recited, irrevocably grants, conveys, mortgages and assigns to Lender WITH POWER OF SALE AND RIGHTS OF ENTRY AND POSSESSION, the following described property located in the County of Rockland, State of New York, and more particularly described on Exhibit "A" attached hereto and incorporated herein by reference for all purposes.

TOGETHER with all buildings, improvements and tenements now or hereafter erected on the property, and all heretofore or hereafter vacated alleys and streets abutting the property, and all easements, rights, appurtenances, rents (subject however to the assignment of rents to Lender herein), royalties, mineral, oil and gas rights and profits, water, water rights, and water stock appurtenant to the property, and all fixtures, machinery, equipment, engines, boilers, incinerators, building materials, appliances and goods of every nature whatsoever now or hereafter located in, or on, or used, or intended to be used in connection with the property, including, but not limited to, those for the purposes of supplying or distributing heating, cooling, electricity, gas, water, air and light; and all elevators, and related machinery and equipment, fire prevention and extinguishing apparatus, security and access control apparatus, plumbing, bath tubs, water heaters, water closets, sinks, ranges, stoves, refrigerators, dishwashers, disposals, washers, dryers, awnings, storm windows, storm doors, screens, blinds, shades, curtains and curtain rods, mirrors, cabinets, paneling, rugs, attached floor coverings, furniture, pictures, antennas, trees and plants, tax refunds, trade names, licenses, permits, Borrower's rights to insurance proceeds, unearned insurance premiums and chooses in action; all of which, including replacements and additions thereto and substitutions therefor, shall be deemed to be and remain a part of the real property covered by this Instrument; and all of the foregoing, together with said property are herein referred to as the "PROPERTY";

TOGETHER with all right, title and interest in, to and under any and all leases now or hereinafter in existence (as amended or supplemented from time to time) and covering space in or applicable to the Property (hereinafter referred to collectively as the "LEASES" and singularly as a "LEASE"), together with all rents, earnings, income, profits, benefits and advantages arising from the Property and from said Leases and all other sums due or to become due under and pursuant thereto, and together with any and all guarantees of or under any of said Leases, and together with all rights, powers, privileges, options and other benefits of Borrower as lessor under the Leases, including, without limitation, the immediate and continuing right to receive and collect all rents, income, revenues, issues, profits, condemnation awards, insurance proceeds, moneys and security payable or receivable under the Leases or pursuant to any of the provisions thereof, whether as rent or otherwise, the right to accept or reject any offer made by any tenant pursuant to its Lease to purchase the Property and any other property subject to the Lease as therein provided and to perform all other necessary or appropriate acts with respect to such Leases as agent and attorney-in-fact for Borrower, and the right to make all waivers and agreements, to give and receive all notices, consents and releases, to take such action upon the happening of a default under any Lease, including the

commencement, conduct and consummation of proceedings at law or in equity as shall be permitted under any provision of any Lease or by any law, and to do any and all other things whatsoever which the Borrower is or may become entitled to do under any such Lease together with all accounts receivable, contract rights, franchises, interests, estates or other claims, both at law and in equity, relating to the Property, to the extent not included in rent earnings and income under any of the Leases;

TOGETHER with all right, title and interest in, to and under any and all reserve, deposit or escrow accounts (the "ACCOUNTS") made pursuant to any loan document made between Borrower and Lender with respect to the Property, together with all income, profits, benefits and advantages arising therefrom, and together with all rights, powers, privileges, options and other benefits of Borrower under the Accounts, and together with the right to do any and all other things whatsoever which the Borrower is or may become entitled to do under the Accounts;

TOGETHER with all agreements, contracts, certificates, guaranties, warranties, instruments, franchises, permits, licenses, plans, specifications and other documents, now or hereafter entered into, and all rights therein and thereto, pertaining to the use, occupancy, construction, management or operation of the Property and any part thereof and any improvements or respecting any business or activity conducted on the Property and any part thereof and all right, title and interest of Borrower therein, including the right to receive and collect any sums payable to Borrower thereunder and all deposits or other security or advance payments made by Borrower with respect to any of the services related to the Property or the operation thereof;

TOGETHER with all tradenames, trademarks, servicemarks, logos, copyrights, goodwill, books and records and all other general intangibles relating to or used in connection with the operation of the Property; and

TOGETHER with any and all proceeds resulting or arising from any of the foregoing (the Property, the Leases, the Accounts, and all other property, whether real, personal, tangible, or intangible, described above, and all proceeds thereof, may be referred to collectively as the "COLLATERAL").

THIS INSTRUMENT SECURES TO LENDER (a) the repayment of the indebtedness evidenced by the Note in the principal sum of TWELVE MILLION FIVE HUNDRED THOUSAND AND NO/100 DOLLARS \$12,500,000 (the "Principal"), with interest thereon, with the balance of the indebtedness, if not sooner paid, due and payable on November 6, 2015 (the "MATURITY DATE"), and all renewals, extensions and modifications thereof; (b) the performance of the covenants and agreements of Borrower contained in an Environmental Indemnity Agreement (herein so-called) between Lender and Borrower dated of even date herewith; (c) the payment of all other sums, with interest thereon, advanced by Lender in accordance herewith to protect the security of this Instrument; and (d) the performance of the covenants and agreements of Borrower herein contained, or contained in any other Loan Document, INCLUDING BORROWER'S COVENANT TO REPAY ALL FUTURE ADVANCES (the Note, this Instrument, and all other documents or instruments given by Borrower

or others and accepted by Lender for purposes of evidencing, securing, perfecting, or guaranteeing the indebtedness evidenced by the Note may be referred to as the "LOAN DOCUMENTS"). Without limitation of the foregoing, the following documents and instruments of even date herewith are also Loan Documents: (i) Assignment of Leases and Rents from Borrower to Lender, (ii) Assignment of Agreements, Licenses, Permits and Contracts from Borrower to Lender, (iii) the Clearing Account Agreement (the "CLEARING ACCOUNT AGREEMENT") among Borrower, Lender, Acadia Realty Limited Partnership ("MANAGER") and Bank of America, N.A., (iv) the Deposit Account Agreement (the "DEPOSIT ACCOUNT AGREEMENT") AMONG Borrower, Lender, Manager and Deposit Bank, (v) the Guaranty of Recourse Obligations (the "GUARANTY") made by Acadia Realty Limited Partnership, a Delaware limited partnership ("GUARANTOR"), (vi) the Certificate of Borrower and (vii) Environmental Indemnity Agreement made by Borrower for the benefit of Lender (the "ENVIRONMENTAL INDEMNITY AGREEMENT"), as each of the foregoing may be (and each of the foregoing defined terms shall refer to such documents as they may be) amended, restated, replaced, supplemented or otherwise modified from time to time.

Borrower covenants that Borrower is lawfully seized of the estate hereby conveyed and has the right to mortgage, grant, convey and assign the Property, that the Property is unencumbered, and that Borrower will warrant and defend generally the title to the Property against all claims and demands, subject to any easements and restrictions listed in a schedule of exceptions to coverage in any title insurance policy insuring Lender's interest in the Property.

Borrower represents, warrants, covenants and agrees in favor of Lender as follows:

SECTION 1. PAYMENT OF PRINCIPAL AND INTEREST. Borrower shall promptly pay when due the principal of and interest on the indebtedness evidenced by the Note, any prepayment and late charges provided in the Note and all other sums secured by this Instrument.

SECTION 2. INTENTIONALLY DELETED.

SECTION 3. APPLICATION OF PAYMENTS. Lender may apply any payments received from or on behalf of Borrower to any of the obligations of Borrower then due under the Loan Documents, in any order determined by Lender.
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SECTION 4. CHARGES; LIENS. Borrower shall pay all rents, taxes, charges assessments and impositions attributable to the Property (collectively "TAXES") when due. Unless Lender is paying such Taxes in accordance with Section 25, Borrower shall promptly furnish to Lender all notices of amounts due under this Section, and in the event Borrower shall make payment directly, Borrower shall promptly furnish to Lender receipts evidencing such payments. Except only for the liens and security interests in favor of Lender under this Instrument and the other Loan Documents, which Borrower shall pay and discharge in accordance with the Loan Documents, Borrower shall promptly discharge any lien encumbering all or any portion of or interest in the Property (unless such lien is bonded within 30 days after Borrower first receives notice of such lien), irrespective of the priority of the same. Borrower shall pay, when due, the claims of all persons supplying labor or materials to or in connection with the Property (unless such claims are the subject of a bona fide dispute in which Borrower is contesting the amount or validity thereof).

SECTION 5. HAZARD INSURANCE. Borrower shall at all times keep the improvements now existing or hereafter erected on the Property insured against all losses, hazards, casualties, liabilities and contingencies as Lender shall reasonably require and in such amounts and for such periods as Lender shall reasonably require. Borrower shall purchase and maintain policies of insurance with respect to the Property in such amounts and covering such risks as shall be satisfactory to Lender, including, but not limited to, the following:

(a) Property damage insurance covering loss or damage to the Property caused by fire, lightning, hail, windstorm, explosion, hurricane (to the extent available), vandalism, malicious mischief, and, if available and subject to subsection (i) below, coverage for damage or destruction caused by the acts of "Terrorists" (or such policies shall have no exclusion from coverage with respect thereto) and such other losses, hazards, casualties, liabilities and contingencies as are nonnially and usually covered by fire policies in effect where the Property is located endorsed to include all of the extended coverage perils and other broad form perils, including the standard "all risks" clauses. Such policy shall be in an amount not less than that necessary to comply with any coinsurance percentage stipulated in the policy, but not less than 100% of the full replacement cost of the improvements on the Property (without any deduction for depreciation) and shall contain a replacement cost endorsement. The deductible under such policy, if any, shall not exceed the lesser of five percent (5%) of Net Operating Income or \$25,000. Further, if any of the improvements or the use of the Property shall at any time constitute legal nonconforming structures or uses under current zoning ordinances, such policy shall contain an "Ordinance or Law Coverage" or "Enforcement" endorsement providing coverage for demolition, increased cost of construction and inability to rebuild.

(b) Broad form boiler and machinery insurance in an amount equal to the lesser of 100% of the full replacement cost of the building (without any deduction for depreciation) in which the boiler or similar vessel is located, or \$2,000,000. In addition, Lender may require a rider to such policy to extend such coverage to electrical machinery and equipment, air conditioning, refrigeration, and mechanical objects.

(c) If the Property is in an area prone to geological phenomena, including, but not limited to, sinkholes, mine subsidence or earthquakes, insurance covering such risks in an amount equal to 100% of the full replacement cost of the improvements on the Property (without any deduction for depreciation), and with a maximum permissible deductible equal to the lesser of \$25,000 or 10% of the face value of the policy.

(d) Flood insurance if the Property is in an area now or hereafter designated by the Federal Emergency Management Agency as a Zone "A" & "V" Special Hazard Area, or such other Special Hazard Area if Lender so requires in its sole discretion. Such policy shall be in an amount equal to \$5,000,000 of flood coverage on the total Property, plus \$500,000 of federal flood coverage on each of the buildings at the Property, and shall have a maximum permissible deductible of \$3,000.

(e) Business interruption or rent loss insurance in an amount equal to the gross income or rentals from the Property for an indemnity period of eighteen months, such amount being adjusted annually.

(f) During any period of reconstruction, renovation or alteration of the Property in excess of 10% of the Note, a completed value, "All Risks" Builders Risk form or "Course of Construction" insurance policy in non-reporting form and in an amount satisfactory to Lender in Lender's sole discretion.

(g) Commercial General Liability insurance covering bodily injury and death in an amount not less than \$1,000,000 per occurrence and \$2,000,000 in the aggregate with no deductible, together with at least \$10,000,000 excess and/or umbrella liability insurance for any and all claims.

(h) If required by applicable state laws, worker's compensation or employer's liability insurance in accordance with such laws.

(i) Notwithstanding anything in subsection (a) above to the contrary, Borrower shall be required to obtain and maintain coverage in its property insurance policy (or by a separate policy) against loss or damage by terrorist acts provided that such coverage is available. Borrower shall obtain such coverage from a carrier which otherwise satisfies the rating criteria specified in this Section 5 (a "QUALIFIED CARRIER") or in the event that such coverage is not available from a Qualified Carrier, Borrower shall obtain such coverage from the highest rated insurance company providing such coverage. If such coverage with respect to terrorist acts is available as aforesaid, Borrower shall obtain and maintain such coverage in an amount equal to 100% of the "Full Replacement Cost" of the Property.

(j) Such other insurance and endorsements, if any, as Lender may reasonably require from time to time, or which are required by the Loan Documents.

Each carrier providing any insurance, or portion thereof, required by this Section shall be issued by companies approved by Lender and licensed to do business in the State, with a claims paying ability rating of "A" or better by S&P (and the equivalent by any other Rating Agency) and a rating of A:X or better in the current Best's Insurance Reports; provided, that, the liability insurance required under paragraph (g) of this Section shall be issued by companies approved by Lender and licensed to do business in the State, with a claims paying ability rating of "A" or better by S&P (and the equivalent by any other Rating Agency) and a rating of A:X or better in the current Best's Insurance Reports. Borrower shall cause all insurance (except general public liability insurance) carried in accordance with this Section to be payable to Lender as a mortgagee and not as a coinsured, and, in the case of all policies of insurance carried by each lessee for the benefit of Borrower, if any, to cause all such policies to be payable to Lender as Lender's interest may appear. All premiums on insurance policies shall be paid, in the manner provided under Section 25(d) hereof, or in such other manner as Lender may designate in writing.

All insurance policies and renewals thereof (i) shall be in a form acceptable to Lender, (ii) shall provide for a term of not less than one year, (iii) shall provide by way of endorsement, rider or otherwise that such insurance policy shall not be canceled, endorsed, altered, or reissued to effect

a change in coverage unless such insurer shall have first given Lender 30 days prior written notice thereof, (iv) shall include a standard mortgagee clause in favor of and in form acceptable to Lender, (v) shall provide for claims to be made on an occurrence basis, except that boiler and machinery coverage may be made on an accident basis, and (vi) shall contain an agreed value clause updated annually (if the amount of coverage under such policy is based upon the replacement cost of the Property). All property damage insurance policies (except for flood and earthquake policies) must automatically reinstate after each loss.

Notwithstanding anything to the contrary contained herein, the insurance coverages required under this Section 5 may be effected under a blanket policy or policies covering the Property and other property and assets not constituting a part of the security for the Loan; provided that Borrower shall provide evidence reasonably satisfactory to Lender that the insurance premiums for the Property are separately allocated under such policy to the Property and that (i) payment of such allocated amount shall maintain the effectiveness of such policy as to the Property notwithstanding the failure of payment of any other portion of premiums, and (ii) overall insurance limits will under no circumstance limit the amount that will be paid in respect of the Property, and provided further that any such blanket policy shall contain an amendment setting forth that (A) the aggregate limit under such policy shall apply separately to each property covered thereunder, and (B) unless otherwise agreed to by Lender (which consent shall not be unreasonably withheld), the limit of such policy shall be a "true blanket limit" and not limited by a schedule of values for the properties covered thereby (any such blanket policies which complies with such conditions, an "ACCEPTABLE BLANKET POLICY").

Lender shall have the right to hold the policies, and Borrower shall promptly furnish to Lender all renewal notices and all receipts of paid premiums. Not less than five (5) days prior to the expiration date of any insurance policy required hereunder, a certificate of insurance evidencing the renewal of such policy, together with evidence satisfactory to Lender of payment in full of the annual premium therefor, shall be delivered by Borrower to Lender. Not more than forty-five (45) days after to the expiration date of any insurance policy required hereunder, Borrower shall deliver to Lender a renewal insurance policy in form satisfactory to Lender.

If the Property is damaged or destroyed, in whole or in part, by fire or other casualty (a "CASUALTY"), Borrower shall give immediate written notice thereof to Lender and to the insurance carrier. If a Casualty covered by any of the policies of insurance (an "INSURED CASUALTY") occurs where the loss does not exceed \$1,000,000, provided no Event of Default has occurred and is continuing, Borrower may settle and adjust any claim without the prior consent of Lender; provided such adjustment is carried out in a competent and timely manner, and Borrower is hereby authorized to collect and receipt for the insurance proceeds. In the event of an Insured Casualty where the loss equals or exceeds \$1,000,000 (a "SIGNIFICANT CASUALTY"), Borrower may settle and adjust any claim with the prior consent of Lender (which consent shall not be unreasonably withheld or delayed) unless an Event of Default has occurred and is continuing in which case Lender may settle and adjust any claim without the consent of Borrower and agree with the insurer(s) on the amount to be paid on the loss, which settlement and adjustment shall be in Lender's sole and absolute discretion. The proceeds with respect to any Significant Casualty shall be due and payable solely to Lender and held by Lender in the Casualty/Condemnation Subaccount and disbursed in accordance herewith. If Borrower or any party other than Lender is a payee on any check representing insurance proceeds with respect to a Significant

Casualty, Borrower shall immediately endorse, and cause all such third parties to endorse, such check payable to the order of Lender. Borrower hereby irrevocably appoints Lender as its attorney-in-fact, coupled with an interest, to endorse such check payable to the order of Lender. Borrower further authorizes Lender, at Lender's option, (a) to hold the balance of such proceeds with respect to any Significant Casualty to be used to reimburse Borrower for the cost of reconstruction or repair of the Property or (b) subject to the immediately following paragraph, to apply such proceeds to the payment of the sums secured by this Instrument whether or not then due, in any order. The expenses incurred by Lender in the settlement, adjustment and collection of any insurance proceeds shall become part of the Debt and shall be reimbursed by Borrower to Lender upon demand.

Lender shall not exercise Lender's option to apply insurance proceeds to the payment of the sums secured by this Instrument if all of the following conditions are met: (i) no Event of Default has occurred which is then continuing; (ii) Lender determines that there will be sufficient funds to restore and repair the Property to the Pre-existing Condition (as hereinafter defined); (iii) Lender agrees in writing that the rental income of the Property, after restoration and repair of the Property to the Pre-existing Condition, will be sufficient to meet all operating costs and other expenses, payments for reserves and loan repayment obligations (including any obligations under any permitted subordinate financing) relating to the Property and maintain a Debt Service Coverage Ratio of at least 1.25 to 1.0; (iv) Lender determines that restoration and repair of the Property to the Pre-existing Condition will be completed within one year of the date of the loss or casualty to the Property, but in no event later than six months prior to the Maturity Date; (v) less than 30 percent of the total floor area of the improvements has been damaged, destroyed or rendered unusable as a result of such fire or other casualty; (vi) tenant leases demising in the aggregate at least 65% of the total rentable space at the Property in effect as of the date of the occurrence of such fire or other casualty remain in full force and effect during and after the completion of the restoration and repair of the Property; and (vii) Lender is reasonably satisfied that the Property can be restored and repaired as nearly as possible to the condition it was in immediately prior to such casualty and in compliance with all applicable zoning, building and other laws and codes (the "PRE-EXISTING CONDITION"). If Lender elects to make the insurance proceeds available for the restoration and repair of the Property, Borrower agrees that, if at any time during the restoration and repair, the cost of completing such restoration and repair, as determined by Lender, exceeds the undisbursed insurance proceeds, Borrower shall, immediately upon demand by Lender, deposit the amount of such excess with Lender, and Lender shall first disburse such deposit to pay for the costs of such restoration and repair on the same terms and conditions as the insurance proceeds are disbursed.

If the insurance proceeds are held by Lender to reimburse Borrower for the cost of restoration and repair of the Property, then Borrower shall restore the Property to the equivalent of its original condition or such other condition as Lender may approve in writing, and Borrower shall promptly begin such restoration and at all times thereafter diligently prosecute such restoration to completion. Lender may, at Lender's option, condition disbursement of said proceeds on Lender's approval of such plans and specifications of an architect satisfactory to Lender, contractor's cost estimates, architect's certificates, waivers of liens, sworn statements of mechanics and materialmen and such other evidence of costs, percentage completion of construction, application of payments; and satisfaction of liens as Lender may reasonably require. If the

insurance proceeds are applied to the payment of the sums secured by this Instrument, any such application of proceeds to principal shall not extend or postpone the due dates of the monthly installments due under the Note, under Section 25(d) hereof, or otherwise under the Loan Documents, or change the amounts of such installments. If the Property is sold at foreclosure or pursuant to power of sale or if Lender acquires title to the Property, Lender shall have all of the right, title and interest of Borrower in and to any insurance policies and unearned premiums thereon and in and to the proceeds resulting from any damage to the Property prior to such sale or acquisition.

SECTION 6. PRESERVATION AND MAINTENANCE OF PROPERTY. Borrower (a) shall not commit waste or permit impairment or deterioration of the Property, (b) shall not abandon the Property, (c) shall restore or repair promptly and in a good and workmanlike manner all or any part of the Property to the equivalent of its original condition, or such other condition as Lender may approve in writing, in the event of any damage, injury or loss thereto, whether or not insurance proceeds are available to cover in whole or in part the costs of such restoration or repair, (d) shall keep the Property, including improvements, fixtures, equipment, machinery and appliances thereon in good repair and shall replace fixtures, equipment, machinery and appliances on the Property when necessary to keep such items in good repair, (e) shall comply with all laws, ordinances, regulations and requirements of any governmental body applicable to the Property, (f) shall provide for management of the Property by Acadia Realty Limited Partnership, or otherwise provide for professional third-party management of the Property by a commercial property manager with substantial experience in managing properties of the applicable kind, and otherwise satisfactory to Lender, pursuant to a contract approved by Lender in writing, unless such requirement shall be waived by Lender in writing, (g) shall generally operate and maintain the Property in a manner to ensure maximum rentals, and (h) shall give notice in writing to Lender of and, unless otherwise directed in writing by Lender, appear in and defend any action or proceeding purporting to affect the Property, the security of this Instrument or the rights or powers of Lender. Neither Borrower nor any tenant or other person shall remove, demolish or alter any improvement now existing or hereafter erected on the Property or any fixture, equipment, machinery or appliance in or on the Property except when incident to the replacement of fixtures, equipment, machinery and appliances with items of like kind.

SECTION 7. USE OF PROPERTY. Unless required by applicable law or unless Lender has otherwise agreed in writing, Borrower shall not allow changes in the use for which all or any part of the Property was intended at the time this Instrument was executed. Borrower shall not subdivide the Property or initiate or acquiesce in a change in the zoning classification of the Property without Lender's prior written consent.

SECTION 8. PROTECTION OF LENDER'S SECURITY. If Borrower fails to perform the covenants and agreements contained in this Instrument, or if any action or proceeding is commenced which affects the Property or title thereto or the interest of Lender therein, including, but not limited to, eminent domain, insolvency, code enforcement, or arrangements or proceedings involving a bankrupt or decedent, Lender, at Lender's option, may make such appearances, disburse such sums and take such action as Lender deems necessary, in its sole discretion, to protect Lender's interest, including, but not limited to, (i) disbursement of attorney's fees, (ii) entry upon the Property to make repairs, (iii) procurement of satisfactory insurance as provided herein, (iv) the payment of any Taxes then due and payable, and (v) payment of any other amounts

contemplated in any of the Loan Documents. Any amounts disbursed by Lender pursuant to this Section, with interest thereon, shall become additional indebtedness of Borrower secured by this Instrument. Unless Borrower and Lender agree to other terms of payment, such amounts shall be immediately due and payable upon demand and shall bear interest from the date of disbursement at the rate then applicable to principal under the Note unless collection from Borrower of interest at such rate would be contrary to applicable law, in which event such amounts shall bear interest at the highest rate which may be collected from Borrower under applicable law. Nothing contained in this Section or elsewhere in any of the Loan Documents shall require Lender to incur any expense or take any action hereunder.

SECTION 9. INSPECTION. Lender may make or cause to be made reasonable entries upon and inspections of the Property including, but not limited to, Phase I and/or Phase II environmental audits and inspections.

SECTION 10. BOOKS AND RECORDS. Borrower shall keep and maintain at all times at Borrower's address stated herein, or such other place as Lender may approve in writing, complete and accurate books of accounts and records adequate to reflect correctly the results of the operation of the Property and copies of all written contracts, leases and other instruments which affect the Property. Such books, records, contracts, leases and other instruments shall be subject to examination and inspection at any reasonable time by Lender.

Borrower shall furnish to Lender annually, within 120 days after each calendar year, a complete copy of Borrower's annual financial statements prepared as a compilation (without a review and without disclosures) by a "big four" accounting firm or another independent certified public accountant reasonably acceptable to Lender, each in accordance with GAAP or a federal income tax basis of accounting, in either case, consistently applied, and containing balance sheets and statements of profit and loss for Borrower and the Property in such detail as Lender may reasonably request. Each such statement (x) shall be in form and substance satisfactory to Lender, (y) shall set forth the financial condition and the income and expenses for the Property for the immediately preceding calendar year, including statements of annual Net Operating Income as well as (1) a list of commercial tenants, if any, occupying more than twenty percent of the rentable space of the Property, (2) a breakdown showing (a) the year in which each commercial Lease then in effect expires, and (b) the percentage of rentable space covered by such commercial Lease as stated in such Lease, and (z) shall be accompanied by an Officer's Certificate (as defined in Section 25 hereof) certifying (1) that such statement is true, correct, complete and accurate and presents fairly the financial condition of the Property and has been prepared in accordance with GAAP or a federal income tax basis of accounting, in either case, consistently applied, and (2) whether there exists an Event of Default, and if so, the nature thereof, the period of time it has existed and the action then being taken to remedy it.

On or before the 45th day after the end of each three-month fiscal quarter of Borrower (which may include months for which reports shall have been submitted under the prior sentence), Borrower shall deliver to Lender management prepared financial statements for such quarter. Each set of such financial statements (i) shall consist of an operating statement of income and expenses of the Property, (ii) shall be in form and detail reasonably satisfactory to Lender and (iii) shall be accompanied by an Officer's Certificate certifying that the applicable statements are true, complete, and accurate and do not omit to state any material information. All of such financial statements shall provide information for the applicable month or quarter and on a year-to-date basis (and at the end of the fourth quarter, for the year).

Borrower shall furnish, together with the foregoing financial statements and at any other time upon Lender's request, a rent schedule for the Property, certified by Borrower, showing the name of each tenant, and for each tenant, the space occupied, the lease expiration date, the rent payable and the rent paid.

In addition to the above delivery of financial statements and rent schedule, Borrower shall deliver to Lender updated versions of such financial statements at any other time upon Lender's request, including operating statements of income and expenses of the Property. Borrower shall also furnish to Lender, during any Cash Management Period, the Annual Budget in accordance with Section 28(h) of this Instrument. Further, Borrower shall provide to Lender, as soon as the same are available to Borrower, all financial statements and sales reports received from any tenant at the Property.

SECTION 11. CONDEMNATION. Borrower shall promptly give Lender notice of the actual or threatened commencement of any condemnation or eminent domain proceeding affecting the Property (a "CONDEMNATION") and shall deliver to Lender copies of any and all papers served in connection with such Condemnation. Following the occurrence of a Condemnation, Borrower, regardless of whether an Award is available, shall promptly proceed to restore, repair, replace or rebuild the Property in accordance with Legal Requirements to the extent practicable to be of at least equal value and of substantially the same character (and to have the same utility) as prior to such Condemnation. If a Condemnation occurs where the award or payment in respect thereof (an "AWARD") does not exceed \$500,000 or which results in the taking of 5% or less of the Property, provided no Event of Default has occurred and is continuing, Borrower may make any compromise, adjustment or settlement in connection with such Condemnation without the prior consent of Lender; provided such adjustment is carried out in a competent and timely manner, and Borrower is hereby authorized to collect and receipt for the Award. In the event of a Condemnation where the Award is in excess of \$500,000 or which results in the taking of more than 5% of the Property, Lender is hereby irrevocably appointed as Borrower's attorney-in-fact, coupled with an interest, with exclusive power to collect, receive and retain any Award and, so long as no Event of Default is continuing, with Borrower's consent (which consent shall not be unreasonably withheld or delayed) to make any compromise, adjustment or settlement in connection with such Condemnation. Borrower shall cause any Award that is payable to Borrower to be paid directly to Lender. Lender shall hold such Award in the Casualty/Condemnation Subaccount and disburse such Award in accordance with the terms hereof.

Borrower authorizes Lender to apply such Award, after the deduction of Lender's expenses incurred in the collection of such amounts, at Lender's option, to restoration or repair of the Property or to payment of the sums secured by this Instrument, whether or not then due, in the order determined by Lender, with the balance, if any, to Borrower. Unless Borrower and Lender

otherwise agree in writing, any application of proceeds to principal shall not extend or postpone the due date of the monthly installments due hereunder or under any of the Loan Documents or change the amount of such installments. Borrower agrees to execute such further evidence of assignment of any awards, proceeds, damages or claims arising in connection with such condemnation or taking as Lender may require.

SECTION 12. BORROWER AND LIEN NOT RELEASED. From time to time, Lender may, at Lender's option, without giving notice to or obtaining the consent of Borrower, Borrower's successors or assigns or of any junior lienholder or guarantors, without liability on Lender's part and notwithstanding Borrower's breach of any covenant or agreement of Borrower in this Instrument, extend the time for payment of said indebtedness or any part thereof, reduce the payments thereon, release anyone liable on any of said indebtedness, accept a renewal note or notes therefor, modify the terms and time of payment of said indebtedness, release from the lien of this Instrument any part of the Property, take or release other or additional security, reconvey any part of the Property, consent to any map or plan of the Property, consent to the granting of any easement, join in any extension or subordination agreement, and agree in writing with Borrower to modify the rate of interest or period of amortization of the Note or change the amount of the monthly installments payable thereunder. Any actions taken by Lender pursuant to the terms of this Section shall not affect the obligation of Borrower or Borrower's successors or assigns to pay the sums secured by this Instrument and to observe the covenants of Borrower contained herein, shall not affect the guaranty of any person, corporation, partnership or other entity for payment of the indebtedness secured hereby, and shall not affect the lien or priority of lien hereof on the Property. Borrower shall pay Lender a reasonable service charge, together with such title insurance premiums and attorney's fees as may be incurred at Lender's option, for any such action if taken at Borrower's request.

SECTION 13. UNIFORM COMMERCIAL CODE SECURITY AGREEMENT. This Instrument is intended to be a security agreement pursuant to the Uniform Commercial Code for any of the items specified above as part of the Collateral which, under applicable law, may be subject to a security interest pursuant to the Uniform Commercial Code, and Borrower hereby grants Lender a security interest in said items. Borrower agrees that Lender may file this Instrument, or a reproduction thereof, in the real estate records or other appropriate index, as a financing statement for any of the items specified above as part of the Collateral. Any reproduction of this Instrument or of any other security agreement or financing statement shall be sufficient as a financing statement. In addition, Borrower agrees to execute and deliver to Lender, upon Lender's request, any financing statements, as well as extensions, renewals and amendments thereof, and reproductions of this Instrument in such form as Lender may require to perfect a security interest with respect to said items. Borrower shall pay all costs of filing such financing statements and any extensions, renewals, amendments and releases thereof, and shall pay all reasonable costs and expenses of any record searches for financing statements Lender may reasonably require. Without the prior written consent of Lender, Borrower shall not create or suffer to be created pursuant to the Uniform Commercial Code any other security interest in

said items, including replacements and additions thereto. Upon Borrower's breach of any covenant or agreement of Borrower contained in this Instrument, including the covenants to pay when due all sums secured by this Instrument, Lender shall have the remedies of a secured party under the Uniform Commercial Code and, at Lender's option, may also invoke the remedies provided herein or in any of the Loan Documents, or pursuant to any applicable law as to such items. In exercising any of said remedies, Lender may proceed against the items of real property and any items of personal property specified above as part of the Collateral separately or together and in any order whatsoever, without in any way affecting the availability of Lender's remedies under the Uniform Commercial Code or of the remedies provided herein or in any of the Loan Documents. For purposes of the Security Agreement and the fixture filing, the Borrower shall constitute the "DEBTOR" and shall have the address specified in the first paragraph of this Instrument and the Lender shall constitute the "SECURITY PARTY" and shall have the address specified in the first paragraph of this Instrument.

SECTION 14. LEASES OF THE PROPERTY. Borrower shall comply with and observe Borrower's obligations as landlord under all leases of the Property or any part thereof. Borrower will not lease any portion of the Property for any use contrary to the existing character of the Property except with the prior written approval of Lender. Borrower may execute or modify, without Lender's prior written consent, any lease of space at the Property now existing or hereafter made which affects less than 5,000 square feet of space at the Property and provided the term of such lease is five years or less (an "EXEMPT LEASE") provided such lease:

(i) is on a standard lease form pre-approved by

Lender;

(ii) is at a net effective rent (after taking into account any free rent, construction allowances or other concessions granted by landlord) no less than the current actual rent or fair market rent then prevailing for similar properties and leases in the market area;

(iii) contains rent or other concessions which are legally required or are otherwise customary and reasonable for similar properties and leases in the market area;

(iv) represents a bona fide arm's length transaction;

(v) does not permit any use which would violate any provision of any existing lease or is otherwise inconsistent with the uses and quality of existing tenants;

(vi) is provided to Lender within ten days after execution;

(vii) as modified or amended does not become a lease which fails to satisfy the criteria for an Exempt Lease pursuant to this Section;

(viii) as modified or amended does not materially modify the financial terms of Borrower's standard form of lease or materially reduce the rights and remedies of the Borrower or Lender under said standard lease;

(ix) is subordinate by its terms to this Instrument provided that Lender shall have agreed to provide such tenant with a non-disturbance agreement in form and substance reasonably acceptable to Lender; provides that the tenant thereunder is required to attorn to Lender, such attornment to be effective upon Lender's acquisition of title to the Property; that the tenant agrees to execute such further evidences of attornment as Lender may from time to time request; that the attornment of the tenant shall not be terminated by foreclosure; that in no event shall Lender, as holder of this Instrument or as successor landlord, be liable to the tenant for any act or omission of any prior landlord or for any liability or obligation of any prior landlord occurring prior to the date that Lender or any subsequent owner acquire title to the Property; and that Lender may, at Lender's option, accept or reject such attornment.

Borrower shall be required to obtain Lender's consent, which shall not be unreasonably withheld, for the creation of any lease and subleases at the Property other than an Exempt Lease. The request for approval of each such proposed lease shall be made to Lender in writing and Borrower shall furnish to Lender (and any loan servicer specified from time to time by Lender): (i) such biographical and financial information about the proposed tenant as Lender may reasonably require in conjunction with its review, (ii) a copy of the proposed form of lease, and (iii) a summary of the material terms of such proposed lease (including, without limitation, rental terms and the terms of the proposed lease and any options). Lender's failure to approve or disapprove any such lease or sublease within ten (10) Business Days after Lender's receipt of such request shall be deemed to constitute Lender's approval thereof.

As to all leases other than Exempt Leases, Borrower shall not, without the prior written consent of Lender (which shall not be unreasonably withheld), (i) cancel, amend or modify any such lease, (ii) approve any assignment, sublease or underlease of any such lease, or (iii) cancel or modify any guaranty, or release any security deposit or letter of credit constituting security pertaining to any such lease. Lender's failure to approve or disapprove any of the matters described in the preceding sentence within ten (10) Business Days after Lender's receipt of such request shall be deemed to constitute Lender's approval thereof.

Borrower shall promptly send Lender copies of any notices of default received from the tenant under any lease; and will enforce (short of terminating such lease) the performance by the tenant of the tenant's obligations under any lease.

Except for security deposits, no lease, whether an Exempt Lease or otherwise, shall provide for payment of rent more than one month in advance, and Borrower shall not under any circumstances collect any such rent more than one month in advance.

Borrower, at Lender's request, shall furnish Lender with executed copies of all leases hereafter made of all or any part of the Property, and all leases hereafter entered into (other than Exempt Leases) will be in form and substance subject to the approval of Lender. All leases of the Property or a separate agreement in recordable form and substance satisfactory to Lender shall specifically provide that such leases are subordinate to this Instrument; that the tenant attorns to Lender, such attornment to be effective upon Lender's acquisition of title to the Property; that the tenant agrees to execute such further evidences of attornment as Lender may from time to time request; that the attornment of the tenant shall not be terminated by foreclosure; that in no event shall Lender, as holder of this Instrument or as successor landlord,

be liable to the tenant for any act or omission of any prior landlord or for any liability or obligation of any prior landlord occurring prior to the date that Lender or any subsequent owner acquire title to the Property; and that Lender may, at Lender's option, accept or reject such attornment. Notwithstanding the foregoing, Lender agrees to enter into a non-disturbance agreement with any tenant at the Property, which agreement shall be in form and substance and on terms and conditions reasonably acceptable to Lender. Except as otherwise provided in this Section, Borrower shall not, without Lender's written consent, (1) execute, modify, surrender or terminate, either orally or in writing, any lease at the Property now existing or hereafter made of all or any part of the Property, (2) permit an assignment or sublease of a lease, or (3) request or consent to the subordination of any lease of all or any part of the Property to any lien subordinate to this Instrument. Notwithstanding the foregoing and provided that (i) no Event of Default is continuing and (ii) the total occupancy level at the Property remains in excess of 92% (after giving effect to the termination in question), Borrower may, without Lender's consent, terminate a Lease which covers less than 5,000 rentable square feet provided that (i) the tenant under such Lease is in default under such Lease and (ii) Borrower shall give Lender not less than thirty (30) days prior written notice specifying the date on which Borrower will terminate such Lease. If Borrower becomes aware that any tenant proposes to do, or is doing, any act or thing which may give rise to any right of set-off against rent, Borrower shall (i) take such steps as shall be reasonably calculated to prevent the accrual of any right to a set-off against rent, (ii) notify Lender thereof and of the amount of said set-offs, and (iii) within ten days after such accrual, reimburse the tenant who shall have acquired such right to set-off or take such other steps as shall effectively discharge such set-off and as shall assure that rents thereafter due shall continue to be payable without set-off or deduction.

Upon Lender's request, Borrower shall absolutely assign to Lender, by written instrument satisfactory to Lender, all leases now existing or hereafter made of all or any part of the Property and all security deposits made by tenants in connection with such leases of the Property. Upon assignment by Borrower to Lender of any leases of the Property, Lender shall have all of the rights and powers possessed by Borrower prior to such assignment and Lender shall have the right to modify, extend or terminate such existing leases and to execute new leases, in Lender's sole discretion.

SECTION 15. TRANSFERS OF THE PROPERTY OR BENEFICIAL INTERESTS IN BORROWER.

(a) As used in this Section 15 and elsewhere in this Instrument, the following capitalized terms shall have the respective meanings set forth below:

(i) "CONTROL": with respect to any Person, either (i) ownership directly or indirectly of 49% or more of all equity interests in such Person or (ii) the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such Person, through the ownership of voting securities, by contract or otherwise.

(ii) "KEY PRINCIPALS": Acadia Realty Limited Partnership, a Delaware limited partnership, and Acadia Realty Trust, a Maryland real estate investment trust.

(iii) "Permitted Encumbrances": (i) the liens created by the Loan Documents, (ii) all liens and other matters disclosed in Lender's title insurance policy, (iii) liens, if any, for Taxes not yet due and payable and not delinquent and (iv) any workers', mechanics' or other similar liens on the Property provided that any such Lien is bonded or discharged within 30 days after Borrower first receives notice of such lien and (v) such other title and survey exceptions as Lender approves in writing in Lender's discretion.

(iv) "PERMITTED TRANSFERS": (i) a Lease entered into in accordance with the Loan Documents, (ii) a Permitted Encumbrance, (iii) a Transfer and Assumption, (iv) provided that no Event of Default shall then exist, (1) a Transfer of an indirect interest in Borrower other than the general partnership interest held by Managing Entity (as defined in Section 29 hereof), (2) a Transfer of publicly traded shares in Acadia Realty Trust or (3) a Transfer of an interest in the Managing Entity to any Person, in either case, provided that (A) such Transfer shall not (x) cause the transferee (other than any Key Principal), together with its Affiliates, to acquire Control of Borrower or the Managing Entity or to increase its direct or indirect interest in Borrower or in the Managing Entity to an amount which equals or exceeds 49% or (y) result in Borrower or the Managing Entity no longer being Controlled by any Key Principal, (B) after giving effect to such Transfer, Key Principals (in the aggregate) shall continue to own at least 51 % of all equity interests (direct or indirect) in Borrower, (C) Borrower shall give Lender notice of such Transfer together with copies of all instruments effecting such Transfer not less than 10 days prior to the date of such Transfer, and (D) the legal and financial structure of Borrower and its members and the single purpose nature and bankruptcy remoteness of Borrower and its members after such Transfer, shall satisfy Lender's then current applicable underwriting criteria and requirements, (v) provided that no Event of Default shall then exist, a Transfer of a direct or indirect interest in Borrower or Managing Entity that occurs by devise or bequest or by operation of law upon the death of a natural person that was the holder of such interest to a member of the immediate family of such interest holder or a trust established for the benefit of such immediate family member, provided that (A) no such Transfer shall result in a change of the day to day operations of the Property, (B) Borrower shall give Lender notice of such Transfer together with copies of all instruments effecting such Transfer not less than 20 days after the date of such Transfer, (C) the legal and financial structure of Borrower and Managing Entity, and the single purpose nature and bankruptcy remoteness of Borrower and Managing Entity after such Transfer, shall satisfy Lender's then current applicable underwriting criteria and requirements, (D) if any such Transfer would result in a change of Control of Borrower or Managing Entity and occurs prior to the occurrence of a Secondary Market Transaction, such Transfer is approved by Lender in writing within 30 Business Days after any such Transfer, and (E) if any such Transfer would result in a change of Control of Borrower or Managing Entity and occurs after the occurrence of a Secondary Market Transaction, Borrower, at Borrower's sole cost and expense, shall, within 30 Business Days after any such Transfer, (a) deliver (or cause to be delivered) if required by Lender or any Rating Agency a Rating Comfort Letter to Lender, (b) obtain the prior written consent of Lender which shall not be unreasonably withheld and (c) reimburse Lender for all reasonable expenses incurred by Lender in connection with such Transfer, or (vi) provided that no Event of Default shall then exist, a Transfer of a direct or indirect interest in Borrower or Managing Entity to any Person (other than any Key Principal) (the "NEW SPONSOR"), pursuant to which, after giving effect to such Transfer, the New Sponsor, together with its Affiliates, acquires Control of

Borrower or the Managing Entity or holds a direct or indirect interest in Borrower or in Managing Entity in an amount equaling or exceeding 49% provided that (A) Lender consents to such Transfer, which consent shall not be unreasonably withheld, (B) Borrower delivers to Lender evidence reasonably satisfactory to Lender showing that, after giving effect to such Transfer, Borrower and Managing Entity remain in full compliance with Section 29 hereof, as the provisions thereof may be modified by Lender taking into account the ownership structure of New Sponsor and its Affiliates, (C) if the Loan (as defined in Section 32(e) hereof), by itself or together with other loans, has been the subject of a Secondary Market Transaction, then Lender shall have received a Rating Comfort Letter from the applicable Rating Agencies, (D) if the Loan has not been the subject of a Secondary Market Transaction, then Lender shall have determined in its reasonable discretion (taking into consideration such factors as Lender may determine, including the attributes of the loan pool in which the Loan might reasonably be expected to be securitized) that no rating for any securities that would be issued in connection with such securitization will be diminished, qualified, or withheld by reason of such Transfer to New Sponsor, (E) the identity, experience, and financial condition of the New Sponsor shall be satisfactory to Lender in its reasonable discretion, (F) a replacement guarantor(s) (the identity, experience and financial condition of which shall be satisfactory to Lender in its reasonable discretion) shall execute and deliver to Lender any and all documents reasonably required by Lender, in form and substance reasonably required by Lender, in Lender's sole discretion, after which Guarantor shall be released from all liabilities and obligations under the Guaranty, and (G) counsel to New Sponsor and replacement guarantor(s) shall deliver to Lender opinions in form and substance satisfactory to Lender as to such matters as Lender shall reasonably require, which may include opinions as to substantially the same matters as were required in connection with the origination of the Loan.

(v) "PERSON": any individual, corporation, partnership, limited liability company, joint venture, estate, trust, unincorporated association, any other person or entity, and any federal, state, county or municipal government or any bureau, department or agency thereof and any fiduciary acting in such capacity on behalf of any of the foregoing.

(vi) "RATING AGENCY": each of Standard & Poor's Ratings Services, a division of The McGraw-Hill Companies, Inc. ("S&P"), Moody's Investors Service, Inc. ("Moody's"), and Fitch IBCA Duff & Phelps ("Fitch") or any other nationally-recognized statistical rating organization to the extent any of the foregoing have been engaged by Lender or its designee in connection with or in anticipation of any Secondary Market Transaction.

(vii) "RATING COMFORT LETTER": a letter issued by each of the applicable Rating Agencies which confirms that the taking of the action referenced to therein will not result in any qualification, withdrawal or downgrading of any existing ratings of Securities created in a Secondary Market Transaction.

(viii) "SECONDARY MARKET TRANSACTION": any of (i) the sale, assignment, or other transfer of all or any portion of the loan evidenced by the Note and this Instrument or the Loan Documents or any interest therein to one or more investors, (ii) the sale, assignment, or other transfer of one or more participation interests in the loan evidenced by the Note and this Instrument or Loan Documents to one or more investors, or (iii) the transfer or deposit of all or any portion of the loan evidenced by the Note and this Instrument or Loan Documents to or with one or more trusts or other entities which may sell certificates or other instruments to investors evidencing an ownership interest in the assets of such trust or the right to receive income or proceeds therefrom.

(IX) "TRANSFER": any sale, conveyance, transfer, lease or assignment, or the entry into any agreement to sell, convey, transfer, lease or assign, whether by law or otherwise, of, on, in or affecting (i) all or part of the Property (including any legal or beneficial direct or indirect interest therein), (ii) any direct or indirect interest in Borrower (including any profit interest), or (iii) any direct or indirect interest in the Managing Entity.

(X) "TRANSFER AND ASSUMPTION": is defined in paragraph (c) of this Section 15.

(b) Borrower shall not directly or indirectly make, suffer or permit the occurrence of any Transfer other than a Permitted Transfer.

(c) Notwithstanding the foregoing, Borrower shall have a one-time right to Transfer the Property to another party (the "TRANSFeree BORROWER") and have the Transferee Borrower assume all of Borrower's obligations under the Loan Documents, and have replacement guarantors and indemnitors assume all of the obligations of the indemnitors and guarantors of the Loan Documents (collectively, a "TRANSFER AND ASSUMPTION"). Borrower may make a written application to Lender for Lender's consent to the Transfer and Assumption, subject to the conditions set forth in subparagraphs (i) and (ii) of this paragraph (c). Together with such written application, Borrower will pay to Lender the reasonable review fee then required by Lender. Borrower also shall pay on demand all of the reasonable costs and expenses incurred by Lender, including reasonable attorneys' fees and expenses, and including the fees and expenses of Rating Agencies and other outside entities, in connection with considering any proposed Transfer and Assumption, whether or not the same is permitted or occurs.

(i) Lender's consent, which may be withheld in Lender's reasonable discretion, to a Transfer and Assumption shall be subject to the following conditions:

(2) Borrower has submitted to Lender true, correct and complete copies of any and all information and documents of any kind reasonably requested by Lender concerning the Property, Transferee Borrower, replacement guarantors and indemnitors and Borrower;

(3) Evidence reasonably satisfactory to Lender has been provided showing that the Transferee Borrower and such of its Affiliates as shall be designated by Lender comply and will comply with Section 29 hereof, as those provisions may be modified by Lender taking into account the ownership structure of Transferee Borrower and its Affiliates;

(4) If the Loan (as defined in Section 32(e) hereof), by itself or together with other loans, has been the subject of a Secondary Market Transaction, then Lender shall have received a Rating Comfort Letter from the applicable Rating Agencies;

(1)

No Event of Default has occurred and is continuing;

(5) If the Loan has not been the subject of a Secondary Market Transaction, then Lender shall have determined in its reasonable discretion (taking into consideration such factors as Lender may determine, including the attributes of the loan pool in which the Loan might reasonably be expected to be securitized) that no rating for any securities that would be issued in connection with such securitization will be diminished, qualified, or withheld by reason of the Transfer and Assumption;

(6) Borrower shall have paid all of Lender's reasonable costs and expenses in connection with considering the Transfer and Assumption, and shall have paid the amount reasonably requested by Lender as a deposit against Lender's costs and expenses in connection with effecting the Transfer and Assumption;

(7) Borrower, the Transferee Borrower, and the replacement guarantors and indemnitors shall have indicated in writing in form and substance reasonably satisfactory to Lender their readiness and ability to satisfy the conditions set forth in subsection (ii) below; and

(8) The identity, experience, and financial condition of the Transferee Borrower and the replacement guarantors and indemnitors shall be satisfactory to Lender in its reasonable discretion.

(ii) If Lender consents to the Transfer and Assumption, the Transferee Borrower and/or Borrower as the case may be, shall immediately deliver the following to Lender:

(1) Borrower shall deliver to Lender an assumption fee in the amount of 1.00% of the then unpaid Principal;

(2) Borrower, Transferee Borrower and the original and replacement guarantors and indemnitors shall execute and deliver to Lender any and all documents reasonably required by Lender, in form and substance reasonably required by Lender, in Lender's sole discretion;

(3) Counsel to the Transferee Borrower and replacement guarantors and indemnitors shall deliver to Lender opinions in form and substance satisfactory to Lender as to such matters as Lender shall reasonably require, which may include opinions as to substantially the same matters as were required in connection with the origination of the Loan;

(4) Borrower shall cause to be delivered to Lender, an endorsement (relating to the change in the identity of the vestee and execution and delivery of the Transfer and Assumption documents) to Lender's title insurance policy in form and substance acceptable to Lender, in Lender's reasonable discretion (the "ENDORSEMENT"); and

(5) Borrower shall deliver to Lender a payment in the amount of all remaining unpaid costs incurred by Lender in connection with the Transfer and Assumption, including but not limited to, Lender's reasonable attorneys fees and expenses, all recording fees, and all fees payable to the title company for the delivery to Lender of the Endorsement.

SECTION 16. FURTHER ENCUMBRANCES. Except only for the liens and security interests in favor of Lender under this Instrument and the other Loan Documents, without Lender's prior written consent, which Lender may withhold in its sole discretion, Borrower shall not execute, cause, allow or suffer any mortgage, deed of trust, deed to secure debt, assignment of leases or rents, statutory lien, mechanic's lien or other similar involuntary lien (with respect to any such statutory lien, mechanic's lien or other similar involuntary lien, unless such lien is bonded or discharged within 30 days after Borrower first receives notice of such lien), irrespective of its priority, to encumber all or any portion of the Property or the leases, rents or profits thereof, or any interest in any of the foregoing.

SECTION 17. GENERAL INDEMNITY. In addition to any other indemnification obligation set forth elsewhere in the Loan Documents, Borrower shall, at its sole cost and expense, protect, defend, indemnify, release and hold harmless the Lender and its shareholders, directors, officers, agents, employees, contractors, attorneys, servicers, and successors and assigns (the "INDEMNIFIED PARTIES") from and against any and all claims, suits, liabilities (including, without limitation, strict liabilities), actions, proceedings, obligations, debts, damages, losses, costs, expenses, diminutions in value, fines, penalties, charges, fees, expenses, judgments, awards, amounts paid in settlement, or punitive damages, of whatever kind or nature (including, but not limited to attorneys' fees and other costs of defense) (the "LOSSES") imposed upon or incurred by or asserted against any Indemnified Parties and directly or indirectly arising out of or in any way relating to any one or more of the following (but excluding Losses arising out of Lender's gross negligence or willful misconduct): (a) ownership of this Instrument or any of the Loan

Documents, or ownership of the Property or any interest therein, or demand for or receipt of any Rents; (b) any amendment to, or restructuring of, any of the Loan Documents or the obligations evidenced or secured thereby; (c) any and all lawful action that may be taken by Lender in connection with the enforcement of the provisions of any of the Loan Documents, whether or not suit is filed in connection with same, or in connection with Borrower, any guarantor or indemnitor and/or any member, partner, joint venturer or shareholder thereof becoming a party to a voluntary or involuntary federal or state bankruptcy, insolvency or similar proceeding; (d) any accident, injury to or death of persons or loss of or damage to property occurring in, on or about the Property or any part thereof or on the adjoining sidewalks, curbs, adjacent property or adjacent parking areas, streets or ways; (e) any use, nonuse or condition in, on or about the Property or any part thereof or on the adjoining sidewalks, curbs, adjacent property or adjacent parking areas, streets or ways; (f) any failure on the part of Borrower to perform or be in compliance with any of the terms of any of the Loan Documents; (g) performance of any labor or services or the furnishing of any materials or other property in respect of the Property or any part thereof; (h) the failure of any person to file timely with the Internal Revenue Service an accurate Form 1099-B, Statement for Recipients of Proceeds from Real Estate, Broker and Barter Exchange Transactions, which may be required in connection with this Instrument, or to supply a copy thereof in a timely fashion to the recipient of the proceeds of the transaction in connection with which this Instrument is made; (i) any failure of the Property to be in compliance with any applicable laws; (j) the enforcement by any Indemnified Party of the provisions of this Section; (k) any and all claims and demands whatsoever which may be asserted against Lender by reason of any alleged obligations or undertakings on its part to perform or discharge any of the terms, covenants, or agreements contained in any Lease; (l) the payment of any commission, charge or brokerage fee to anyone which may be payable in connection with the funding of the loan evidenced by the Note; or (m) any misrepresentation made by Borrower in any of the Loan Documents. Any amounts payable to any Indemnified Party by reason of the application of this Section shall become immediately due and payable upon demand and shall bear interest at rate then applicable to principal outstanding under the Note.

SECTION 18. ASSIGNMENT OF RENTS; APPOINTMENT OF RECEIVER; LENDER IN POSSESSION. As part of the consideration for the indebtedness evidenced by the Note, Borrower hereby absolutely and unconditionally assigns and transfers to Lender all the rents and revenues of the Property, including those now due, past due, or to become due by virtue of any lease or other agreement for the occupancy or use of all or any part of the Property, regardless of to whom the rents and revenues of the Property are payable. Borrower hereby authorizes Lender or Lender's agents to collect the aforesaid rents and revenues and hereby directs each tenant of the Property to pay such rents to Lender or Lender's agents; provided, however, that prior to written notice given by Lender to Borrower of an Event of Default, Borrower shall collect and receive all rents and revenues of the Property as trustee for the benefit of Lender and Borrower, to apply the rents and revenues so collected to the sums secured by this Instrument in any order determined by Lender, so long as no such Event of Default has occurred, to the account of Borrower, it being intended by Borrower and Lender that this assignment of rents constitutes an absolute assignment and not an assignment for additional security only. Upon delivery of written notice by Lender to Borrower of an Event of Default, and without the necessity of Lender entering upon and taking and maintaining full control of the Property in

person, by agent or by a court-appointed receiver, Lender shall immediately be entitled to possession of all rents and revenues of the Property as specified in this Section as the same become due and payable, including, but not limited to, rents then due and unpaid, and all such rents shall immediately upon delivery of such notice and during the continuance of such Event(s) of Default be held by Borrower as trustee for the benefit of Lender only; provided, however, that the written notice by Lender to Borrower of such Event(s) of Default shall contain a statement that Lender exercises its rights to such rents. Borrower agrees that commencing upon delivery of such written notice of Borrower's breach by Lender to Borrower, each tenant of the Property shall make such rents payable to and pay such rents to Lender or Lender's agents on Lender's written demand to any tenant therefor, delivered to such tenant personally, by mail or by delivering such demand to the tenant at its location in the Property, without any liability on the part of said tenant to inquire further as to the existence of a default by Borrower. Borrower hereby covenants that Borrower has not executed any prior assignment of said rents, that Borrower has not performed, and will not perform, any acts or has not executed, and will not execute, any instrument which would prevent Lender from exercising its rights under this Section, and that at the time of execution of this Instrument there has been no anticipation or prepayment of any of the rents of the Property for more than one month prior to the due dates of such rents. Borrower covenants that Borrower will not hereafter collect or accept payment of any rents of the Property more than one month prior to the due dates of such rents. Borrower further covenants that Borrower will execute and deliver to Lender such further assignments of rents and revenues of the Property as Lender may from time to time request.

Upon an Event of Default, or upon Borrower's breach of any material covenant of Borrower as landlord or lessor under any lease beyond applicable notice and cure periods, Lender shall be entitled to the appointment of a receiver for the Property, without notice to Borrower or any other person or entity and Lender may in person, by agent or by a court-appointed receiver, regardless of the adequacy of Lender's security, enter upon and take and maintain full control of the Property in order to perform in all acts necessary and appropriate for the operation and maintenance thereof including, but not limited to, the execution, cancellation or modification of leases, the collection of all rents and revenues of the Property, the enforcement or fulfillment of any terms, condition or provision of any lease, the making of repairs to the Property and the execution or termination of contracts providing for the management or maintenance of the Property, all on such terms as are deemed best to protect the security of this Instrument. In the event Lender elects to seek the appointment of a receiver for the Property upon Borrower's breach of any covenant or agreement of Borrower in this Instrument, Borrower hereby expressly consents to the appointment of such receiver. Lender or the receiver shall be entitled to receive a reasonable fee for so managing the Property.

All rents and revenues collected subsequent to delivery of written notice by Lender to Borrower that an Event of Default has occurred and during the continuance of such Event of Default shall be applied first to the costs, if any, of taking control of and managing the Property and collecting the rents, including, but not limited to, attorney's fees, receiver's fees, premiums on receiver's bonds, costs of repairs to the Property, premiums on insurance policies, Taxes, and the costs of discharging any obligation or liability of Borrower as lessor or landlord of the Property and then to the sums secured by this Instrument. Lender or the receiver shall have access to the books and records used in the operation and maintenance of the Property and shall be liable to account only for those rents actually received. Other than for Lender's gross negligence or willful misconduct under this Section, Lender shall not be liable to Borrower, anyone claiming under or through Borrower or anyone having an interest in the Property by reason of anything done or left undone by Lender under this Section.

If the rents of the Property are not sufficient to meet the costs, if any, of taking control of and managing the Property and collecting the rents, any funds expended by Lender for such purposes shall become indebtedness of Borrower to Lender secured by this Instrument pursuant to Section 8 hereof. Unless Lender and Borrower agree in writing to other terms of payment, such amounts shall be payable upon notice from Lender to Borrower requesting payment thereof and shall bear interest from the date of disbursement at the rate stated in the Note unless payment of interest at such rate would be contrary to applicable law, in which event such amounts shall bear interest at the highest rate which may be collected from Borrower under applicable law.

Any entering upon and taking and maintaining of control of the Property by Lender or the receiver and any application of rents as provided herein shall not cure or waive any default hereunder or invalidate any other right or remedy of Lender under applicable law or provided herein. This assignment of rents of the Property shall terminate at such time as this Instrument ceases to secure indebtedness held by Lender.

SECTION 19. DEFAULTS; ACCELERATION; REMEDIES. Each of the following shall constitute an "EVENT OF DEFAULT" under this Instrument:

(a) Any failure of Borrower to pay any money as and when due under the Note or under any of the other Loan Documents;

(b) Any breach of Sections 5, 15, 16, or 29 of this Instrument, or the Environmental Indemnity Agreement;

(c) Other than as specified in items (a) or (b) above, any breach of any covenant, representation, warranty, or other obligation of Borrower or any guarantor or indemnitor under the Note, this Instrument, or any of the other Loan Documents, which breach is not completely cured on or before the 30th day after notice of the same from Lender to Borrower; provided however that if the default is capable of cure but with diligence cannot be cured within such period of 30 days, and if Borrower shall have given Lender evidence satisfactory to Lender that Borrower has commenced the cure within 10 days after the first notice of default and at all times after such commencement has pursued such cure diligently, then such period shall be extended for so long as is reasonably necessary, but in no event beyond the 60th day after the original notice of default.

If Lender shall have the right to exercise any of its remedies by reason of any default as to which there is no grace period or by reason of expiration of any grace period without cure of any applicable default, then there shall be no requirement of notice and time to cure for any other or subsequent default.

Upon the occurrence and during the continuance of any Event of Default, Lender may, at Lender's option, declare all of the sums secured by this Instrument to be immediately due and payable without further demand, and may exercise any and all remedies permitted hereunder, under any of the Loan Documents, or pursuant to applicable law. Without limitation of the foregoing, Lender may invoke the power of sale granted herein. Borrower acknowledges that the power of sale herein granted may be exercised by Lender without prior judicial hearing. Borrower has the right to bring an action to assert the non-existence of a breach or any other defense of Borrower to acceleration and sale. Lender shall be entitled to collect from Borrower all costs and expenses incurred in pursuing such remedies, including, but not limited to, reasonable attorney's fees and costs of environmental reports, appraisals, documentary evidence, abstracts, and title reports.

Any deed delivered to the purchaser at any sale pursuant hereto may be without any covenant or warranty, expressed or implied. The recitals in the deed shall be prima facie evidence of the truth of the statements made therein. The proceeds of the sale shall be applied in the following order: (a) to all costs and expenses of the sale, including, but not limited to, fees for any foreclosure services, attorney's fees and costs of title evidence; (b) to all sums secured by this Instrument in such order as Lender, in Lender's sole discretion, directs; and (c) the excess, if any, to the person or persons legally entitled thereto.

SECTION 20. ACCELERATION IN CASE OF BORROWER'S INSOLVENCY. If Borrower shall voluntarily file a petition under Title I I of the U.S. Code (the "Act"), as such Act may from time to time be amended, or under any similar or successor Federal statute relating to bankruptcy, insolvency, arrangements or reorganizations, or under any state bankruptcy or insolvency act, or file an answer in any involuntary proceeding admitting insolvency or inability to pay debts, or if Borrower shall fail to obtain a vacation of involuntary proceedings brought for the reorganization, dissolution or liquidation of Borrower, within 120 days of the filing of such involuntary proceeding, or if Borrower shall be adjudged a bankrupt, or if a trustee or receiver shall be appointed for Borrower or Borrower's property, or if the Property shall become subject to the jurisdiction of a Federal bankruptcy court or similar state court, or if Borrower shall make an assignment for the benefit of Borrower's creditors, or if there is an attachment, execution or other judicial seizure of any portion of Borrower's assets and such seizure is not discharged within 10 days, then Lender may, at Lender's option, declare all of the sums secured by this Instrument to be immediately due and payable without prior notice to Borrower, and Lender may invoke any remedies permitted or provided for herein or in any of the Loan Documents or pursuant to applicable law. Any attorney's fees and other expenses incurred by Lender in connection with Borrower's bankruptcy or any of the other aforesaid events shall be additional indebtedness of Borrower secured by this Instrument pursuant to Section 8 hereof.

SECTION 21. REMEDIES CUMULATIVE. Each remedy provided in this Instrument is distinct and cumulative to all other rights or remedies under this Instrument or afforded by law or equity, and may be exercised concurrently, independently, or successively, in any order whatsoever.

SECTION 22. WAIVER OF STATUTE OF LIMITATIONS. Borrower hereby waives the right to assert any statute of limitations as a bar to the enforcement of the lien of this Instrument or to any action brought to enforce the Note or any other obligation secured by this Instrument.

SECTION 23. WAIVER OF MARSHALLING. Notwithstanding the existence of any other security interest in the Property held by Lender or by any other party, Lender shall have the right to determine the order in which any or all of the Property shall be subjected to the remedies provided herein. Lender shall have the right to determine the order in which any or all portions of the indebtedness secured hereby are satisfied from the proceeds realized upon the exercise of the remedies provided herein. Borrower, any party who consents to this Instrument and any party who now or hereafter acquires a security interest in the Property and who has actual or constructive notice hereof hereby waives any and all right to require the marshalling of assets in connection with the exercise of any of the remedies permitted by applicable law or provided herein.

SECTION 24. RELEASE. Upon payment of all sums secured by this Instrument, Lender shall release this Instrument. Borrower shall pay Lender \$100 for the release of this Instrument.

SECTION 25. CASH MANAGEMENT ARRANGEMENTS.

(a) As used in this Section 25 and elsewhere in this Instrument and the other Loan Documents, the following capitalized terms shall have the respective meanings set forth below:

"APPROVED CAPITAL EXPENSES": Capital Expenses incurred by Borrower; provided, that, during a Cash Management Period, such Capital Expenses shall either be (i) included in the Approved Capital Budget (as defined in Section 28(h) hereof) for the current calendar month or (ii) approved by Lender.

"APPROVED LEASING EXPENSES": actual out-of-pocket expenses incurred by Borrower and payable to third parties (including Affiliates of Borrower or Guarantor, provided that, such expenses payable to Affiliates of Borrower or Guarantor shall satisfy the conditions set forth below) in leasing space at the Property pursuant to Leases entered into in accordance with the Loan Documents, including brokerage commissions and tenant improvements, which expenses (i) are (A) specifically approved by Lender in connection with approving the applicable Lease, (B) incurred in the ordinary course of business and on market terms and conditions in connection with Leases which do not require Lender's approval under the Loan Documents, or (C) otherwise approved by Lender, which approval shall not be unreasonably withheld or delayed, and (ii) are substantiated by executed Lease documents and brokerage agreements.

"APPROVED OPERATING EXPENSES": during a Cash Management Period, operating expenses incurred by Borrower which (i) are included in the Approved Operating Budget (as defined in Section 28(h) hereof) for the current calendar month, (ii) are for real estate taxes, insurance premiums, electric, gas, oil, water, sewer or other utility service to the Property or (iii) have been approved by Lender.

"AVAILABLE CASH": as of each Payment Date during the continuance of Cash Management Period, the amount of Rents, if any, remaining in the Deposit Account after the application of all of the payments required under clauses (i) through (vi) of paragraph (1) of this Section 25.

"BUSINESS DAY": any day other than a Saturday, Sunday or any day on which commercial banks in New York, New York are authorized or required to close.

"CALCULATION DATE": the last day of each calendar quarter.

"CASH MANAGEMENT PERIOD": shall commence upon Lender giving notice to the Clearing Bank of the occurrence of any of the following: (i) the Maturity Date, (ii) an Event of Default, (iii) if, as of any Calculation Date, the Debt Service Coverage Ratio is less than 1.10:1 (a "DSCR CASH MANAGEMENT PERIOD"), or (iv) the commencement of a Rollover Sweep Period; and shall end upon Lender giving notice to the Clearing Bank that the sweeping of funds into the Deposit Account may cease, which notice Lender shall only be required to give if (1) the Loan and all other obligations under the Loan Documents have been repaid in full or (2) the Maturity Date has not occurred and (A) with respect for the matters described in clause (ii) above, such Event of Default has been cured and no other Event of Default has occurred and is continuing or (B) with respect to the matter described in clause (iii) above, Lender has determined that the Property has achieved a Debt Service Coverage Ratio of at least 1.10:1 for two consecutive Calculation Dates or (C) with respect to the matter described in clause (iv) above, the subject Rollover Sweep Period has ended.

"CLEARING ACCOUNT": the account maintained by Borrower at the Clearing Bank as more fully described in the Clearing Account Agreement.

"DEBT": the unpaid Principal, all interest accrued and unpaid thereon, any Prepayment Consideration (as defined in the Note) and all other sums due to Lender in respect of the loan evidenced by the Note and this Instrument or under any Loan Document.

"DEBT SERVICE": with respect to any particular period, the scheduled principal and interest payments due under the Note in such period.

"DEBT SERVICE COVERAGE RATIO": as of any date, the ratio calculated by Lender of (i) the Net Operating Income for the 12-month period ending with the most recently completed calendar month to (ii) the Debt Service with respect to such period (but assuming, only for the purpose of calculating the Debt Service Coverage Ratio, that the Amortization Commencement Date (as defined in the Note) has already occurred).

"DEFAULT RATE": the rate of five percent per annum in excess of the rate provided in the first paragraph of the Note, or, if such increased rate of interest may not be collected from Borrower under applicable law, then at the maximum increased rate of interest which may be collected from Borrower under applicable law, if either (a) any installment under the Note or any other amount owing thereunder or under any of the other Loan Documents is not received by the holder hereof within five calendar days after the same is due, or (b) any other Event of Default occurs, in each case, only while such installment remains past due or such other Event of Default remains uncured.

"DEPOSIT ACCOUNT": an Eligible Account at the Deposit Bank controlled by Lender.

"DEPOSIT BANK": Wachovia Bank, National Association, or such other bank or depository selected by Lender in its discretion.

"ELIGIBLE INSTITUTION": a depository institution insured by the Federal Deposit Insurance Corporation the short term unsecured debt obligations or commercial paper of which are rated at least A-1 by S&P, P-1 by Moody's and F-1+ by Fitch. in the case of accounts in which funds are held for thirty (30) days or less or, in the case of letters of credit or accounts in which funds are held for more than thirty (30) days, the long term unsecured debt obligations of which are rated at least "AA" by Fitch and S&P and "Aa2" by Moody's.

"INTEREST PERIOD": (i) the period from the date hereof through the first day thereafter that is the 5th day of a calendar month and (ii) each period thereafter from the 6th day of each calendar month through the 5th day of the following calendar month; except that the Interest Period, if any, that would otherwise commence before and end after the Maturity Date shall end on the Maturity Date.

"GOVERNMENTAL AUTHORITY": any court, board, agency, commission, office or authority of any nature whatsoever for any governmental unit (federal, state, county, district, municipal, city or otherwise) now or hereafter in existence.

"LEGAL REQUIREMENTS": statutes, laws, rules, orders, regulations, ordinances, judgments, decrees and injunctions of Governmental Authorities affecting Borrower, any Loan Document or all or part of the Property or the construction, ownership, use, alteration or operation thereof, whether now or hereafter enacted and in force, and all permits, licenses and authorizations and regulations relating thereto, and all covenants, agreements, restrictions and encumbrances contained in any instrument, either of record or known to Borrower, at any time in force affecting all or part of the Property.

"MAJOR LEASE": (i) that certain Lease between Borrower, as landlord, and The Stop & Shop Supermarkets Company LLC ("STOP & SHOP TENANT"), as tenant, dated as of September 28, 1995, as amended and supplemented by the following: Construction and Cost Reimbursement Agreement dated September 28, 1995, Letter Agreement dated February 11, 1997, Letter Agreement dated April 21, 1997, First Amendment to Lease dated February 14, 1997, Letter Agreement dated April 27, 1997, Letter dated February 14, 2001, Letter dated February 20, 2001, Lease Assignment and Assumption Agreement dated March 4, 2001, Second Amendment of Lease dated May 1, 2002, Letter dated May 12, 2003, (as further amended, modified or assigned).

"MAJOR TENANT": any tenant under a Major Lease.

"NET OPERATING INCOME": for any period, the actual net operating income of the Property determined on a cash basis of accounting, after deducting therefrom deposits to (but not withdrawals from) any reserves required under this Instrument, and without giving credit for (1) non-recurring extraordinary items of income; or (ii) rent payable under leases where the tenant thereunder is not open for business (i.e. "goes dark").

"OFFICER'S CERTIFICATE": a certificate delivered to Lender by Borrower which is signed by a senior executive officer of the Managing Entity.

"PAYMENT DATE": the 6th day of each calendar month or, upon Lender's exercise of its right to change the Payment Date in accordance with the terms and conditions of the Note, the New Payment Date (as defined in the Note) (in either case, if such day is not a Business Day, the Payment Date shall be the first Business Day thereafter). The first Payment Date hereunder shall be December 6, 2005.

"PERMITTED INVESTMENTS": any investment suitable for the investment of escrows and reserves established under mortgage loans included in a Securitization in which some or all of the certificates issued are rated "AAA" (or the equivalent rating) by the Rating Agencies, as the standards therefor are established from time to time, or such investments which are otherwise reasonably acceptable to Lender. If the Loan is subject to a Securitization, then the Rating Agencies referred to immediately above shall be the Rating Agencies that have rated the securities issued in such Securitization.

"RENTS": all rents, rent equivalents, moneys payable as damages (including payments by reason of the rejection of a lease in a bankruptcy proceeding) or in lieu of rent or rent equivalents, royalties (including all oil and gas or other mineral royalties and bonuses), income, fees, receivables, receipts, revenues, deposits (including security, utility and other deposits), accounts, cash, issues, profits, charges for services rendered, and other payment and consideration of whatever form or nature received by or paid to or for the account of or benefit of Borrower, Manager or any of their agents or employees from any and all sources arising from or attributable to the Property, including all receivables, customer obligations, installment payment obligations and other obligations now existing or hereafter arising or created out of the sale, lease, sublease, license, concession or other grant of the right of the use and occupancy of the Property or rendering of services by Borrower, Manager or any of their agents or employees and proceeds, if any, from business interruption or other loss of income insurance.

"ROLLOVER SWEEP EVENT": (i) the date that is twelve (12) months prior to the stated expiration (including any renewal term) of a Major Lease (i.e., August 31, 2039 for Stop & Shop Tenant); (ii) the date required under a Major Lease by which the applicable Major Tenant is required to give notice of its exercise of a renewal option thereunder (and such renewal has not been so exercised) (i.e. August 31, 2019 for Stop & Shop Tenant); (iii) the occurrence of the early termination or early cancellation of a Major Lease; (iv) if any Major Tenant at the Property shall discontinue its business at its premises (i.e., "goes dark") or give notice that it intends to discontinue its business; (v) upon a default under a Major Lease by the Major Tenant thereunder beyond any applicable notice and cure period; or (vi) the bankruptcy or insolvency proceeding of a Major Tenant (and the subject lease has not been affirmed or assumed and assigned).

"ROLLOVER SWEEP PERIOD": shall commence upon the occurrence of a Rollover Sweep Event, and shall end upon the earlier to occur of: (A) the date on which Lender has detemined that sufficient funds have been collected in the Rollover Reserve Subaccount to cover the anticipated tenant improvement costs and leasing commissions in connection with the re-tenanting of the space(s) that gave rise to such Rollover Sweep Period; (B) if the portion of the Property which was the subject of the Rollover Sweep Event has been leased to a new tenant pursuant to a Lease entered into in accordance with the provisions of this Instrument (1) the receipt by Lender of evidence reasonably satisfactory to Lender that all Approved Leasing Expenses in connection therewith have been paid in full and (2) the receipt by Lender of an estoppel certificate from such new tenant in which such new tenant certifies that the Lease is in full force and effect, all conditions precedent to the commencement of rent under such Lease have been satisfied, such new tenant has accepted delivery of the demised premises and the payment of rent under such Lease has commenced. Notwithstanding the foregoing, if any Rollover Sweep Period is triggered by the occurrence of (a) an event discussed in clause (v) of the definition of Rollover Sweep Event, such Rollover Sweep Period shall also end if the subject Major Tenant default has been cured and no other Major Tenant default has occurred for a period of six (6) consecutive months following such time or (b) an event described in clause (vi) of the definition of Rollover Sweep Event, such Rollover Sweep Period shall also end upon the assumption of the applicable lease by the tenant thereunder pursuant to Section 365 of the Bankruptcy Code.

(b) CASH MANAGEMENT ARRANGEMENTS. Borrower shall cause all Rents to be transmitted directly by non-residential tenants of the Property into a trust account (the "CLEARING ACCOUNT") maintained by Borrower at a local bank selected by Borrower, which shall at all times be an Eligible Institution (the "CLEARING BANK") as more fully described in the Clearing Account Agreement. Without in any way limiting the foregoing, all Rents received by Borrower or Manager shall be deposited into the Clearing Account within one Business Day of receipt. Funds deposited into the Clearing Account shall be swept by the Clearing Bank on a daily basis into Borrower's operating account at the Clearing Bank, unless a Cash Management Period is continuing, in which event such funds shall be swept on a daily basis into an Eligible Account (as defined in the Deposit Account Agreement) at the Deposit Bank controlled by Lender (the "DEPOSIT ACCOUNT") and applied and disbursed in accordance with this Instrument. Funds in the Deposit Account shall be invested at Lender's discretion only in Permitted Investments. Lender will also establish subaccounts of the Deposit Account which shall at all times be Eligible Accounts (and may be ledger or book entry accounts and not actual accounts) (such subaccounts are referred to herein as "SUBACCOUNTS"). The Deposit Account and any Subaccount will be under the sole control and dominion of Lender, and Borrower shall have no right of withdrawal therefrom. Borrower shall pay for all expenses of opening and maintaining all of the above accounts.

(c) REQUIRED REPAIRS.

(i) COMPLETION OF REQUIRED REPAIRS. Borrower shall perform and complete each item of the repairs and environmental remedial work at the Property described on Schedule 2 (the "REQUIRED REPAIRS") within six (6) months of the date hereof or such shorter period of time for such item set forth on Schedule 2.

(ii) REQUIRED REPAIRS RESERVES. On the date hereof, Borrower shall deposit with Lender the aggregate amount set forth on Schedule 2 as being required to complete the Required Repairs and Lender shall cause such amount to be transferred to a Subaccount (the "REQUIRED REPAIRS SUBACCOUNT"). Provided no Default or Event of Default shall have occurred and is continuing, Lender shall disburse funds held in the Required Repairs Subaccount to Borrower, within 15 days after the delivery by Borrower to Lender of a request therefor (but not more often than once per month), in increments of at least \$5,000, accompanied by the following items (which items shall be in form and substance satisfactory to Lender): (i) an Officer's Certificate (A) certifying that the Required Repairs or any portion thereof which are the subject of the requested disbursement have been completed in a good and workmanlike manner and in accordance with all applicable laws, (B) identifying each Person that supplied materials or labor in connection with such Required Repairs or any portion thereof and (C) stating that each such Person has been or, upon receipt of the requested disbursement, will be paid in full with respect to the portion of the Required Repairs which is the subject of the requested disbursement; (ii) copies of appropriate lien waivers or other evidence of payment satisfactory to Lender; (iii) at Lender's option, a title search for the Property indicating that it is free from all liens not previously approved by Lender; (iv) a copy of each license required to be obtained with respect to the portion of the Required Repairs which is the subject of the requested disbursement; and (v) such other evidence as Lender shall reasonably request that the Required Repairs which are the subject of the requested disbursement have been completed and paid for. Provided no Default or Event of Default shall have occurred and is continuing, upon Borrower's completion of all Required Repairs in accordance with this Section, Lender shall release any funds remaining in the Required Repairs Subaccount, if any, to Borrower.

(d) TAXES AND INSURANCE.

(i) Borrower shall pay to Lender on each Payment Date (1) one-twelfth of the yearly Taxes that Lender estimates will be payable during the next 12 months in order to accumulate with Lender sufficient funds to pay all such Taxes at least 30 days prior to their respective due dates and (2) one-twelfth of the insurance premiums that Lender estimates will be payable for the renewal of a separate "stand-alone" policy providing the coverage afforded by the insurance policies required under this Instrument upon the expiration thereof in order to accumulate with Lender sufficient funds to pay all such

insurance premiums at least 30 days prior to the expiration of the insurance policies. Such amounts will be transferred by Lender to a Subaccount (the "TAX AND INSURANCE SUBACCOUNT"). Provided that no Event of Default has occurred and is continuing, Lender will (a) apply funds in the Tax and Insurance Subaccount to payments of Taxes required to be made by Borrower pursuant to this Instrument, provided that Borrower has promptly supplied Lender with notices of all Taxes due, or (b) reimburse Borrower for payments of (x) Taxes and (y) insurance premiums paid in connection with the purchase of a separate "stand-alone" policy providing the coverage afforded by the insurance policies required under this Instrument upon the expiration thereof, in each case, due upon presentation of evidence acceptable to Lender of such payment by Borrower; subject, however, to Borrower's right to contest Taxes in accordance with this Instrument. In making any payment or reimbursement relating to Taxes and insurance premiums, Lender may do so according to any bill, statement or estimate procured from the appropriate public office (with respect to taxes) or insurer or agent (with respect to insurance premiums), without inquiry into the accuracy of such bill, statement or estimate or into the validity of any tax, assessment, sale, forfeiture, tax lien or title or claim thereof. If Lender determines in its reasonable judgment that the funds in the Tax and Insurance Subaccount will be insufficient to pay (or in excess of) the Taxes or insurance premiums next coming due, Lender may increase (or decrease) the monthly contribution required to be made by Borrower to the Tax and Insurance Subaccount. Notwithstanding the foregoing, so long as any Acceptable Blanket Policy is in effect with respect to any of the policies required pursuant to Section 5 above, payments required under the foregoing clause (2) shall be suspended to the extent that insurance premiums relate to such Acceptable Blanket Policy(ies).

(ii) Intentionally Deleted.

(e) CAPITAL EXPENSE RESERVES. Borrower shall pay to Lender on each Payment Date an amount initially equal to \$1,615. Lender will transfer such amounts into a Subaccount (the "CAPITAL RESERVE SUBACCOUNT"). Provided that no Event of Default has occurred and is continuing, Lender shall disburse funds held in the Capital Reserve Subaccount to Borrower, within 15 days after the delivery by Borrower to Lender of a request therefor (but not more often than once per month), in increments of at least \$5,000 provided that (i) such disbursement is for an Approved Capital Expense; (ii) Lender shall have (if it desires) verified (by an inspection conducted at Borrower's expense) performance of the work associated with such Approved Capital Expense; and (iii) the request for disbursement is accompanied by (A) an Officer's Certificate certifying (1) that such funds will be used to pay or reimburse Borrower for Approved Capital Expenses and a description thereof, (2) that all outstanding trade payables (other than those to be paid from the requested disbursement or those constituting Permitted Indebtedness) have been paid in full, (3) that the same has not been the subject of a previous disbursement, and (4) that all previous disbursements have been used to pay the previously identified Approved Capital Expenses, and (B) for any such disbursement of more than \$25,000, at Lender's option (which option shall be exercised in Lender's reasonable judgment), a title search for the Property indicating that the Property is free from all Liens, claims and other encumbrances not previously approved by Lender and (C) such other evidence as Lender shall reasonably request that the Approved Capital Expenditures at the Property to be funded by the requested disbursement have been completed and are paid for or will be paid upon such disbursement to Borrower.

(f) ROLLOVER RESERVES. Borrower shall pay to Lender \$6,045 on each Payment Date (the "MONTHLY ROLLOVER PAYMENT"); provided, however, Borrower shall not be required to make any Monthly Rollover Payment on any Payment Date when the balance on deposit in the Rollover Reserve Subaccount is equal to or greater than \$125,000 (excluding any amounts deposited pursuant to the fourth sentence of this subsection (f)). Additionally, if a Rollover Sweep Period has commenced, and no other Cash Management Period is then continuing, then on the immediately succeeding Payment Date and on each Payment Date thereafter during the continuance of such Rollover Sweep Period, all Available Cash shall be paid to Lender. Lender will transfer such amounts into a Subaccount (the "ROLLOVER RESERVE SUBACCOUNT"). Borrower shall also pay to Lender for transfer into the Rollover Reserve Subaccount all payments received from tenants in connection with the early termination or cancellation of any Leases, including fees, penalties and commissions. Provided that no Event of Default has occurred and is continuing, Lender shall disburse funds held in the Rollover Reserve Subaccount to Borrower, within 15 days after the delivery by Borrower to Lender of a request therefor (but not more often than once per month), in increments of at least \$5,000, provided (i) such disbursement is for an Approved Leasing Expense; (ii) Lender shall have (if it desires) verified (by an inspection conducted at Borrower's expense) performance of any construction work associated with such Approved Leasing Expense; and (iii) the request for disbursement is accompanied by (A) an Officer's Certificate certifying (1) that such funds will be used only to pay (or reimburse Borrower for) Approved Leasing Expenses and a description thereof, (2) that all outstanding trade payables (other than those to be paid from the requested disbursement or those constituting Permitted Indebtedness) have been paid in full, (3) that the same has not been the subject of a previous disbursement, and (4) that all previous disbursements have been used only to pay (or reimburse Borrower for) the previously identified Approved Leasing Expenses, and (B) reasonably detailed supporting documentation as to the amount, necessity and purpose therefor. Provided that no Event of Default has occurred and is continuing, the remaining funds in the Rollover Reserve Subaccount (to the extent not drawn upon pursuant to this Section 25(f)) allocable to any specific portion of the commercial space at the Property which is the subject of the Rollover Sweep Event will be disbursed to Borrower within 10 days after written request therefor, provided that Borrower has delivered (i) evidence reasonably satisfactory to Lender that (y) such commercial space has been re-let pursuant to Leases entered into in accordance with this Instrument and (z) all Approved Leasing Expenses which have been incurred or which Lender anticipates will be incurred with respect to such space have been paid in full and (ii) an estoppel certificate from the applicable tenant occupying such portion of the commercial space at the Property in a form reasonably satisfactory to Lender pursuant to which such tenant certifies to Lender that (1) such tenant has taken occupancy of its demised premises, (2) all of the conditions precedent to such tenant's obligation to commence the payment of rent under its Lease have been satisfied (including Borrower's contribution to the cost of any tenant improvement work) and (3) such tenant has commenced the payment of rent under its Lease.

(g) OPERATING EXPENSE SUBACCOUNT. During a Cash Management Period, Borrower shall pay to Lender on or before each Payment Date the monthly amount set forth in the Approved Operating Budget for the following month as being necessary for payment of Approved Operating Expenses at the Property for such month, which amounts shall be transferred into a Subaccount for the payment of Approved Operating Expenses (the "OPERATING EXPENSE SUBACCOUNT"). Provided no Event of Default has occurred and is continuing, Lender shall disburse funds held in the Operating Expense Subaccount to Borrower, within 15 days after delivery by Borrower to Lender of a request therefor (but not more often than once per month), in increments of at least \$1,000, provided (i) such disbursement is for an Approved Operating Expense; and (ii) such disbursement is accompanied by (A) an Officer's Certificate certifying (1) that such funds will be used to pay Approved Operating Expenses and a description thereof, (2) that all outstanding trade payables (other than those to be paid from the requested disbursement or those constituting Permitted Indebtedness) have been paid in full, (3) that the same has not been the subject of a previous disbursement, and (4) that all previous disbursements have been or will be used to pay the previously identified Approved Operating Expenses, and (B) reasonably detailed documentation satisfactory to Lender as to the amount, necessity and purpose therefor.

(h) CASUALTY/CONDEMNATION SUBACCOUNT. Borrower shall pay, or cause to be paid, to Lender all insurance proceeds or Awards due to any Casualty or Condemnation which Borrower is required to deposit with Lender to be transferred to a Subaccount (the "CASUALTY/CONDEMNATION SUBACCOUNT") in accordance with the provisions of Sections 5 and 11. All amounts in the Casualty/Condemnation Subaccount shall be disbursed in accordance with the provisions of Sections 5 and 11.

(i) SECURITY DEPOSITS. Borrower shall keep all security deposits under Leases at a separately designated account under Borrower's control at the Clearing Bank (and in the case of a letter of credit, assigned with full power of attorney and executed sight drafts to Lender) so that the security deposits shall not be commingled with any other funds of Borrower (such account, the "SECURITY DEPOSIT ACCOUNT"). Upon the occurrence and during the continuance of an Event of Default, Borrower shall, upon Lender's request, if permitted by applicable Legal Requirements, turn over to Lender the security deposits (and any interest theretofore earned thereon) under Leases, to be held by Lender in a Subaccount (the "SECURITY DEPOSIT SUBACCOUNT") subject to the terms of the Leases. Security deposits held in the Security Deposit Subaccount will be released by Lender upon notice from Borrower together with such evidence as Lender may reasonably request that such security deposit is required to be returned to a tenant pursuant to the terms of a Lease or may be applied as Rent pursuant to the rights of Borrower under the applicable Lease. Any letter of credit or other instrument that Borrower receives in lieu of a cash security deposit under any Lease entered into after the date hereof shall (i) be maintained in full force and effect in the full amount unless replaced by a cash deposit as hereinabove described and (ii) if permitted pursuant to any Legal Requirements, name Lender as payee or mortgagee thereunder (or at Lender's option, be fully assignable to Lender).

(j) CASH COLLATERAL SUBACCOUNT. If a Cash Management Period shall have commenced, then on the immediately succeeding Payment Date and on each Payment Date thereafter during the continuance of such Cash Management

Period, all Available Cash shall be paid to Lender, which amounts shall be transferred by Lender into a Subaccount (the "Cash COLLATERAL SUBACCOUNT") as cash collateral for Borrower's obligations under the Loan Documents. At Lender's option, during the continuance of a Rollover Sweep Period, any funds that have been deposited into the Cash Collateral Subaccount may be transferred by Lender into the Rollover Reserve Subaccount, to be applied and disbursed in accordance with the provisions of Section 25(f) hereof. Any funds in the Cash Collateral Subaccount Account and not previously disbursed or applied shall be disbursed to Borrower upon the termination of such Cash Management Period. Lender shall have the right, but not the obligation, at any time (i) during the continuance of an Event of Default or (ii) subsequent to the second Calculation Date following the commencement of a Cash Management Period (whether or not an Event of Default is then continuing), in its sole and absolute discretion to apply all sums then on deposit in the Cash Collateral Subaccount to Borrower's obligations under the Loan Documents, in such order and in such manner as Lender shall elect in its sole and absolute discretion, including to make a prepayment of principal (together with the Prepayment Consideration (as defined in the Note) applicable thereto). Additionally, Lender shall have the right, but not the obligation, at any time subsequent to the second Calculation Date following the commencement of a DSCR Cash Management Period (whether or not an Event of Default is then continuing), in its sole and absolute discretion to apply all sums then on deposit in the Cash Collateral Subaccount towards a partial Defeasance (as defined in the Note) of the Loan (together with any Defeasance costs associated therewith), and Borrower shall execute such documents and take such other actions necessary to satisfy the Defeasance requirements set forth in Section 3 of the Note.

(k) GRANT OF SECURITY INTEREST; APPLICATION OF FUNDS. As security for payment of the Loan and the performance by Borrower of all other terms, conditions and provisions of the Loan Documents, Borrower hereby pledges and assigns to Lender, and grants to Lender a security interest in, all Borrower's right, title and interest in and to all Rents and in and to all payments to or monies held in the Clearing Account, the Deposit Account, all Subaccounts created pursuant to this Instrument (collectively, the "CASH MANAGEMENT ACCOUNTS"). Borrower hereby grants to Lender a continuing security interest in, and agrees to hold in trust for the benefit of Lender, all Rents in its possession prior to the (i) payment of such Rents to Lender or (ii) deposit of such Rents into the Clearing Account. Borrower shall not, without obtaining the prior written consent of Lender, further pledge, assign or grant any security interest in any Cash Management Account, or permit any lien to attach thereto, or any levy to be made thereon; or any UCC Financing Statements, except those naming Lender as the secured party, to be filed with respect thereto. This Instrument is, among other things, intended by the parties to be a security agreement for purposes of the UCC. Upon the occurrence and during the continuance of an Event of Default, Lender may apply any sums in any Cash Management Account in any order and in any manner as Lender shall elect in Lender's discretion without seeking the appointment of a receiver and without adversely affecting the rights of Lender to foreclose the Lien of the Instrument or exercise its other rights under the Loan Documents. Cash Management Accounts shall not constitute trust funds and may be commingled with other monies held by Lender. All interest which accrues on the funds in any Cash Management Account (other than the Tax and Insurance Subaccount) shall accrue for the benefit of Borrower and shall be taxable to Borrower and shall be added to and disbursed in the same manner and under the same conditions as the principal sum on which said interest accrued. Upon repayment in full of Borrower's obligations under the Loan Documents, all remaining funds in the Subaccounts, if any, shall be promptly disbursed to Borrower.

(1) PROPERTY CASH FLOW ALLOCATION.

(i) During any Cash Management Period, all Rents deposited into the Deposit Account during the immediately preceding Interest Period shall be applied on each Payment Date as follows in the following order of priority: (i) First, to make payments into the Tax and Insurance Subaccount as required under paragraph (d) of this Section 25; (ii) Second, to pay the monthly portion of the fees charged by the Deposit Bank in accordance with the Deposit Account Agreement; (iii) Third, to Lender to pay the principal and interest due under the Note on such Payment Date (plus, if applicable, interest at the Default Rate and all other amounts, other than those described under other clauses of this paragraph (1) of this Section 25, then due to Lender under the Loan Documents); (iv) Fourth, to make payments into the Capital Reserve Subaccount as required under paragraph (e) of this Section 25; (v) Fifth, to make payments of the Monthly Rollover Payment into the Rollover Reserve Subaccount, as required under paragraph (f) of this Section 25; (vi) Sixth, to make payments for Approved Operating Expenses as required under paragraph (g) of this Section 25; (vii) Seventh, during the continuance of a Rollover Sweep Period (and if no other Cash Management Period is then continuing) to make payments in an amount equal to all remaining Available Cash on such Payment Date into the Rollover Reserve Subaccount as required under paragraph (f) of this Section 25; and (viii) Lastly, during the continuance of a Cash Management Period described in clauses (i), (ii) or (iii) of the defined term "Cash Management Period", to make payments in an amount equal to all remaining Available Cash on such Payment Date into the Cash Collateral Subaccount in accordance with paragraph (j) of this Section 25. Upon the termination of any Cash Management Period, provided no Event of Default is then continuing, any funds in the Operating Expense Subaccount and not previously disbursed or applied shall be fully disbursed to Borrower.

(ii) The failure of Borrower to make all of the payments required under clauses (i) through (viii) of paragraph (i) above in full on each Payment Date shall constitute an Event of Default under this Instrument; provided, however, if adequate funds are available in the Deposit Account for such payments, the failure by the Deposit Bank to allocate such funds into the appropriate Subaccounts shall not constitute an Event of Default.

Notwithstanding anything to the contrary contained in this Section 25, after the occurrence and during the continuance of an Event of Default, Lender may apply all Rents deposited into the Deposit Account and other proceeds of repayment in such order and in such manner as Lender shall elect.

SECTION 26. NONRECOURSE LOAN. Subject to the provisions of this Section, and notwithstanding any provision of the Loan Documents other than this Section, the personal liability of Borrower, and of any general partner of Borrower, to pay the principal of and interest on the debt evidenced by the Note and any other agreement evidencing Borrower's obligations under the Note shall be limited to (a) the Collateral, (b) the personal property described in and pledged under any Loan Document other than this Instrument, and (c) the rents, profits, issues, products and income of the Property, including any received or collected by or on behalf of Borrower after an Event of Default.

Except as provided in this Section, Lender shall not seek (a) any judgment for a deficiency against Borrower, any general partner or member of Borrower, or Borrower's successors or assigns, in any action to enforce any right or remedy under the Note, this Instrument or the other Loan Documents, or (b) any judgment on the Note except as may be necessary in any action brought under the Instrument to enforce the lien against the Property or any other Collateral.

Notwithstanding the foregoing, Borrower and any general partner of Borrower shall be fully and personally liable for payment and performance of all obligations set forth in the Loan Documents, including the payment of all principal, interest, and other amounts under the Note, in the event of (i) the occurrence of an uncured default under Sections 15, 16 or 29 of this Instrument, or (ii) the occurrence of any condition or event described in Section 20 (except that in the event of involuntary proceedings described therein, neither Borrower nor any general partner of Borrower shall be fully and personally liable under this Section 26 unless either Borrower or any general partner of Borrower or any Person owning an interest (directly or indirectly) in Borrower or any general partner of Borrower consents to, aids, solicits, supports, or otherwise cooperates or colludes to cause such event or fails to contest such event).

Further, Borrower and any general partner of Borrower shall be personally liable in the amount of any loss, damage or cost resulting from (a) fraud or intentional misrepresentation by Borrower in connection with obtaining the loan evidenced by the Note, (b) insurance proceeds, condemnation awards, or other sums or payments attributable to the Property not applied in accordance with the provisions of the Loan Documents (except to the extent that Borrower did not have the legal right, because of a bankruptcy, receivership or similar judicial proceeding, to direct disbursement of such sums or payments), (c) all rents, profits, issues, products and income of the Property received or collected by or on behalf of Borrower after and during an Event of Default and not applied to payment of principal and interest due under the Note, and to the payment of actual and reasonable operating expenses of the Property, as they become due or payable (except to the extent that such application of such funds is prevented by bankruptcy, receivership, or similar judicial proceeding in which Borrower is legally prevented from directing the disbursement of such sums), (d) misappropriation (including failure to turn over to Lender on demand following an Event of Default) of tenant security deposits and rents collected in advance, or of funds held by Borrower for the benefit of another party, or (e) Borrower's failure to pay transfer fees and charges due Lender under the Loan Documents in connection with any subordinate financing or any transfer of all or any part of the Property, or any interest therein, from Borrower to Borrower's transferee, or transfer of any beneficial interest in Borrower (if

Borrower is not a natural person or persons but is a corporation, partnership, limited liability company, trust or other legal entity) other than a Permitted Transfer, or (f) failure by Borrower, any general partner of Borrower, or any indemnitor or guarantor to comply with the covenants, obligations, liabilities, warranties and representations contained in the Environmental Indemnity Agreement or otherwise pertaining to environmental matters, or (g) in the event Lender has waived (or Borrower has failed to pay) the monthly collection for real and personal property taxes, assessments, insurance premiums, or ground rents, then failure by Borrower to pay any or all such taxes, assessments, premiums and rents, or (h) in the event that Lender has waived (or Borrower has not complied with) the requirement for third party property management, then any management fee taken by Borrower or any principal or affiliate of Borrower after an Event of Default, or (i) breach of any of Sections 15, 16 or 29 of this Instrument, or (j) the occurrence of any condition or event described in Section 20 (except that in the event of involuntary proceedings described therein, neither Borrower nor any general partner of Borrower shall be fully and personally liable under this Section 26 unless either Borrower or any general partner of Borrower or any Person owning an interest (directly or indirectly) in Borrower or any general partner of Borrower consents to, aids, solicits, supports, or otherwise cooperates or colludes to cause such event or fails to contest such event).

No provision of this Section shall (i) affect the enforcement of the Environmental Indemnity Agreement or any guaranty or similar agreement executed in connection with the debt evidenced by the Note, (ii) release or reduce the debt evidenced by the Note, (iii) impair the lien of this Instrument, (iv) impair the rights of Lender to enforce any provisions of this Instrument, (v) limit Lender's ability to obtain a deficiency judgment or judgment on the Note or otherwise against Borrower to the extent necessary to obtain any amount for which Borrower may be liable in accordance with this Section.

SECTION 27. REPRESENTATIONS OF BORROWER. The Borrower hereby represents and warrants to Lender the following:

(a) Organization. Borrower is a limited partnership duly organized, validly existing and in good standing under the laws of New York. There are no proceedings or actions pending, threatened or contemplated for the liquidation, termination or dissolution of Borrower.

(b) Rent Roll. Borrower has delivered to Lender a certified rent roll (the "RENT ROLL"), a copy of which is attached hereto as Schedule 3, which constitutes a true, correct, and complete list of each and every lease affecting the Property (for each commercial tenant, together with all extensions and amendments thereof) (the "EXISTING LEASES"); Borrower has delivered to Lender a true, correct, and complete copy of each of the Existing Leases which are entered into by commercial or retail tenants; and there are no other leases, assignments, modifications, extensions, renewals, or other agreements of any kind whatsoever (written or oral) outstanding with respect to the leases or the Property.

(c) Leases. Unless otherwise specified in the Rent Roll:

(i) the Existing Leases are in full force and effect;

(ii) Borrower has not given any notice of default to any tenant under an Existing Lease (an "EXISTING TENANT") which remains uncured;

(iii) no Existing Tenant has any set off, claim or defense to the enforcement of any Existing Lease;

(iv) no Existing Tenant is in arrears in the payment of rent for more than 30 days, additional rent or any other charges whatsoever due under any Existing Lease; or, to the knowledge of Borrower, is materially in default in the performance of any other obligations of such Existing Tenant under the applicable Existing Lease; and

(v) Borrower has completed all work or alterations required of the landlord or lessor under each Existing Lease; and all of the other obligations of landlord or lessor under the Existing Leases have been performed.

(d) Rents. The Rent Roll truly and completely discloses all annual and monthly rents payable by all Existing Tenants, including all percentage rents, if any, expiration dates of the Existing Leases, and the amount of security deposit being held by Borrower under each Existing Lease, if any; and Borrower has not granted any Existing Tenant any rent concessions (whether in form of cash contributions, work agreements, assumption of an Existing Tenant's other obligations, or otherwise) or extensions of time whatsoever not reflected in such Rent Roll.

(e) Lease Issues. There are no legal proceedings commenced (or, to the best of the knowledge of the Borrower, threatened) against Borrower by any Existing Tenant; no rental in excess of one month's rent has been prepaid under any of the Existing Leases; each of the Leases is valid and binding on the parties thereto in accordance with its terms; and the execution of this Instrument and the other Loan Documents will not constitute an event of default under any of the Existing Leases.

(f) Security Deposits. Borrower currently holds the security deposits (if any) specified in the Existing Leases and has not given any credit, refund, or set off against such security deposits to any person.

(g) Intentionally Deleted.

(h) No Undisclosed Tenants. Except for Borrower, there are no persons or entities occupying space in the Property as tenants other than the persons or entities specifically named in the Existing Leases.

(i) Title. Except as specifically listed in the schedule of exceptions to coverage in the title policy insuring Lender's interest in the Property, Borrower is now in possession of the Property; Borrower's possession of the Property is peaceable and undisturbed; Borrower does not know any facts by reason of which any claim to the Property, or any part thereof, might arise or be set up adverse to Borrower; and the Property is free and clear of (i) any lien for Taxes (except real property taxes not yet due and payable for the calendar year in which this Instrument is being executed), and (ii) any easements, rights-of-way, restrictions, encumbrances, liens or other exceptions to title by mortgage, decree, judgment, agreement, instrument, or, to the knowledge of Borrower, proceeding in any court. The Permitted Encumbrances (as defined in Section 15 hereof) do not materially and adversely affect the value, operation or use of the Property, or Borrower's ability to repay the Loan. This Instrument when properly recorded in the appropriate records, together with any UCC Financing Statements required to be filed in connection therewith, will create (i) a valid, perfected first priority lien on the Borrower's interest in the Property and (ii) valid and perfected first priority security interests in and to, and perfected collateral assignments of, all personalty (including the Leases), all in accordance with the terms thereof, in each case subject only to any applicable Permitted Encumbrances. There are no pending or proposed special or other assessments for public improvements or otherwise affecting the Property, or any contemplated improvements to the Property that may result in such special or other assessments.

(j) Liens. All charges for labor, materials or other work of any kind furnished in connection with the construction, improvement, renovation or rehabilitation of the Property or any portion thereof have been paid in full, and no unreleased affidavit claiming a lien against the Property, or any portion thereof, for the supplying of labor, materials or services for the construction of improvements on the Property has been executed or recorded in the mechanic's lien or other appropriate records in the county in which the Property is located.

(k) Compliance with Law. The Property and the current and contemplated uses of the Property are in compliance with all applicable federal, state and municipal laws, rules, regulations and ordinances, applicable restrictions, zoning ordinances, building codes and regulations, building lines and easements, including, without limitation, federal and state environmental protection law and the Americans with Disabilities Act of 1990, the Fair Housing Amendments Act of 1988, all state and local laws or ordinances related to handicapped access, and any statute, rule, regulation, ordinance, or order of governmental bodies or regulatory agencies, or any order or decree of any court adopted or enacted with respect thereto; no governmental authority having jurisdiction over any aspect of the Property has made a claim or determination that there is any such violation; the Property is not included in any area identified by the Secretary of Housing and Urban Development pursuant to the Flood Disaster Protection Act of 1973, as amended, as an area having special flood hazards; and all permits, licenses and the like which are necessary for the operation of the Property have been issued and are in full force and effect.

(1) Adverse Changes; Full and Accurate Disclosure. There have been no material adverse changes, financial or otherwise, in the condition of Borrower from that disclosed to Lender in the loan application submitted to Lender by Borrower, or in any supporting data submitted in connection with the Loan, and all of the information contained therein was true and correct when submitted and is now substantially and materially true and correct on the date hereof. No statement of fact made by Borrower in any Loan Documents contains any untrue statement of a material fact or omits to state any material fact necessary to make statements contained therein not misleading. There is no material fact presently known to Borrower that has not been disclosed to Lender which adversely affects, or, as far as Borrower can foresee, might adversely affect, the Property or the business, operations or condition (financial or otherwise) of Borrower. All financial data, including the statements of cash flow and income and operating expense, that have been delivered to Lender in respect of Borrower and the Property (i) are true, complete and correct in all material respects, (ii) accurately represent the financial condition of Borrower and the Property as of the date of such reports, and (iii) to the extent prepared by an independent certified public accounting firm, have been prepared in accordance with GAAP or federal income tax basis of accounting, in either case, consistently applied throughout the periods covered, except as disclosed therein. Borrower has no contingent liabilities, liabilities for taxes, unusual forward or long-term commitments, unrealized or anticipated losses from any unfavorable commitments or any liabilities or obligations not expressly permitted by this Instrument. Since the date of such financial statements, there has been no materially adverse change in the financial condition, operations or business of Borrower or the Property from that set forth in said financial statements.

(m) Claims, Litigation. There is no claim, litigation or condemnation proceeding pending, or, to the knowledge of the Borrower, threatened, against the Property or Borrower, which would be likely to have a material adverse affect on the Property or Borrower's ability to perform its obligations in the connection with the Loan.

(n) Single Purpose. Borrower does not own any real property or assets other than the Property and does not operate any business other than the management and operation of the Property.

(o) Bankruptcy. No proceedings in bankruptcy or insolvency has ever been instituted by or against Borrower or any affiliate thereof, and no such proceeding is now pending or contemplated.

(p) Solvency. Borrower is, and if there are any general partners or members of Borrower, such partners or members are, solvent pursuant to the laws of the United States, as reflected by the entries in Borrower's books and records and as reflected by the actual facts.

(q) Enforceability of Loan Documents. The Loan Documents have been duly authorized, executed and delivered by Borrower and constitute valid and binding obligations of Borrower, enforceable against Borrower in accordance with their respective terms. No approval, consent, order or authorization of any governmental authority and no designation, registration, declaration or filing with any governmental authority is required in connection with the execution and delivery of the Note, this Instrument or any other Loan Document. Neither Borrower nor any guarantor or indemnitor has any defense or offset to the enforcement of any Loan Document, or any claim against Lender. Neither Borrower nor any guarantor or indemnitor has any right whatsoever against Lender other than the express contractual obligations of Lender set forth in the Loan Documents. Any rights or claims contrary to this provision, whether known or unknown, are hereby expressly waived.

(r) Non-contravention. The execution and delivery of the Loan Documents will not violate or contravene in any way the articles of incorporation or bylaws or partnership agreement, articles of organization or operating agreement as the case may be, of Borrower or any indenture, agreement or instrument to which Borrower is a party or by which it or its property may be bound, or be in conflict with, result in a breach of or constitute a default under any such indenture, agreement or other instrument, result in the creation or imposition of any lien, charge or encumbrance of any nature whatsoever upon any of the property or assets of Borrower, except as contemplated by the provisions of such Loan Documents, and no action or approval with respect thereto by any third person is required.

(s) Homestead. No part of the Property is all or a part of Borrower's homestead or the homestead of anyone.

(t) Utilities. The Property is served by all utilities required for the current or contemplated use thereof. All utility service is provided by public utilities and the Property has accepted or is equipped to accept such utility service.

(u) Public Roads. All public roads and streets necessary for service of and access to the Property for the current or contemplated use thereof have been completed, are serviceable and all-weather and are physically and legally open for use by the public.

(v) Water and Sewers. The Property is serviced by public water and sewer systems.

(w) Damage. The Property is free from damage caused by fire or other casualty.

(x) Waste Disposal. All liquid and solid waste disposal, septic and sewer systems located on the Property are in a good and safe condition and repair and in compliance with all applicable laws.

(y) Agreements. Borrower is not a party to any agreement or instrument or subject to any restriction which might adversely affect Borrower or the Property, or Borrower's business, properties, operations or condition, financial or otherwise. Borrower is not in default in any material respect in the performance, observance or fulfillment of any of the obligations, covenants or conditions contained in any Permitted Encumbrance or any other agreement or instrument to which it is a party or by which it or the Property is bound.

(z) No Plan Assets. As of the date hereof and throughout the entire term of the loan evidenced by the Note and this Instrument (the "Term") (i) Borrower is not and will not be an "employee benefit plan," as defined in Section 3(3) of ERISA, subject to Title I of ERISA, (ii) none of the assets of Borrower constitutes or will constitute "plan assets" of one or more such plans within the meaning of 29 C.F.R. Section 2510.3-101, (iii) Borrower is not and will not be a "governmental plan" within the meaning of Section 3(32) of ERISA, and (iv) transactions by or with Borrower are not and will not be subject to state statutes regulating investment of, and fiduciary obligations with respect to, governmental plans.

(aa) Federal Reserve Regulations; Investment Company Act. No part of the proceeds of the loan evidenced by the Note, this Instrument and the other Loan Documents will be used for the purpose of purchasing or acquiring any "margin stock" within the meaning of Regulation U of the Board of Governors of the Federal Reserve System or for any other purpose that would be inconsistent with such Regulation U or any other regulation of such Board of Governors, or for any purpose prohibited by Legal Requirements (as defined in Section 25 hereof) or any Loan Document. Borrower is not (i) an "investment company" or a company "controlled" by an "investment company," within the meaning of the Investment Company Act of 1940, as amended; (ii) a "holding company" or a "subsidiary company" of a "holding company" or an "affiliate" of either a "holding company" or a "subsidiary company" within the meaning of the Public Utility Holding Company Act of 1935, as amended; or (iii) subject to any other federal or state law or regulation which purports to restrict or regulate its ability to borrow money.

(bb) Fraudulent Transfer. Borrower has not entered into the loan evidenced by the Note, this Instrument and the other Loan Documents, or any Loan Document with the actual intent to hinder, delay, or defraud any creditor, and Borrower has received reasonably equivalent value in exchange for its obligations under the Loan Documents. Giving effect to the transactions contemplated by the Loan Documents, the fair saleable value of Borrower's assets exceeds and will, immediately following the execution and delivery of the Loan Documents, exceed Borrower's total liabilities, including subordinated, unliquidated, disputed or contingent liabilities, including the maximum amount of its contingent liabilities or its debts as such debts become absolute and matured. Borrower's assets do not and, immediately following the execution and delivery of the Loan Documents will not, constitute unreasonably small capital to carry out its business as conducted or as proposed to be conducted. Borrower does not intend to, and does not believe that it will, incur debts and liabilities (including contingent liabilities and other commitments) beyond its ability to pay such debts as they mature (taking into account the timing and amounts to be payable on or in respect of obligations of Borrower).

(cc) No Other Debt. There is no indebtedness with respect to the Property or any excess cash flow or any residual interest therein, whether secured or unsecured, other than Permitted Encumbrances and Permitted Indebtedness (as defined in Section 28(i) hereof).

(dd) Flood Zone. No portion of the Property is located in an area as identified by the Federal Emergency Management Agency as an area having special flood hazards.

SECTION 28. BORROWER'S ADDITIONAL COVENANTS. Borrower hereby covenants, agrees and undertakes as follows:

(a) Alterations of Property. Borrower shall not undertake or commence any alterations of any improvements on the Property the cost of which is in excess of five percent of the then original principal amount of the Note, without the prior written consent of Lender, not to be unreasonably withheld; provided, however, that Lender may, in its sole and absolute discretion, withhold consent to any alteration the cost of which is reasonably estimated to exceed \$2,000,000.

(b) Further Assurances. Borrower shall from time to time, at the request of Lender, (i) promptly correct any defect, error or omission which may be discovered in the contents of this Instrument or in any other Loan Document or in the execution or acknowledgment thereof; (ii) execute, acknowledge, deliver and record and/or file such further documents or instruments (including, without limitation, further mortgages, security agreements, financing statements, continuation statements, assignments of rents or leases and environmental indemnity agreements) and perform such further acts and provide such further assurances as may be necessary, desirable or proper, in Lender's opinion, to carry out more effectively the purposes of this Instrument and such other instruments and to subject to the liens and security interests hereof and thereof any property intended by the terms hereof or thereof to be covered hereby or thereby, including specifically, but without limitation, any renewals, additions, substitutions, replacements, or appurtenances to the Property; provided that such documents or instruments do not materially increase Borrower's liability under the Loan Documents; and (iii) execute, acknowledge, deliver, procure, and file and/or record any document or instrument (including specifically, but without limitation, any financing statement) deemed advisable by Lender to protect the liens and the security interests herein granted against the rights or interests of third persons; provided that such documents or instruments do not materially increase Borrower's liability under the Loan Documents. Borrower will pay all reasonable costs connected with any of the foregoing in this paragraph.

(c) Mortgage Taxes. Borrower shall at any time any law shall be enacted imposing or authorizing the imposition of any tax upon this Instrument, or upon any rights, titles, liens or security interests created hereby, or upon the obligations secured hereby or any part thereof, immediately pay all such taxes; provided that, if such law as enacted makes it unlawful for Borrower to pay such tax, Borrower shall not pay nor be obligated to pay such tax, and in the alternative, Borrower may, in the event of the enactment of such a law, and must, if it is unlawful for Borrower to pay such taxes, prepay the obligations secured hereby in full within 60 days after demand therefor by Lender.

(d) Minerals. Borrower shall not permit any drilling or exploration for or extraction, removal or production of any mineral, natural element, compound or substance from the surface or subsurface of the Property regardless of the depth thereof or the method of mining or extraction thereof.

(e) Maintenance of Borrower and Managing Entity Names. Borrower shall not change, or permit Managing Entity to change, its name, identity (including its trade name or names) or employer identification number, in any such case, without notifying Lender of such change in writing at least thirty (30) days prior to the effective date of such change. Borrower shall deliver, or cause Managing Entity to deliver, to Lender, prior to or contemporaneously with the effective date of any such change, any financing statement or financing statement change reasonably required by Lender, if any, to establish or maintain the validity, perfection and priority of the security interests granted herein.

(f) Costs and Expenses. Borrower shall pay on demand all reasonable and bona fide out-of-pocket costs, fees and expenses and other expenditures, including, but not limited to, reasonable attorneys' fees and expenses, paid or incurred by Lender to third parties incident to this Instrument or any other Loan Document (including, but not limited to, reasonable attorneys' fees and expenses in connection with the negotiation, preparation and execution hereof and of any other Loan Document and any amendment hereto or thereto, any release hereof, any consent, approval or waiver hereunder or under any other Loan Document, the making of any advance under the Note, and any suit to which Lender is a party involving this Instrument or the Property) or incident to the enforcement of the obligations secured hereby or the exercise of any right or remedy of Lender under any Loan Document.

(g) Compliance with Laws. Borrower shall maintain and keep the Property in compliance in all material respects with all applicable legal requirements (including with respect to parking (and any required striping thereof) and applicable zoning and land use laws, regulations and ordinances).

(h) Annual Budget. Borrower shall prepare and submit (or shall cause Manager to prepare and submit) to Lender within thirty (30) days after a Cash Management Period and by November 30th of each year thereafter during the Term until such Cash Management Period has ended, for approval by Lender, which approval shall not be unreasonably withheld or delayed, a proposed pro forma budget for the Property for the succeeding calendar year (the "ANNUAL BUDGET", and each Annual Budget approved (or deemed approved pursuant to the terms of this Section 28(h)) by Lender is referred to herein as the "APPROVED ANNUAL BUDGET"), and, promptly after preparation thereof, any revisions to such Annual Budget. Lender's failure to approve or disapprove any Annual Budget or revision within 30 days after Lender's receipt thereof shall be deemed to constitute Lender's approval thereof. The Annual Budget shall consist of (i) an operating expense budget showing, on a month-by-month basis, in reasonable detail, each line item of the Borrower's anticipated operating income and operating expenses (on a cash and accrual basis), including amounts required to establish, maintain and/or increase any monthly payments required hereunder (and once such Annual Budget has been approved (or deemed approved pursuant to the terms of this Section 28(h)) by Lender, such operating expense budget shall be referred to herein as the "APPROVED OPERATING BUDGET"), and (ii) a Capital Expense budget showing, on a month-by-month basis, in reasonable detail, each line item of anticipated Capital Expenses (and once such Annual Budget has been approved (or deemed approved pursuant to the terms of this Section 28(h)) by Lender, such Capital Expense budget shall be referred to herein as the "APPROVED CAPITAL BUDGET"). Until such time that any Annual Budget has been approved (or deemed approved pursuant to the terms of this Section 28(h)) by Lender, the prior Approved Annual Budget shall apply for all purposes hereunder (with such adjustments as reasonably determined by Lender (including increases for any non-discretionary expenses)).

(i) Indebtedness. Borrower shall not directly or indirectly create, incur or assume any indebtedness other than the indebtedness evidenced by the Loan Documents and unsecured trade payables incurred in the ordinary course of business relating to the ownership and operation of the Property which do not exceed, at any time, a maximum amount of 2% of the original amount of the Loan and are paid within sixty (60) days of the date incurred (collectively, "PERMITTED INDEBTEDNESS").

SECTION 29. COVENANTS WITH RESPECT TO SINGLE PURPOSE, INDEBTEDNESS, OPERATIONS, FUNDAMENTAL CHANGES OF BORROWER

(a) Pertaining to Borrower Parties. Borrower represents, warrants and covenants as of the date of hereof and until such time as the indebtedness secured hereby is paid in full, that each of Borrower and Acadia Pacesetter LLC, a Delaware limited liability company (the latter, or any permitted successor and assignee thereto in accordance with the terms of this Instrument, may be referred to as "Managing Entity" and both Borrower and Managing Entity may be referred to as "Borrower Parties")

(i) does not own and will not own any assets other than the Property (including incidental personal property necessary for the operation thereof and proceeds therefrom) or direct or indirect ownership interests in Borrower (the "OWNERSHIP INTERESTS");

(ii) was and will be organized solely for the purpose of owning the Property and is not engaged and will not engage in any business, directly or indirectly, other than the ownership, management and operation of the Property or the Ownership Interests;

(iii) has not entered and will not enter into any contract or agreement with any partner, member, shareholder, trustee, beneficiary, principal or affiliate of any Borrower Party except upon terms and conditions that are intrinsically fair and substantially similar to those that would be available on an arms-length basis with third parties other than such affiliate;

(iv) has not incurred and will not incur any debt, secured or unsecured, direct or contingent (including guaranteeing any obligation), other than (i) the obligations secured by this Instrument, and (ii) trade payables or accrued expenses incurred in the ordinary course of business of operating the Property which (1) do not exceed, at any time, (a) with respect to Borrower, a maximum amount of 2% of the original amount of the Principal, and (b) with respect to Managing Entity, \$10,000 and (2) are paid within sixty (60) days of the date incurred;

(v) has not made and will not make any loan or advances to any person or entity;

(vi) has remained and will remain solvent and pay its own liabilities, indebtedness, and obligations of any kind from its own separate assets as the same shall become due;

(vii) has not, and without the unanimous consent of all of its partners, directors or members, as applicable, will not, with respect to itself or to any other entity in which it has a direct or indirect legal or beneficial ownership interest (A) file a bankruptcy, insolvency or reorganization petition or otherwise institute insolvency proceedings or otherwise seek any relief under any laws relating to the relief from debts or the protection of debtors generally, (B) seek or consent to the appointment of a receiver, liquidator, assignee, trustee, sequestrator, custodian or any similar official for such entity or for all or any portion of such entity's properties, (C) make any assignment for the benefit of such entity's creditors or (D) take any action that might cause such entity to become insolvent;

(viii) has done or caused to be done and will do all things necessary to preserve its existence, and will not, nor will any partner, member, shareholder, trustee, beneficiary, or principal amend, modify or otherwise change its partnership certificate, partnership agreement, articles of incorporation, by-laws, articles of organization, operating agreement, or other organizational documents in any manner except as necessary to reflect Permitted Transfers;

(ix) has maintained and shall continuously maintain its existence and be qualified to do business in all states necessary to carry on its business, specifically including in the case of Borrower, the state where the Property is located;

(x) has conducted and operated and will conduct and operate its business as presently conducted and operated;

(xi) has maintained and will maintain books and records and bank accounts separate from those of its partners, members, shareholders, trustees, beneficiaries, principals, affiliates, and any other person or entity;

(xii) has been and will be, and at all times has held and will hold itself out to the public as, a legal entity separate and distinct from any other (including any of its partners, members, shareholders, trustees, beneficiaries, principals and affiliates), and not as a department or division of any entity;

(xiii) has not failed and will not fail to correct any known misunderstanding regarding the separate identity of such entity;

(xiv) has and will maintain adequate capital for the normal obligations reasonably foreseeable in a business of its size and character and in light of its contemplated business operations;

(xv) has not and will not seek, acquiesce in, or suffer or permit its liquidation, dissolution or winding up, in whole or in part;

(xvi) has not entered and will not enter into any transaction of merger or consolidation, or acquire by purchase or otherwise all or substantially all of the business or assets of, or any stock of beneficial ownership of, any person or entity;

(xvii) has not commingled and will not commingle or permit to be commingled its funds or other assets with those of any other person or entity;

(xviii) has and will maintain its assets in such a manner that it is not costly or difficult to segregate, ascertain or identify its individual assets from those of any other person or entity;

(xix) except as expressly provided for in the Loan Documents, does not and will not hold itself out to be responsible for the debts or obligations of any other person or entity;

(xx) except as expressly provided for in the Loan Documents, has not and will not guarantee or otherwise become liable on or in connection with any obligation of any other person or entity;

(xxi) has not done or shall not do any act which would make it impossible to carry on its ordinary business;

(xxii) has not and will not possess or assign the Property for other than a business or company purpose;

(xxiii) has not held and shall not hold its assets other than in its name;

(xxiv) has paid and will pay its own liabilities, including the salaries of its own employees, out of its own funds and assets;

(xxv) has observed and will observe all partnership, corporate or limited liability company formalities, as applicable;

(xxvi) has maintained and will maintain an arm's-length relationship with its Affiliates;

(xxvii) has not and will not acquire obligations or securities of its partners, members or shareholders;

(xxviii) has allocated and will allocate fairly and reasonably shared expenses, including shared office space, and uses separate stationery, invoices and checks;

(xxix) except in connection with the Loan, has not pledged and will not pledge its assets for the benefit of any other Person;

(xxx) has not identified and will not identify its partners, members or shareholders, or any Affiliate of any of them, as a division or part of it;

(xxxix) has and will have no obligation to indemnify its partners, officers, directors, members or Special Members (as defined below), as the case may be, or has such an obligation that is fully subordinated to the Debt and will not constitute a claim against it if cash flow in excess of the amount required to pay the Debt is insufficient to pay such obligation; and

(xxxix) will consider the interests of its creditors in connection with all corporate, partnership or limited liability actions, as applicable.

(xxxix) has not instituted and shall not institute proceedings to be adjudicated bankrupt or insolvent; consent to the institution of bankruptcy or insolvency proceedings against it; file a petition seeking, or consent to, reorganization or relief under any applicable federal or state law relating to bankruptcy; consent to the appointment of a receiver, liquidator, assignee, trustee, sequestrator (or other similar official) of it or a substantial part of its property; or make any assignment for the benefit of creditors; or admit in writing its inability to pay its debts generally as they become due;

(xxxix) shall comply with all (and shall not suffer to be inaccurate any) of the assumptions, statements, certifications, representations, warranties and covenants regarding or made by Borrower contained in or appended to any opinion of Borrower's legal counsel delivered in connection with the transaction in which the Loan Documents are executed.

(b) PERTAINING TO MANAGING ENTITY. Borrower also represents, warrants and covenants as of the date of hereof and until such time as the indebtedness secured hereby is paid in full, that Managing Entity:

(i) has and will at all times act as the sole general partner with all of the rights, powers, obligations and liabilities thereof under the partnership agreement of Borrower and shall take any and all actions and do any and all things necessary or appropriate to the accomplishment of the same and will engage in no other business;

(ii) has and will have an operating agreement which provides that the business and affairs of Managing Entity shall be managed by or under the direction of a board of one or more directors designated by Acadia Realty Limited Partnership, a Delaware limited partnership, its sole member (the "SOLE MEMBER");

(iii) not and will not, for itself or for Borrower (i) liquidate or dissolve, in whole or in part; (ii) consolidate, merge or enter into any form of consolidation with or into any other person or entity, nor convey, transfer or lease its or Borrower's assets substantially as an entirety to any person or entity nor permit any person or entity to consolidate, merge or enter into any form of consolidation with or into itself or Borrower; or (iii) amend any provisions of its or Borrower's organizational documents containing provisions similar to those contained in this Section 29;

(iv) has and will have an operating agreement which provides that, as long as any portion of the Debt remains outstanding, (A) upon the occurrence of any event that causes Sole Member to cease to be a member of Managing Entity (other than (x) upon an assignment by Sole Member of all of its limited liability company interest in Managing Entity and the admission of the transferee, if permitted pursuant to the organizational documents of Managing Entity and the Loan Documents, or (y) the resignation of Sole Member and the admission of an additional member of Managing Entity, if permitted pursuant to the organizational documents of Managing Entity and the Loan Documents), the person acting as the sole member of Managing Entity (the "SPECIAL MEMBER") shall, without any action of any Person and simultaneously with Sole Member ceasing to be a member of Managing Entity, automatically be admitted as the Special Member and shall preserve and continue the existence of Managing Entity without dissolution, (B) no Special Member may resign or transfer its rights as Special Member unless (x) a successor Special Member has been admitted to Managing Entity as a Special Member, and (y) such successor Special Member has also accepted its appointment as a Special Member and (C) except as expressly permitted pursuant to the terms of this Agreement, Sole Member may not resign and no additional member shall be admitted to Managing Entity; (v) has and will have an operating agreement which provides that, as long as any portion of the Debt remains outstanding, (A) Managing Entity shall be dissolved, and its affairs shall be wound up only upon the first to occur of the following: (x) the termination of the legal existence of the last remaining member of Managing Entity or the occurrence of any other event which terminates the continued membership of the last remaining member of Managing Entity in Managing Entity unless the business of Managing Entity is continued in a manner permitted by its operating agreement or the Delaware Limited Liability Company Act (the "DELAWARE ACT") or (y) the entry of a decree of judicial dissolution under Section 18-802 of the Delaware Act; (B) upon the occurrence of any event that causes the last remaining member of Managing Entity to cease to be a member of Managing Entity or that causes Sole Member to cease to be a member of Managing Entity (other than (x) upon an assignment by Sole Member of all of its limited liability company interest in Managing Entity and the admission of the transferee, if permitted pursuant to the organizational documents of Managing Entity and the Loan Documents, or (y) the resignation of Sole Member and the admission of an additional member of Managing Entity, if permitted pursuant to the organizational documents of Managing Entity and the Loan Documents), to the fullest extent permitted by law, the personal representative of such member shall be authorized to, and shall, within '90 days after the occurrence of the event that terminated the continued membership of such member in Managing Entity, agree in writing to continue the existence of Managing Entity and to the admission of the personal representative or its nominee or designee, as the case may be, as a substitute member of Managing Entity, effective as of the occurrence of the event that terminated the continued membership of such member in Managing Entity; (C) the bankruptcy of Sole Member or a Special Member shall not cause such member or Special Member, respectively, to cease to be a member of Managing Entity and upon the occurrence of such an event, the business of Managing Entity shall continue without dissolution; (D) in the event of dissolution of Managing Entity, Managing Entity shall conduct only such activities as are necessary to wind up its affairs (including the sale of the assets of Managing Entity in an orderly manner), and the assets of Managing Entity shall be applied in the manner, and in the order of priority, set forth in Section 18-804 of the Delaware Act; and (E) to the fullest extent permitted by law, each of Sole Member and the Special Members shall irrevocably waive any right or power that they might have to cause Managing Entity or any of its assets to be partitioned, to cause the appointment of a receiver for all or any portion of the assets of Managing Entity, to compel any sale of all or any portion of the assets of Managing Entity pursuant to any applicable law or to file a complaint or to institute any proceeding at law or in equity to cause the dissolution, liquidation, winding up or termination of Managing Entity.

SECTION 30. NOTICE. All notices given under this Instrument shall be in writing, and sent to the other party at its address set forth below or at such other address as such party may designate by notice to the other party and shall be deemed given on the earliest of (i) actual receipt, duly evidenced by any commercially reasonable means, (ii) three Business Days after mailing, by certified or registered U.S. Mail, return receipt requested, postage prepaid, (iii) one Business Day after timely delivery, fee prepaid, to a national overnight delivery service (such as FedEx, Purolater Courier, U.P.S. Next Day Air), (iv) the date of transmission of notice sent by telecopier or facsimile machine (with a copy thereof sent in accordance with clause (ii) above) provided notice was transmitted on a Business Day, otherwise notice shall be deemed given on the next Business Day.

The applicable addresses are as follows:

To Borrower:

c/o Acadia Realty Trust
1311 Mamaroneck Avenue
White Plains, New York 10605
Attention: Robert Masters, Esq.
Telephone No.: (914) 288-8139
Facsimile No.: (914) 428-3646

With a Copy to:

c/o Acadia Realty Trust
1311 Mamaroneck Avenue
White Plains, New York 10605
Attention: Michael Nelsen
Telephone No.: (914) 288-8138
Facsimile No.: (914) 288-2138

To Lender:

Greenwich Capital Financial
Products, Inc. 600 Steamboat Road
Greenwich, Connecticut 06830
Attention: Commercial Mortgage Loan
Department Telephone No.: (203) 618-2373
Facsimile No.: (203) 629-8363

With a Copy to:

Kaye Scholer LLP
425 Park Avenue
New York, New York
10022 Attention: Stephen Gliatta, Esq.
Telephone No.: (212) 836-8618
Facsimile No.: (212) 836-8689

Borrower hereby requests that any notice of default or notice of sale in any judicial or nonjudicial foreclosure proceeding be mailed to Borrower at its address as specified herein.

SECTION 31. UNIFORM INSTRUMENT; GOVERNING LAW; SEVERABILITY. This form of instrument combines uniform covenants for national use and non-uniform covenants with limited variations by jurisdiction to constitute a uniform security instrument covering real property and related fixtures and personal property. THIS INSTRUMENT WAS NEGOTIATED IN THE STATE OF NEW YORK, AND MADE BY BORROWER AND ACCEPTED BY LENDER IN THE STATE OF NEW YORK, WHICH STATE THE PARTIES AGREE HAS A SUBSTANTIAL RELATIONSHIP TO THE PARTIES AND TO THE UNDERLYING TRANSACTION EMBODIED HEREBY, AND IN ALL RESPECTS, INCLUDING, WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, MATTERS OF CONSTRUCTION, VALIDITY AND PERFORMANCE, THIS INSTRUMENT AND THE OBLIGATIONS ARISING HEREUNDER SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK APPLICABLE TO CONTRACTS MADE AND PERFORMED IN SUCH STATE (WITHOUT REGARD TO PRINCIPLES OF CONFLICT LAWS) AND ANY APPLICABLE LAW OF THE UNITED STATES OF AMERICA. TO THE FULLEST EXTENT PERMITTED BY LAW, BORROWER HEREBY UNCONDITIONALLY AND IRREVOCABLY WAIVES ANY CLAIM TO ASSERT THAT THE LAW OF ANY OTHER JURISDICTION GOVERNS THIS INSTRUMENT OR THE OTHER LOAN DOCUMENTS, AND THIS INSTRUMENT AND THE OTHER LOAN DOCUMENTS SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK PURSUANT TO SECTION 5-1401 OF THE NEW YORK GENERAL OBLIGATIONS LAW. In the event that any provision of this Instrument or the Note conflicts with applicable law, such conflict shall not affect other provisions of this Instrument or the Note which can be given effect without the conflicting provisions, and to this end the provisions of this Instrument and the Note are declared to be severable. In the event that any

applicable law limiting the amount of interest or other charges permitted to be collected from Borrower is interpreted so that any charge provided for in this Instrument or in the Note, whether considered separately or together, with other charges levied in connection with this Instrument and the Note, violates such law, and Borrower is entitled to the benefit of such law, such charge is hereby reduced to the extent necessary to eliminate such violation. The amounts, if any, previously paid to Lender in excess of the amounts payable to Lender pursuant to such charges as reduced shall be applied by Lender to reduce the principal of the indebtedness evidenced by the Note. For the purposes of determining whether any applicable law limiting the amount of interest or other charges permitted to be collected from Borrower has been violated, all indebtedness which is secured by this Instrument or evidenced by the Note and which constitutes interest, as well as all other charges levied in connection with such indebtedness which constitute interest, shall be deemed to be allocated and spread over the stated term of the Note. Unless otherwise required by applicable law, such allocation and spreading shall be effected in such a manner that the rate of interest computed thereby is uniform throughout the stated term of the Note.

SECTION 32. RESTRUCTURING LOAN, SECONDARY MARKET TRANSACTIONS.

(a) Secondary Market Transactions Generally. Lender shall have the right to engage in one or more Secondary Market Transactions (as defined in Section 15 hereof), and to structure and restructure all or any part of the Loan, including without limitation in multiple tranches, as a wraparound loan, or for inclusion in a REMIC or other Securitization (as defined in Section 15 hereof). Without limitation, Lender shall have the right to cause the Note and this Instrument to be split into a first and a second mortgage loan in whatever proportion Lender determines, and thereafter to engage in Secondary Market Transactions with respect to all or any part of the indebtedness and loan documentation. Borrower acknowledges that it is the intention of the parties that all or a portion of the Loan will be securitized and that all or a portion of the Loan (either itself, or in combination with other loans) will be rated by one or more Rating Agencies (as defined in Section 15 hereof). Borrower further acknowledges that additional structural modifications may be required to satisfy issues raised by any Rating Agencies.

(b) Cooperation; Limitations. Borrower shall use all reasonable efforts and cooperate reasonably and in good faith with Lender in effecting any such restructuring or Secondary Market Transaction. Such cooperation shall include without limitation, executing and delivering such reasonable amendments to the Loan Documents as Lender may request, provided however that no such amendment shall on an over-all basis modify (i) the interest rate payable under the Note; (ii) the stated maturity date of the Note, (iii) the amortization of the principal amount of the Note, (iv) any other economic terms of the Loan, or (v) the non-recourse provisions of the Loan. Such cooperation also shall include using best efforts to obtain such certificates and assurances from governmental entities and others as Lender may request. Borrower shall not be required to incur any cost in connection with such restructuring or Secondary Market Transaction or to provide additional collateral that was not initially contemplated by the parties to effect any such restructuring or Secondary Market Transaction.

(c) Information. Borrower shall provide such information and documents relating to the Borrower and its principals, the manager of the Property, the Property and the business and operations of all of the foregoing as Lender may reasonably request in connection with any such Secondary Market Transaction. Lender shall be permitted to share all such information with the investment banking firms, Rating Agencies, accounting firms, law firms, other third party advisory firms, potential investors, and other parties involved in any proposed Secondary Market Transaction. Any such information may be incorporated into offering documents for the Secondary Market Transactions. Lender and all of the aforesaid third-party advisors and professional firms and investors shall be entitled to rely upon such information, and Borrower shall indemnify, defend, and hold harmless Lender from and against any losses, claims, damages and liabilities that arise out of or are based upon any actual or alleged untrue or misleading statement of material fact contained in such information or the actual or alleged omission of any material fact without which such information is materially misleading. Lender may publicize the existence of the Loan in connection with Lender's Secondary Market Transaction activities or otherwise.

(d) Additional Provisions. In any Secondary Market Transaction, Lender may transfer its obligations under the Loan Documents (or may transfer the portion thereof corresponding to the transferred portion of the obligations of Borrower), and thereafter Lender shall be relieved of any obligations under the Loan Documents arising after the date of said transfer with respect to the transferred interest. Each transferee investor shall be deemed to be a "Lender" under the applicable Loan Documents.

(e) Certain Definitions. As used herein, the following terms have the meanings indicated:

"LOAN": All obligations of Borrower under the Loan Documents.

"SECURITIZATION": mean a rated offering of securities representing direct or indirect interests in one or more mortgage loans or the right to receive income therefrom.

SECTION 33. SUCCESSORS AND ASSIGNS BOUND. This Instrument and the other Loan Documents shall be binding upon and inure to the benefit of Borrower and Lender and their respective successors and assigns forever, subject to Section 15 hereof. Notwithstanding the foregoing, Lender shall have no liability under any of the Loan Documents for any matter arising after Lender transfers its interest in the Note to any successor. However, Lender shall continue to have the benefit of all rights having accrued under the Loan Documents theretofore, and all rights under all obligations of indemnification set forth in the Loan Documents for matters arising theretofore, then, and thereafter.

SECTION 34. FORBEARANCE BY LENDER NOT A WAIVER. Any forbearance by Lender in exercising any right or remedy hereunder, or otherwise afforded by applicable law, shall not be a waiver of or preclude the exercise of any right or remedy. The acceptance by Lender of payment of any sum secured by this Instrument after the due date of such payment shall not be a waiver of Lender's right to either require prompt payment when due of all other sums so secured or to declare a default for failure to make prompt payment. The procurement of insurance or the payment of taxes or other liens or charges by Lender shall not be a waiver of Lender's right to accelerate the maturity of the indebtedness secured by this Instrument, nor shall Lender's receipt of any awards, proceeds or damages, whether as proceeds of insurance or condemnation awards or otherwise, operate to cure or waive Borrower's default in payment of sums secured by this Instrument.

SECTION 35. ESTOPPEL CERTIFICATE. Borrower shall within ten days of a written request from Lender furnish Lender with a written statement, duly acknowledged, setting forth the sums secured by this Instrument and any right of set-off, counterclaim or other defense which exists against such sums and the obligations of this Instrument and attaching true, correct and complete copies of the Note, this Instrument and any other Loan Documents and any and all modifications, amendments and substitutions thereof.

SECTION 36. WAIVER OF JURY TRIAL. BORROWER HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVES ANY RIGHT THE BORROWER MAY HAVE TO A TRIAL BY JURY IN RESPECT TO ANY LITIGATION BASED HEREON, OR ARISING OUT OF, UNDER OR IN CONJUNCTION WITH THE NOTE, THIS INSTRUMENT, ANY OTHER LOAN DOCUMENT, ANY OTHER AGREEMENT CONTEMPLATED TO BE EXECUTED IN CONNECTION HERewith, OR ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENTS (WHETHER VERBAL OR WRITTEN) OR ACTIONS OF EITHER PARTY.

SECTION 37. MISCELLANEOUS.

(a) No Oral Change. No provision of this Instrument or any of the other Loan Documents may be modified, amended, waived, extended, changed, discharged or terminated orally or by any act or failure to act on the part of Borrower or Lender, except only by an agreement in writing signed by the party against whom enforcement of any modification, amendment, waiver, extension, change, discharge or termination is sought.

(b) Liability. If Borrower consists of more than one person, the obligations and liabilities of each such person hereunder and under the other Loan Documents shall be joint and several.

(c) Captions. The captions and headings of the Sections, paragraphs, and other provisions of this Instrument are for convenience only and are not to be used to interpret or define the provisions hereof.

(d) Duplicate Originals; Counterparts. This Instrument and any of the Loan Documents may be executed in any number of duplicate originals and each duplicate original shall be deemed to be an original. This Instrument and any of the Loan Documents may be executed in multiple counterparts.

(e) Number and Gender. Whenever the context may require, any pronouns used herein or in any of the Loan Documents shall include the corresponding masculine, feminine or neuter forms, and the singular form of nouns and pronouns shall include the plural and vice versa.

(f) Subrogation. If any or all of the proceeds of the Note have been used to extinguish, extend or renew any indebtedness heretofore existing against the Property, then, to the extent of the funds so used, Lender shall be subrogated to all of the rights, claims, liens, titles, and interests existing against the Property heretofore held by, or in favor of, the holder of such indebtedness and such former rights, claims, liens, titles, and interests, if any, are not waived but rather are continued in full force and effect in favor of Lender and are merged with the lien and security interest created herein as cumulative security for the performance and repayment of the obligations secured hereby.

(g) Entire Agreement. The Note, this Instrument and the other Loan Documents constitute the entire understanding and agreement between Borrower and Lender pertaining to the subject matter hereof and thereof, and supersede all prior written or oral understandings and agreements between Borrower and Lender with respect thereto, including the prior agreements evidenced by any application or commitment issued in connection with this transaction. Borrower hereby acknowledges that, except as incorporated in writing in the Loan Documents, there are not, and were not, and no persons are or were authorized by Lender to make, any representations, understandings, stipulations, agreements or promises, oral or written, with respect to the transaction which is the subject of the Loan Documents, except only to the extent expressly set forth in the Loan Documents.

(h) Action through Agents. In exercising any rights hereunder or under any of the Loan Documents or taking any actions provided for herein or therein, Lender may act through its employees, agents or independent contractors as authorized by Lender.

PART II
STATE OF NEW YORK SPECIFIC PROVISIONS

(i) CONFLICTS WITH PART I. (i) In the event of any conflict between the provisions of this Part II and any provision of Part I, then the provisions of this Part II shall control.

(ii) The terms, covenants and conditions contained herein shall be construed as affording to Mortgagee rights additional to, and not exclusive of, the rights conferred under the provisions of Section 254 of the Real Property Law of the State of New York.

(iii) In compliance with Section 13 and Article 3-A of the Lien Law of the State of New York, Mortgagor will receive all advances secured by this Mortgage and will hold the right to receive all such advances as a trust fund to be applied first for the purpose of paying the cost of improvements, and will apply all such advances first to the payment of the cost of improvements before using any part of such advances for any other purpose. Mortgagor will indemnify and hold Mortgagee harmless from and against any loss, liability, cost or expense, including, without limitation, any judgments, reasonable attorneys' fees, costs of appeal bonds and printing costs, arising out of or relating to any proceeding instituted by any claimant alleging a violation by Mortgagor of any applicable lien law provisions including, without limitation, any section of Article 3-A of the New York Lien Law.

(iv) NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED HEREIN, THE MAXIMUM AMOUNT OF PRINCIPAL INDEBTEDNESS SECURED BY THIS MORTGAGE AT THE TIME OF EXECUTION OR WHICH UNDER ANY CONTINGENCY MAY HEREAFTER BECOME SECURED HEREBY AT ANY TIME IS TWELVE MILLION FIVE HUNDRED THOUSAND AND NO/100 DOLLARS (\$12,500,000) PROVIDED THAT SUCH LIMITATION SHALL NOT LIMIT THE SECURITY OF THIS MORTGAGE WITH RESPECT TO (I) INTEREST ON THE AFORESAID MAXIMUM AMOUNT OF PRINCIPAL INDEBTEDNESS AT THE RATES SET FORTH IN THE NOTE, (II) SUMS TO PAY TAXES, (III) SUMS TO PAY PREMIUMS ON INSURANCE POLICIES COVERING THE MORTGAGED PROPERTY, (IV) EXPENSES INCURRED AFTER AN EVENT OF DEFAULT IN UPHOLDING OR ENFORCING THE LIEN OF THIS MORTGAGE, INCLUDING, BUT NOT LIMITED TO, THE EXPENSES OF ANY LITIGATION TO PROSECUTE OR DEFEND THE RIGHTS AND LIEN CREATED BY THIS MORTGAGE, (V) ANY AMOUNT, COSTS OR CHARGE TO WHICH MORTGAGEE BECOMES SUBROGATED, UPON PAYMENT, WHETHER UNDER RECOGNIZED PRINCIPLES OF LAW OR EQUITY, OR UNDER EXPRESS STATUTORY AUTHORITY, AND (VI) ANY OTHER AMOUNT SECURED BY THIS MORTGAGE WHICH, IF NOT LIMITED BY SUCH LIMITATION, WOULD NOT INCREASE THE AMOUNT OF MORTGAGE RECORDING TAXES, IF ANY, PAYABLE WITH RESPECT TO THIS MORTGAGE.

(v) This Mortgage does not cover real property principally improved or to be improved by one or more structures containing in the aggregate not more than six residential dwelling units, each having their own separated cooking facilities.

(vi) Reference is made to Section 291-f of the Real Property Law of New York for purposes of obtaining the benefit of said Section in connection with this Mortgage.

(vii) Upon the occurrence and during the continuance of an Event of Default and acceleration of the indebtedness secured hereby, Mortgagee shall have the right to sell the Mortgaged Property, including, without limitation, pursuant to Article 14 of the New York Real Property Actions and Proceedings Law, as same may have been or may hereafter be amended.

[Remainder of Page Intentionally Left Blank; Signature Page Follows]

IN WITNESS WHEREOF, Borrower has executed this Instrument or has caused the same to be executed by its representatives thereunto duly authorized.

BORROWER:

PACESETTER/RAMAPO ASSOCIATES, a New York limited partnership

By: A is Pacesetter, LLC, a Delaware limited liability party, its general partner

By: _____ Name: Robert Masters Title: Senior Vice President

MORTGAGOR ACKNOWLEDGMENT

STATE OF NEW YORK . COUNTY OF NEW YORK SS.

On they day of October in the year 2005, before me, a Notary Public in and for the said State, personally appeared Robert Masters, personally known to me or proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on this instrument, the person, or the entity upon behalf o the person acted, executed this instrument.

(NOTARIAL SEAL)

My Commission Expires:

/s/ Kara A. Lobdell ----- Notary Public

EXHIBIT A
LEGAL DESCRIPTION OF REAL ESTATE

ALL that certain plot, piece or parcel of land, situate, lying and being in the Town of Ramapo, County of Rockland, State of New York, bounded and described as follows:

BEGINNING at a point on the southerly side of Route 202 (New York State highway #1448) said point being the northwesterly corner of the premises, the northeasterly corner of land now or formerly of Broadcast Construction Corp., and said point lying easterly 1673.53 feet from the easterly right of way line of Camp Hill Road and said point lying distant westerly 441.50 feet from New York State Highway monument; and

RUNNING THENCE along the southerly side of Route 202 (New York State Highway # 1448) in an easterly direction the following (2) courses and distances:

1. North 78 degrees 38 minutes 55 seconds east 441.50 feet to a New York State Highway monument;
2. THENCE north 78 degrees 11 minutes 35 seconds east 279.01 feet to the northeasterly corner of the premises and to the northwesterly corner of other lands now or formerly of Kanaje Corporation;

THENCE south 11 degrees 48 minutes 25 seconds east 140.00 feet along the westerly line of other premises of said Kanaje Corporation; to the southeasterly corner of the premises;

THENCE north 78 degrees 11 minutes 35 seconds east along the southerly line of said other lands of Kanaje Corporation 86.35 feet to the northwesterly corner of lands occupied by a Pomona Post Office;

THENCE south 11 degrees 48 minutes 25 seconds east along the westerly line of said Post Office and other lands of Kanaje Corporation 490.00 feet to the southeasterly corner of the premises;

THENCE south 78 degrees 11 minutes 35 seconds west along the southerly line of the premises and the northerly line of other lands of Kanaje Corporation 649.56 feet to the southwesterly corner of the premises and to a point in the easterly line of lands now or formerly of Broadcast Construction Corp.;

THENCE northerly along the westerly line of the premises and the easterly line of lands now or formerly of Broadcast Construction Corp. the following four (4) courses and distances;

EXHIBIT A CONTINUED

1. North 12 degrees 23 minutes 65 seconds east 111.15 feet to a point;
2. THENCE north 32 degrees 36 minutes 15 seconds west 231.96 feet to a point;
3. THENCE north 77 degrees 36 minutes 15 seconds west 210.98 feet to a point;
4. THENCE north 5 degrees 38 58 cast 239.83 feet to the southerly side of Route 202 (New York State Highway #1448) the northwesterly corner of the premises the northeasterly corner of lands now or foinerly of Broadcast Construction Corp. and the point or place of BEGINNING.

TOGETHER WITH THE BENEFITS and SUBJECT TO THE BURDENS OF:

- 1) Grant of Right of Way recorded in Liber 984 page 66.
- 2) Revised Grant of Right of Way in Liber 987 page 1042.
- 3) Easement in Instrument ID No. 1997-00020251.

NOTE: The above recited easements are as shown on a certain Survey made by Gerald T. O'Buckley dated October 25, 1999.

END OF EXHIBIT A

SCHEDULE2
REQUIRED REPAIRS

(attached hereto)

EBI
CONSULTING
[LOGO]
I

EXECUTIVE SUMMARY
RS & REPLACEMENT RESERVES SUMMARY

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Property Name: Pacesetter Park Shopping Center          Property Type: Retail
Address: 1581 U.S. Route 202                          Property Age: 28
City and State: Pomona, New York                      No. of units or tenants: 24
Site Survey Date: September 22, 2005                 Square feet: 96,666
Report Date: September 27, 2005                     Loan Term: 10
EBI Project #: 11053647                              Analysis Term: 12
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Sec	Condition	Action	Immediate	Replacement
Section	Code	Required	Repairs	Reserves
SITE CONDITIONS'				
	Topography and Drainage	--	--	
	Pavement and Parking	--		\$29,678
(R)	Site Amenities & Landscaping		\$2,750	
2	Utilities	N	--	
BUILDING ONDITIONS				
(R)	Subs ct e	--		
(R)	Superstructure			
(R)	Facades (Walls, Windows & Doors)		\$7,750	\$28,512
3.4	Roofing		\$26,600	\$90,380
	Basements/Attics			
3.6	ADA Compliance			
INTERIOR FINISHES -& COMPONENTS				
	Interior Finishes & Components	--		
4.2		--	--	\$33,000
4.3			\$0	
4.4	Fire/Life Safety	--	\$0	
	Elevators	--		--[]
(:ODE COMPLIANC				
5.0	Code Compliance		\$0	
TOTALS:				
			\$37,100	\$181,570

Dollars per sf/yr		PV Dollars	Inflated Dollars
Present Value of Replacement Reserves Cost Estimate	\$0.16	\$181,570	--
Inflated Value of Replacement Reserves Cost Estimate	\$0.19	--	\$214,780
Immediate Repairs and Deferred Maintenance Cost Estimate		\$37,100	--

EBI Consulting
11053 647 Pomona, NY PCR rev 10-12-05 D AB
Exhibit A

(attached hereto)

EBI
CONSULTING
[LOGO]
I

EXECUTIVE SUMMARY
RS & REPLACEMENT RESERVES SUMMARY

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Section	Code	Required	Repairs	Reserves
SITE CONDITIONS'				
Topography and Drainage	--	--		
Pavement and Parking	--	--		\$29,678
(R) Site Amenities & Landscaping				\$2,750
2 Utilities	N		--	
BUILDING ONDITIONS				
(R) Substructure				
(R) Superstructure				
(R) Facades (Walls, Windows & Doors)			\$7,750	\$28,512
3.4 Roofing			\$26,600	\$90,380
Basements/Attics				
3.6 ADA Compliance				
INTERIOR FINISHES -& COMPONENTS				
Interior Finishes & Components				
4.2	--	--		\$33,000
4.3			\$0	
4.4 Fire/Life Safety		--	\$0	
Elevators	--	--		--[]
(:ODE COMPLIANC				
5.0 Code Compliance			\$0	
TOTALS:				
			\$37,100	\$181,570

Dollars per sf/yr		PV Dollars	Inflated Dollars
Present Value of Replacement Reserves Cost Estimate	\$0.16	\$181,570	--
Inflated Value of Replacement Reserves Cost Estimate	\$0.19	--	\$214,780
Immediate Repairs and Deferred Maintenance Cost Estimate		\$37,100	--

EBI Consulting
11053 647 Pomona, NY PCR rev 10-12-05 D AB
Exhibit A

TABLE I - IMMEDIATE REPAIRS
Pacesetter Park Shopping Center 1581 U.S. Route 202 Pomona, New York EBI Project # 11053647

WE BI

EBI Comulnng

0	RECOMMENDED WORK	N	I	U	W	COMMENTS OR ADDITIONAL DESCRIPTION
(R)	Repair dumpster enclosure	0	00		750	damage during unloading. The cted area requires removal of CMU and
(R)(R)	Re-build service entry	000	00	1mu	000	There is y constructed railing, step and deck used as a service entrance at one of the tenan paces, n Deli, The wood does not appear to be hazard as reated, the railings are non-coMaliampliant and the current construction poses a hazard as the posts and railings ara inadequately supported. Removal and replacement is recommended.
(R)					(R)	
(R)(R)						
M	Sealant and control joint renewal	500	\$3	50	be(1)	Exterior sealant throughout the Subject Property is dried-out and no longer inelastic, survey and repair program should be implemented to address severely deteriorated sections until EIFS facades are replaced.
	Repair vertical CMU cracking	00	0	s	\$2500	Vertical cracking ens observed at a few isolated areas along the CMU rear facades, In particular, this occurred at building corners and one more significant cracking was observed at the rear of the Stop & Shop Supermarket, This particular crack was approximately 118" to 112" wide at the top.
	Modifed bitumen roof replacement	10,000	\$2.50	?	of \$25000	The modified bitumen roofing over a large portion of the East building is severely deteriorated wan evidence of air entrapment, seams that are dried-out and lifting. . surfaces that have hardened, an excessive amount of pigeon droppings throughout, lashings that exhibit open punctures, rusted gutters, aged leaders, abandoned HVAC units, deteriorated HVAC dunnage, and poorly maintained pitch pockets. This section o roofing and gutter and leader system should be replaced so as not to affect the metal decking and building structure.
	Metal decking replacement	200	\$800	do a	\$600	The corrugated metal canopy roof protecting the loading areas at the rear of the Stop & Shop Supermarket is rusted through in several areas. The smooth surfaced built-up-bofin.aoc.eatsori. inlandissevere) worn. Sectional replacement o1 the deckin.
Ka						
	Re-aecure transformers	\$000		c a	\$0	o ewe e rans omers appear o.e .is oogeo or una igne. rom i a oase, openings wide enough to view conductors. This may have been caused by

snow removal and storage. The utility company should be contacted immediately to address and repair these a..arent hazardous conditions,

Remove stored materials from p et

\$000

c

\$0

Access to several of the electrical panels observed within the tenant spaces is impeded by stored materials, This poses a safety hazard and is considered a code violation (NEC). Tenants should be notified to remove stored materials from electrical panels to provide for 3 foot clearance.

to Provide spare sprinkler box and wrench

\$000

o

\$0

A metal box which should contain six (6) spare sprinkler heads and wrench was not provided at either of the sprinkler mains. This is a safety hazard and code violation (NPPA) This should be provided by the sprinkler service firm and can be done so at minimal cost.

o

\$000

c o

\$0

The fire sprinkler main serving the West building was labeled with out of date Inspection tags. Perform annual inspection as typically required by code,

Co t

\$000

(R)

PROPERTY AND LOAN INFORMATION

Buildin a Area 96,666 Pro o e Age 28rs No. of Floors Surve Date 9122105

Pr o.e T pe Retail No, of Buildin. a . - -

TABLE 2 - REPLA CEMENT RESER VES Pacesetter Park Shopping Center
 1581 U.S. Route 202
 Pomona, New York
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RECO ENDED WORK
ONE

Patching, crack sealing, sealing and 5 stn(.)'
296 784 \$0 10 per(o e \$14839 4 839

Exterior painting 8 7 63 0 1 0 r(degree) e \$14256 1 56 1 5 -

Ongoing roof repairs 20 vat 0 (C) \$2 000 00 ump m \$4000 a--- 4 000 4 000 4 000 4 00.

Modified bitumen roof replacemen 20 11 8 241 \$250 porfoe e 8 03 28 03

Partial NVAC unit replacemen --p 1 \$5 500 00 each, S par\$5 500 00 5 500 5 00 500 5 0r

t r 9 500 4 000 9 50.
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00% _T"JMt 7"" , , ,
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0 LOAN	u	PropertyAye	28 No. ofFloors	Site
FOR			yrs	Survey Date
A T 0				
		24 roperty Type	No of	Analysis erm 2 sport Date
			RetailBuildings	y -

dget for 10% replacement only.

EB/ Consulting
11053147 Pomona. AT PCR rev 10(.)12-05 DAB
Fo0 ee 2

SCHEDULE3
 Rent Roll
 See Attached.
 31142680.DOC

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Rent Roll
 Pacesetter Park Shopping Center

Page:
 Date:
 Time:

10/11/2005

int Name	Rent Start	Expiration	GLA Sqft	Monthly Base Rent	Annual Rate PSF	Monthly Cost Recovery	Expense Stop	Monthly Other Income	Cat	Future Rent In Date	Mont
PARTIES, Inc.	1/1/2006	12/31/2015	2,373								
it			2,373								
it			2,281								
INNIL MATHEWS	9/1/1997	8/31/2009	949	1,996.86	25.25	373.57			FMR	9/11/2006	
FREEDMAN D.V.M.	7/1/1999	6/30/2009	1,008	1,932.00	23.00	530.03					
(MARY INC.	3/20/1998	6/30/2008	3,650	5,246.88	17.25	1,919.30			FMR	8/1/2006	
Y'S GYM INC	4/16/2001	4/30/2008	1,200	1,804.00	18.04	631.03			FMR	5/1/2006	
									FMR	5/1/2007	
VIAGINATION OPTICAL CORP.,	9/25/1992	2/28/2009	960	1,600.00	20.00	504.80			FMR	3/11/2006	
									FMR	3/1/2007	
									FMR	3/1/2008	
' & SHOP SUPER CO., ST#533	1/1/1980	8/31/2020	52,052	29,355.44	6.77	25,314.67			FMR	9/1/2006	
									FMR	9/1/2007	
									FMR	9/1/2008	
									FMR	9/1/2009	
									FMR	9/1/2010	
									FMR	9/1/2011	
									FMR	9/1/2012	
									FMR	9/1/2013	
									FMR	9/1/2014	
									FMR	9/1/2015	
									FMR	9/1/2016	
									FMR	9/1/2017	
									FMR	9/1/2018	
									FMR	9/1/2019	
I. SCHWARTZ/ POMONA CHIRO	2/1/1992	1/31/2009	1,279	1,918.50	18.00	608.36			FMR	3/1/2007	
LE CHANGES	10/1/1999	9/30/2009	1,600	2,666.67	20.00	841.37			FMR	3/1/2009	
- -OGURU INC.	7/1/1998	6/30/2008	1,630	3,402.63	25.05	857.15			FMR	7/1/2006	
									FMR	7/1/2007	
									FMR	1/1/2006	
\ILBOX ASSOCIATES INC.	12/29/2000	12/31/2010	1,353	2,367.75	21.00	725.00			FMR	1/1/2008	

 Rent Roll

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Pacesetter Park Shopping Center
 10/11/2005

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Int Name	Rent Start	Expiration	GLA Sqft	Monthly Base Rent	Annual Rate PSF	Monthly Cost Recovery	Expense Stop	Monthly Other Income	Cat	Future Rent Date	In Mont
									FMR	1/1/2010	
RESTAURANT INC.	5/1/1999	4/30/2009	1,280	2,826.67	26.50	673.08			FMR	5/1/2006	
									FMR	5/1/2007	
									FMR	5/1/2008	
DNA ORIENTAL RESTAURANT	3/1/1999	2/28/2009	1,200	2,450.00	24.50	630.81			FMR	3/1/2006	
									FMR	3/1/2007	
									FMR	3/1/2008	
WYN PLACE/ POMONA HARDWARE	7/1/2004	6/30/2009	5,081	6,575.66	15.53	2,184.69			FMR	7/1/2006	
									FMR	7/1/2007	
									FMR	7/1/2008	
% LEICHTNER DBA RONA'S	3/1/2004	3/31/2009	899	1,395.70	18.63	318.98			FMR	4/1/2006	
									FMR	4/1/2007	
									FMR	4/1/2008	
VAY REAL ESTATE CORP	2/17/2003	2/28/2008	1,353	1,912.24	16.96	659.17			FMR	3/1/2006	
									FMR	3/1/2007	
WY NAILS/ JUNG SUK AN	6/1/2005	5/31/2010	772	1,434.63	22.30	377.82			FMR	6/1/2006	
									FMR	6/1/2007	
									FMR	6/1/2008	
									FMR	6/1/2009	
JCH OF CLASS CLEANING INC	6/1/2005	5/31/2010	1,490	3,152.59	25.39	783.48			FMR	6/1/2007	
									FMR	6/1/2008	
									FMR	6/1/2009	
WYCO BANK NA	9/31/2002	9/30/2022	2,205	3,491.25	19.00	1,144.52			FMR	10/1/2007	
									FMR	10/1/2012	
									FMR	10/1/2017	
BLOCK EASTERN ENTERPRISES	3/6/2005	4/30/2009	1,891	2,521.33	16.00	791.06			FMR	5/1/2006	
WY DELI, CORP.	3/1/2005	4/30/2015	4,862	7,293.00	18.00	2,033.95			FMR	3/1/2006	
									FMR	3/1/2007	
									FMR	3/1/2008	
									FMR	3/1/2009	
									FMR	3/1/2010	
									FMR	3/1/2011	
									FMR	3/1/2012	
									FMR	3/1/2013	
									FMR	3/1/2014	
WY Conerstone Realty	3/21/2005	3/31/2010	1,492	1,865.00	15.00	624.15			FMR	12/19/2005	
									FMR	12/19/2006	
WY ILL'S VIDEO CENTER INC.,	12/19/2000	12/31/2010	3,838	5,040.57	15.76	2,018.19			FMR	12/19/2007	
									FMR	12/19/2008	
									FMR	12/19/2009	

 Rent Roll

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Pacesetter Park Shopping Center
 10/11/2005

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int	Name	Rent Start	Expiration	GLA Sqft	Monthly Base Rent	Annual Rate PSF	Monthly Cost Recovery	Expense Stop	Monthly Other Income	Future Rent Date	In Mont
	Occupied Sqft:	95.19%	22 Units	92,044	92,249.37		44,545.18		0.00		
	Vacant Sqft:	4.81%	2 Units	4,654							
	Total Sqft:		24 Units	96,698	92,249.37						
TTTER PARK SHOPPING	Center:	95.19%	22 Units	92,044	92,249.37		44,545.18		0.00		
	Occupied Sy ft:										
	Vacant Sy ft:	4.81%	2 Units	4,654							
	Total Sqft:		24 Units	96,698	92,249.37						
	Occupied Sy ft:	95.19%	22 Units	92,044	92,249.37		44,545.18		0.00		
	Vacant Sqft:	4.81%	2 Units	4,654							
	Total Sqft:		24 Units	96,698	92,249.37						

LOAN AGREEMENT

Dated as of December ____, 2005

Between

RD ELMWOOD ASSOCIATES, L.P.,
as Borrower

and

BEAR STEARNS COMMERCIAL MORTGAGE, INC.,
as Lender

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LOAN AGREEMENT

THIS LOAN AGREEMENT, dated as of December ____, 2005 (as amended, restated, replaced, supplemented or otherwise modified from time to time, this "AGREEMENT"), between BEAR STEARNS COMMERCIAL MORTGAGE, INC., a New York corporation, having an address at 383 Madison Avenue, New York, New York 10179 ("LENDER") and RD ELMWOOD ASSOCIATES, L.P., a Delaware limited partnership, having its principal place of business at c/o Acadia Realty Trust, 1311 Mamaroneck Avenue - Suite 260, White Plains, New York 10605 ("BORROWER").

W I T N E S S E T H:

WHEREAS, Borrower desires to obtain the Loan (as hereinafter defined) from Lender; and

WHEREAS, Lender is willing to make the Loan to Borrower, subject to and in accordance with the terms of this Agreement and the other Loan Documents (as hereinafter defined).

NOW THEREFORE, in consideration of the making of the Loan by Lender and the covenants, agreements, representations and warranties set forth in this Agreement, the parties hereto hereby covenant, agree, represent and warrant as follows:

I. DEFINITIONS; PRINCIPLES OF CONSTRUCTION.

SECTION 1.1. DEFINITIONS. For all purposes of this Agreement, except as otherwise expressly required or unless the context clearly indicates a contrary intent:

"ACQUIRED PROPERTY" shall have the meaning set forth in Section 5.1.11(g)(i) hereof.

"ACQUIRED PROPERTY STATEMENTS" shall have the meaning set forth in Section 5.1.11(g)(i) hereof.

"ADDITIONAL INSOLVENCY OPINION" shall have the meaning set forth in Section 4.1.30(c) hereof.

"AFFILIATE" shall mean, as to any Person, any other Person that, directly or indirectly, is in Control of, is Controlled by or is under common Control with such Person or is a director or officer of such Person or of an Affiliate of such Person.

"AFFILIATED LOANS" shall mean a loan made by Lender to an Affiliate of Borrower, Principal or Guarantor.

"AFFILIATED MANAGER" shall mean any Manager in which Borrower, Principal, or Guarantor has, directly or indirectly, any legal, beneficial or economic interest.

"AGENT" shall mean Wells Fargo Bank, N.A., a national banking institution, or any successor Eligible Institution acting as Agent under the Cash Management Agreement.

"AGREEMENT" shall mean this Loan Agreement, as the same may be amended, restated, replaced, supplemented or otherwise modified from time to time.

"ALTA" shall mean American Land Title Association, or any successor thereto.

"ANNUAL BUDGET" shall mean the operating budget, including all planned Capital Expenditures, for the Property prepared by Borrower in accordance with Section 5.1.11.(e) hereof for the applicable Fiscal Year or other period.

"APPROVED ANNUAL BUDGET" shall have the meaning set forth in Section 5.1.11(e) hereof.

"ASSIGNMENT OF LEASES" shall mean that certain first priority Assignment of Leases and Rents, dated as of the date hereof, from Borrower, as assignor, to MERS, as nominee of Lender as assignee, assigning to Lender all of Borrower's interest in and to the Leases and Rents of the Property as security for the Loan, as the same may be amended, restated, replaced, supplemented or otherwise modified from time to time.

"AWARD" shall mean any compensation paid by any Governmental Authority in connection with a Condemnation in respect of all or any part of the Property.

"BANKRUPTCY ACTION" shall mean with respect to any Person (a) such Person filing a voluntary petition under the Bankruptcy Code or any other Federal or state bankruptcy or insolvency law; (b) the filing of an involuntary petition against such Person under the Bankruptcy Code or any other Federal or state bankruptcy or insolvency law, in which such Person colludes with, or otherwise assists such Person, or causes to be solicited petitioning creditors for any involuntary petition against such Person; (c) such Person filing an answer consenting to or otherwise acquiescing in or joining in any involuntary petition filed against it, by any other Person under the Bankruptcy Code or any other Federal or state bankruptcy or insolvency law; (d) such Person consenting to or acquiescing in or joining in an application for the appointment of a custodian, receiver, trustee, or examiner for such Person or any portion of the Property; (e) such Person making an assignment for the benefit of creditors, or admitting, in writing or in any legal proceeding, its insolvency or inability to pay its debts as they become due.

"BANKRUPTCY CODE" shall mean Title 11 of the United States Code, 11 U.S.C. ss.101, et seq., as the same may be amended from time to time, and any successor statute or statutes and all rules and regulations from time to time promulgated thereunder, and any comparable foreign laws relating to bankruptcy, insolvency or creditors' rights or any other Federal or state bankruptcy or insolvency law.

"BASIC CARRYING COSTS" shall mean, the sum of the following costs associated with the Property for the relevant Fiscal Year or payment period: (a) Taxes, (b) Other Charges and (c) Insurance Premiums.

"BORROWER" shall have the meaning set forth in the introductory paragraph hereto, together with its successors and permitted assigns.

"BSCMI" shall mean Bear Stearns Commercial Mortgage, Inc., a New York corporation, and its successors in interest.

"BUSINESS DAY" shall mean any day other than a Saturday, Sunday or any other day on which national banks in New York, New York, or the place of business of any Servicer are not open for business.

"CAPITAL EXPENDITURES" shall mean, for any period, the amount expended for items capitalized under GAAP (including expenditures for building improvements or major repairs, leasing commissions and tenant improvements).

"CASH MANAGEMENT ACCOUNT" shall have the meaning set forth in Section 2.7.2 hereof.

"CASH MANAGEMENT AGREEMENT" shall mean that certain Cash Management Agreement, dated as of the date hereof, by and among Borrower, Agent and Lender, as the same may be amended, restated, replaced, supplemented or otherwise modified from time to time.

"CASUALTY" shall have the meaning set forth in Section 6.2 hereof.

"CASUALTY CONSULTANT" shall have the meaning set forth in Section 6.4(b)(iii) hereof.

"CASUALTY RETAINAGE" shall have the meaning set forth in Section 6.4(b)(iv) hereof.

"CLOSING DATE" shall mean the date of the funding of the Loan.

"CODE" shall mean the Internal Revenue Code of 1986, as amended, as it may be further amended from time to time, and any successor statutes thereto, and applicable U.S. Department of Treasury regulations issued pursuant thereto in temporary or final form.

"CONDEMNATION" shall mean a temporary or permanent taking by any Governmental Authority as the result or in lieu or in anticipation of the exercise of the right of condemnation or eminent domain, of all or any part of the Property, or any interest therein or right accruing thereto, including any right of access thereto or any change of grade affecting the Property or any part thereof.

"CONDEMNATION PROCEEDS" shall have the meaning set forth in Section 6.4(b).

"CONTROL" shall mean the possession, directly or indirectly, of the power to direct or cause the direction of management, policies or activities of a Person, whether through ownership of voting securities, by contract or otherwise. "CONTROLLED" and "CONTROLLING" shall have correlative meanings.

"COVERED DISCLOSURE INFORMATION" shall have the meaning set forth in Section 9.2(b) hereof.

"DEBT" shall mean the outstanding principal amount set forth in, and evidenced by, this Agreement and the Note together with all interest accrued and unpaid thereon and all other sums (including the Defeasance Payment Amount, any Yield Maintenance Premium and any Yield Maintenance Default Premium) due to Lender in respect of the Loan under the Note, this Agreement, the Mortgage or any other Loan Document.

"DEBT SERVICE" shall mean, with respect to any particular period of time, scheduled principal and interest payments due under this Agreement and the Note.

"DEBT SERVICE COVERAGE RATIO" shall mean a ratio for the applicable period in which:

- (a) the numerator is the Net Operating Income (excluding interest on credit accounts and using annualized operating expenses for any recurring expenses not paid monthly (e.g., Taxes and Insurance Premiums)) for such period as set forth in the statements required hereunder, without deduction for (i) actual management fees incurred in connection with the operation of the Property, or (ii) amounts paid to the Reserve Funds, less (A) management fees equal to the greater of (1) assumed management fees of four percent (4%) of Gross Income from Operations or (2) the actual management fees incurred, and (B) Replacement Reserve Fund contributions equal to \$0.15 per square foot of gross leasable area at the Property, (C) Rollover Reserve Fund contributions equal to \$43,000.00 per annum; and
- (b) the denominator is the aggregate amount of principal and interest due and payable on the Note for such period.

"DEBT SERVICE COVERAGE RATIO DETERMINATION DATE" shall mean the date that Lender determines the Debt Service Coverage Ratio in accordance with this Agreement.

"DEFAULT" shall mean the occurrence of any event hereunder or under any other Loan Document which, but for the giving of notice or passage of time, or both, would be an Event of Default.

"DEFAULT RATE" shall mean, with respect to the Loan, a rate per annum equal to the lesser of (a) the maximum rate permitted by applicable law or (b) five percent (5%) above the Interest Rate.

"DEFEASANCE DATE" shall have the meaning set forth in Section 2.5.1(a)(i) hereof.

"DEFEASANCE DEPOSIT" shall mean an amount equal to the remaining principal amount of the Note, the Defeasance Payment Amount, any costs and expenses incurred or to be incurred in the purchase of U.S. Obligations necessary to meet the Scheduled Defeasance Payments and any revenue, documentary stamp or intangible taxes or any other tax or charge due in connection with the transfer of the Note or otherwise required to accomplish the agreements of Sections 2.4 and 2.5 hereof (including, without limitation, any fees and expenses of accountants, attorneys and the Rating Agencies incurred in connection therewith).

"DEFEASANCE EVENT" shall have the meaning set forth in Section 2.5.1(a) hereof.

"DEFEASANCE EXPIRATION DATE" shall mean the date that is earlier to occur of (a) two (2) years from the "startup day" within the meaning of Section 860G(a)(9) of the Code for the REMIC Trust or (b) the third (3rd) anniversary of the first (1st) Payment Date.

"DEFEASANCE PAYMENT AMOUNT" shall mean the amount (if any) which, when added to the remaining principal amount of the Note, will be sufficient to purchase U.S. Obligations providing the required Scheduled Defeasance Payments.

"DISCLOSURE DOCUMENT" shall mean a prospectus, prospectus supplement, private placement memorandum, or similar offering memorandum or offering circular, or such other information reasonably requested by Lender, in each case in preliminary or final form, used to offer Securities in connection with a Securitization.

"ELIGIBLE ACCOUNT" shall mean a separate and identifiable account from all other funds held by the holding institution that is either (a) an account or accounts maintained with a federal or state-chartered depository institution or trust company which complies with the definition of Eligible Institution or (b) a segregated trust account or accounts maintained with a federal or state chartered depository institution or trust company acting in its fiduciary capacity which, in the case of a state chartered depository institution or trust company, is subject to regulations substantially similar to 12 C.F.R. ss.9.10(b), having in either case a combined capital and surplus of at least Fifty Million and 00/100 Dollars (\$50,000,000.00) and subject to supervision or examination by federal and state authority. An Eligible Account will not be evidenced by a certificate of deposit, passbook or other instrument.

"ELIGIBLE INSTITUTION" shall mean a depository institution or trust company, the short term unsecured debt obligations or commercial paper of which are rated at least "A-1+" by S&P, "P-1" by Moody's and "F-1+" by Fitch in the case of accounts in which funds are held for thirty (30) days or less (or, in the case of accounts in which funds are held for more than thirty (30) days, the long-term unsecured debt obligations of which are rated at least "AA" by Fitch and S&P and "Aa2" by Moody's).

"EMBARGOED PERSON" shall have the meaning set forth in Section 5.1.23 hereof.

"ENVIRONMENTAL INDEMNITY" shall mean that certain Environmental Indemnification Agreement, dated as of the date hereof, executed by Borrower, Principal and Guarantor in connection with the Loan for the benefit of Lender, as the same may be amended, restated, replaced, supplemented or otherwise modified from time to time.

"ERISA" shall mean the Employee Retirement Income Security Act of 1974, as amended from time to time, and the regulations promulgated and the rulings issued thereunder.

"EVENT OF DEFAULT" shall have the meaning set forth in Section 8.1(a) hereof.

"EXCHANGE ACT" shall have the meaning set forth in Section 9.2(a) hereof.

"EXCHANGE ACT FILING" shall have the meaning set forth in Section 5.1.11(h) hereof.

"EXTRAORDINARY EXPENSE" shall have the meaning set forth in Section 5.1.11(d) hereof.

"FISCAL YEAR" shall mean each twelve (12) month period commencing on January 1 and ending on December 31 during each year of the term of the Loan.

"FITCH" shall mean Fitch, Inc.

"GAAP" shall mean generally accepted accounting principles in the United States of America as of the date of the applicable financial report.

"GOVERNMENTAL AUTHORITY" shall mean any court, board, agency, commission, office or other authority of any nature whatsoever for any governmental unit (foreign, federal, state, county, district, municipal, city or otherwise) whether now or hereafter in existence.

"GROSS INCOME FROM OPERATIONS" shall mean, for any period, all sustainable income, computed in accordance with GAAP, derived from the ownership and operation of the Property from whatever source during such period, including, but not limited to, Rents from tenants in occupancy, open for business and paying full contractual rent without right of offset or credit, utility charges, escalations, forfeited security deposits, interest on credit accounts, service fees or charges, license fees, parking fees, rent concessions or credits, income from vending machines, business interruption or other loss of income or rental insurance proceeds or other required pass-throughs and interest on Reserve Accounts, if any, but excluding Rents from month-to-month tenants, straight line lease adjustments, or tenants that are included in any Bankruptcy Action, sales, use and occupancy or other taxes on receipts required to be accounted for by Borrower to any Governmental Authority, refunds and uncollectible accounts, sales of furniture, fixtures and equipment, Insurance Proceeds (other than business interruption or other loss of income or rental insurance), Awards, unforfeited security deposits, utility and other similar deposits and any disbursements to Borrower from the Reserve Funds, if any. Gross income shall not be diminished as a result of the Mortgage or the creation of any intervening estate or interest in the Property or any part thereof.

"GUARANTOR" shall mean Acadia Realty Limited Partnership, a Delaware limited partnership.

"GUARANTY" shall mean that certain Guaranty Agreement, dated as of the date hereof, executed and delivered by Guarantor in connection with the Loan to and for the benefit of Lender, as the same may be amended, restated, replaced, supplemented or otherwise modified from time to time.

"IMPROVEMENTS" shall have the meaning set forth in the granting clause of the Mortgage.

"INDEBTEDNESS" of a Person, at a particular date, means the sum (without duplication) at such date of (a) all indebtedness or liability of such Person (including, without limitation, amounts for borrowed money and indebtedness in the form of mezzanine debt or preferred equity); (b) obligations evidenced by bonds, debentures, notes, or other similar instruments; (c) obligations for the deferred purchase price of property or services (including trade obligations); (d) obligations under letters of credit; (e) obligations under acceptance facilities; (f) all guaranties, endorsements (other than for collection or deposit in the ordinary course of business) and other contingent obligations to purchase, to provide funds for payment, to supply funds, to invest in any Person or entity, or otherwise to assure a creditor against loss; and (g) obligations secured by any Liens, whether or not the obligations have been assumed (other than the Permitted Encumbrances).

"INDEMNIFIED PERSON" shall have the meaning set forth in Section 9.2(b) hereof.

"INDEMNIFYING PERSON" shall mean each of Borrower, Principal and Guarantor.

"INDEPENDENT DIRECTOR" shall mean a natural person serving as director of a corporation or manager of a limited liability company who is not at the time of initial appointment, or at any time while serving in such capacity, and has not been at any time during the preceding five (5) years: (a) a stockholder, director (with the exception of serving as the Independent Director of Borrower or Principal), trustee, officer, employee, partner, member, attorney or counsel of the Borrower or Principal or any Affiliate of either of them; (b) a creditor, customer, supplier or other Person who derives any of its purchases or revenues from its activities with the Borrower or Principal or any Affiliate of either of them; (c) a Person or other entity Controlling or under common Control with any Person excluded from serving as Independent Director under subparagraph (a) or (b); or (d) a member of the immediate family of any Person excluded from serving as Independent Director under subparagraph (a) or (b). A natural person who satisfies the foregoing definition other than subparagraph (b) shall not be disqualified from serving as an Independent Director of the Principal if such individual is an independent director provided by a nationally-recognized company that provides professional independent directors and that also provides other corporate services in the ordinary course of its business. A natural person who otherwise satisfies the foregoing definition except for being the independent director of a "special purpose entity" affiliated with Borrower or Principal shall not be disqualified from serving as an Independent Director of Borrower or Principal if such "special purpose entity" does not own a direct or indirect equity interest in Borrower or in any co-borrower and if such individual is provided by a nationally-recognized company that provides professional independent directors. For purposes of this paragraph, a "special purpose entity" is an entity, whose organizational documents contain restrictions on its activities substantially similar to those set forth in the definition of Special Purpose Entity in this Agreement.

"INSOLVENCY OPINION" shall mean that certain non-consolidation opinion letter dated the date hereof delivered by Levenfeld Pearlstein, LLC in connection with the Loan.

"INSURANCE PREMIUMS" shall have the meaning set forth in Section 6.1(b) hereof.

"INSURANCE PROCEEDS" shall have the meaning set forth in Section 6.4(b) hereof.

"INTEREST RATE" shall mean a rate of Five and Five Hundred Thirty-One Thousandths percent (5.531%) per annum.

"LEASE" shall mean any lease, sublease or subsublease, letting, license, concession or other agreement (whether written or oral and whether now or hereafter in effect) pursuant to which any Person is granted a possessory interest in, or right to use or occupy all or any portion of any space in the Property by or on behalf of Borrower, and (a) every modification, amendment or other agreement relating to such lease, sublease, subsublease, or other agreement entered into in connection with such lease, sublease, subsublease, or other agreement and (b) every guarantee of the performance and observance of the covenants, conditions and agreements to be performed and observed by the other party thereto.

"LEGAL REQUIREMENTS" shall mean, all federal, state, county, municipal and other governmental statutes, laws, rules, orders, regulations, ordinances, judgments, decrees and injunctions of Governmental Authorities affecting the Property or any part thereof, or the construction, use, alteration or operation thereof, or any part thereof, whether now or hereafter enacted and in force, and all permits, licenses and authorizations and regulations relating thereto, and all covenants, agreements, restrictions and encumbrances contained in any instruments, either of record or known to Borrower, at any time in force affecting Borrower, the Property or any part thereof, including, without limitation, any which may (a) require repairs, modifications or alterations in or to the Property or any part thereof, or (b) in any way limit the use and enjoyment thereof.

"LENDER" shall have the meaning set forth in the introductory paragraph hereto, together with its successors and assigns.

"LIABILITIES" shall have the meaning set forth in Section 9.2(b) hereof.

"LICENSES" shall have the meaning set forth in Section 4.1.22 hereof.

"LIEN" shall mean, any mortgage, deed of trust, lien, pledge, hypothecation, assignment, security interest, or any other encumbrance, charge or transfer of, on or affecting Borrower, the Property, any portion thereof or any interest therein, including, without limitation, any conditional sale or other title retention agreement, any financing lease having substantially the same economic effect as any of the foregoing, the filing of any financing statement, and mechanic's, materialmen's and other similar liens and encumbrances.

"LOAN" shall mean the loan made by Lender to Borrower pursuant to this Agreement.

"LOAN DOCUMENTS" shall mean, collectively, this Agreement, the Note, the Mortgage, the Assignment of Leases, the Environmental Indemnity, the O&M Agreement, the Guaranty, the Cash Management Agreement and all other documents executed and/or delivered in connection with the Loan.

"LOCKBOX ACCOUNT" shall have the meaning set forth in Section 2.7.1 hereof.

"LOCKBOX AGREEMENT" shall mean that certain Lockbox and Blocked Account Agreement dated the date hereof among Borrower, Lender and Lockbox Bank, as the same may be amended, restated, replaced, supplemented or otherwise modified from time to time, relating to funds deposited in the Lockbox Account.

"LOCKBOX BANK" shall mean Wells Fargo, N.A., or any successor or permitted assigns thereof.

"LOCKBOX TRIGGER CURE": shall mean (a) with respect to a Lockbox Trigger Event described in clause (a) of the definition thereof, the acceptance of a cure of the related Event of Default by Lender, (b) with respect to a Lockbox Trigger Event caused by (i) a Material Action relating to Manager, the replacement of such Manager with a Qualified Manager within sixty (60) days of the occurrence of the related Material Action and (ii) a Material Action relating to Pathmark, and or Walgreen, (x) the reletting of at least seventy-five percent (75%) (on a square footage basis) of the space previously occupied by Pathmark and/or Walgreen, as the case may be, as of the Closing Date pursuant to Leases reasonably acceptable to Lender and the tenants thereunder are in possession, open for business and paying rent as evidenced by estoppel certificates reasonably acceptable to Lender and (y) the Debt Service Coverage Ratio thereafter equaling or exceeding 1.10 to 1.0 for two (2) consecutive calendar quarters, (c) with respect to a Lockbox Trigger Event described in clause (d) of the definition thereof, the Property maintaining a Debt Service Coverage Ratio of 1.05 to 1.0 for one calendar quarter on a trailing six month basis annualized; provided, however, in no event shall there be more than two (2) Lockbox Trigger Cures in any twelve (12) month period or more than four (4) Lockbox Trigger Cures during the term of the Loan.

"LOCKBOX TRIGGER EVENT" shall mean, (a) an Event of Default shall have occurred, (b) the insolvency of Borrower, the Manager, Pathmark and/or Walgreen, (c) if Pathmark and/or Walgreen shall cease its respective operations at the Property, or (d) that as of any Debt Service Coverage Ratio Determination Date the Debt Service Coverage Ratio for the trailing twelve (12) month period, as determined by Lender in accordance with the applicable provisions of this Agreement, is less than 1.05 to 1.

"LOCKBOX TRIGGER EVENT PERIOD" shall have the meaning set forth in the Cash Management Agreement.

"MANAGEMENT AGREEMENT" shall mean any management agreement entered into by and between Borrower and Manager, pursuant to which Manager is to provide management and other services with respect to the Property, or, if the context requires, the Replacement Management Agreement.

"MANAGER" shall mean a Qualified Manager who is managing the Property in accordance with the terms and provisions of this Agreement pursuant to a Management Agreement or a Replacement Management Agreement, as applicable.

"MATERIAL ACTION" means, with respect to any Person, to file any insolvency or reorganization case or proceeding, to institute proceedings to have such Person be adjudicated bankrupt or insolvent, to institute proceedings under any applicable insolvency law, to seek any relief under any law relating to relief from debts or the protection of debtors, to consent to the filing or institution of bankruptcy or insolvency proceedings against such Person, to file a petition seeking, or consent to, reorganization or relief with respect to such Person under any applicable federal or state law relating to bankruptcy or insolvency, to seek or consent to the appointment of a receiver, liquidator, assignee, trustee, sequestrator, custodian, or any similar official of or for such Person or a substantial part of its property, to make any assignment for the benefit of creditors of such Person, to admit in writing such Person's inability to pay its debts generally as they become due, or to take action in furtherance of any of the foregoing.

"MATURITY DATE" shall mean January 1, 2016, or such other date on which the final payment of principal of the Note becomes due and payable as therein or herein provided, whether at such stated maturity date, by declaration of acceleration, or otherwise.

"MAXIMUM LEGAL RATE" shall mean the maximum nonusurious interest rate, if any, that at any time or from time to time may be contracted for, taken, reserved, charged or received on the indebtedness evidenced by the Note and as provided for herein or the other Loan Documents, under the laws of such state or states whose laws are held by any court of competent jurisdiction to govern the interest rate provisions of the Loan.

"MERS" shall have the meaning set forth in Section 10.25 hereof.

"MONTHLY DEBT SERVICE PAYMENT AMOUNT" shall mean (a) an amount equal to interest in an amount equal to \$5,315.91 per day only on the outstanding principal balance of the Loan, calculated in accordance with the terms hereof, for each Payment Date commencing with the Payment Date occurring in February, 2006 through and including the Payment Date occurring in January, 2010 and (b) a constant monthly payment of \$197,128.49 with respect to each Payment Date thereafter.

"MOODY'S" shall mean Moody's Investors Service, Inc.

"MORTGAGE" shall mean, that certain first priority Mortgage (or Deed of Trust or Deed to Secure Debt) and Security Agreement, dated the date hereof, executed and delivered by Borrower to MERS, as nominee of Lender, as security for the Loan and encumbering the Property, as the same may be amended, restated, replaced, supplemented or otherwise modified from time to time.

"NET CASH FLOW" shall mean, for any period, the amount obtained by subtracting Operating Expenses and Capital Expenditures for such period from Gross Income from Operations for such period.

"NET CASH FLOW SCHEDULE" shall have the meaning set forth in Section 5.1.11(b) hereof.

"NET OPERATING INCOME" shall mean the amount obtained by subtracting Operating Expenses from Gross Income from Operations.

"NET PROCEEDS" shall have the meaning set forth in Section 6.4(b) hereof.

"NET PROCEEDS DEFICIENCY" shall have the meaning set forth in Section 6.4(b)(vi) hereof.

"NOTE" shall mean that certain Promissory Note, dated the date hereof, in the principal amount of Thirty-Four Million Six Hundred Thousand and 00/100 Dollars (\$34,600,000), made by Borrower in favor of Lender, as the same may be amended, restated, replaced, supplemented or otherwise modified from time to time, including any Defeased Note and Undefeased Note that may exist from time to time.

"O&M AGREEMENT" shall mean, that certain Operations and Maintenance Agreement, dated as of the date hereof, between Borrower and Lender given in connection with the Loan, as the same may be amended, restated, replaced, supplemented or otherwise modified from time to time.

"OFFICER'S CERTIFICATE" shall mean a certificate delivered to Lender by Borrower which is signed by an authorized officer of the general partner or managing member of Borrower.

"OPERATING EXPENSES" shall mean the total of all expenditures, computed in accordance with GAAP, of whatever kind relating to the operation, maintenance and management of the Property that are incurred on a regular monthly or other periodic basis, including without limitation, utilities, ordinary repairs and maintenance, insurance, license fees, property taxes and assessments, advertising expenses, management fees, payroll and related taxes, computer processing charges, operational equipment or other lease payments as approved by Lender, and other similar costs, but excluding depreciation, Debt Service, Capital Expenditures and contributions to the Reserve Funds.

"OTHER CHARGES" shall mean all ground rents, maintenance charges, impositions other than Taxes, and any other charges, including, without limitation, vault charges and license fees for the use of vaults, chutes and similar areas adjoining the Property, now or hereafter levied or assessed or imposed against the Property or any part thereof.

"OTHER OBLIGATIONS" shall have the meaning as set forth in the Mortgage.

"PATHMARK" shall mean Parthmark Stores, Inc.

"PAYMENT DATE" shall mean the first (1st) day of each calendar month during the term of the Loan or, if such day is not a Business Day, the immediately preceding Business Day.

"PERMITTED ENCUMBRANCES" shall mean, with respect to the Property, collectively, (a) the Liens and security interests created by the Loan Documents, (b) all Liens, encumbrances and other matters disclosed in the Title Insurance Policy, (c) Liens, if any, for Taxes imposed by any Governmental Authority not yet due or delinquent, and (d) such other title and survey exceptions as Lender has approved or may approve in writing in Lender's sole discretion, which Permitted Encumbrances in the aggregate do not materially adversely affect the value or use of the Property or Borrower's ability to repay the Loan.

"PERMITTED INVESTMENTS" shall have the meaning set forth in the Cash Management Agreement.

"PERMITTED RELEASE DATE" shall mean the date that is the third (3rd) anniversary of the first Payment Date.

"PERMITTED TRANSFER" means any of the following: (a) any transfer, directly as a result of the death of a natural person, of stock, membership interests, partnership interests or other ownership interests previously held by the decedent in question to the Person or Persons lawfully entitled thereto and (b) any transfer, directly as a result of the legal incapacity of a natural person, of stock, membership interests, partnership interests or other ownership interests previously held by such natural person to the Person or Persons lawfully entitled thereto.

"PERSON" shall mean any individual, corporation, partnership, joint venture, limited liability company, estate, trust, unincorporated association, any federal, state, county or municipal government or any bureau, department or agency thereof and any fiduciary acting in such capacity on behalf of any of the foregoing.

"PERSONAL PROPERTY" shall have the meaning set forth in the granting clause of the Mortgage.

"PHYSICAL CONDITIONS REPORT" shall mean, a structural engineering report prepared by a company satisfactory to Lender regarding the physical condition of the Property, satisfactory in form and substance to Lender in its sole discretion, which report shall, among other things, (a) confirm that the Property and its use complies, in all material respects, with all applicable Legal Requirements (including, without limitation, zoning, subdivision and building laws) and (b) include a copy of a final certificate of occupancy with respect to all Improvements on the Property.

"POLICIES" shall have the meaning specified in Section 6.1(b) hereof.

"POLICY" shall have the meaning specified in Section 6.1(b) hereof.

"PREPAYMENT RATE" shall mean the bond equivalent yield (in the secondary market) on the United States Treasury Security that as of the Prepayment Rate Determination Date has a remaining term to maturity closest to, but not exceeding, the remaining term to the Maturity Date as most recently published in the "Treasury Bonds, Notes and Bills" section in The Wall Street Journal as of such Prepayment Rate Determination Date. If more than one issue of United States Treasury Securities has the same remaining term to the Maturity Date, the "Prepayment Rate" shall be the yield on such United States Treasury Security most recently issued as of the Prepayment Rate Determination Date. The rate so published shall control absent manifest error. If the publication of the Prepayment Rate in The Wall Street Journal is discontinued, Lender shall determine the Prepayment Rate on the basis of "Statistical Release H.15 (519), Selected Interest Rates," or any successor publication, published by the Board of Governors of the Federal Reserve System, or on the basis of such other publication or statistical guide as Lender may reasonably select.

"PREPAYMENT RATE DETERMINATION DATE" shall mean the date which is five (5) Business Days prior to the date that such prepayment shall be applied in accordance with the terms and provisions of Section 2.4.1 hereof.

"PRINCIPAL" shall mean the Special Purpose Entity that is the general partner of Borrower, if Borrower is a limited partnership, or member of Borrower, if Borrower is a limited liability company.

"PROPERTY" shall mean the parcel of real property, the Improvements thereon and all personal property owned by Borrower and encumbered by the Mortgage, together with all rights pertaining to such property and Improvements, as more particularly described in the granting clauses of the Mortgage and referred to therein as the "Property".

"PROVIDED INFORMATION" shall mean any and all financial and other information provided at any time prepared by, or on behalf of, any Indemnifying Person with respect to the Property, Borrower, Principal, Guarantor and/or Manager, including, without limitation, any financial data or financial statements required under Section 5.1.11.

"QUALIFIED MANAGER" shall mean in the reasonable judgment of Lender, a reputable and experienced management organization (which may be an Affiliate of Borrower) possessing experience in managing properties similar in size, scope, use and value as the Property, provided, that Borrower shall have obtained (i) prior written confirmation from the applicable Rating Agencies that management of the Property by such Person will not cause a downgrade, withdrawal or qualification of the then current ratings of the Securities or any class thereof and (ii) if such Person is an Affiliate of Borrower, an Additional Insolvency Opinion.

"RATING AGENCIES" shall mean each of S&P, Moody's and Fitch, or any other nationally recognized statistical rating agency which has been approved by Lender.

"RELATED ENTITIES" shall have the meaning set forth in Section 5.2.10(e) hereof.

"RELATED LOAN" shall mean a loan made to an Affiliate of Borrower or secured by a Related Property, that is included in a Securitization with the Loan.

"RELATED PARTIES" shall have the meaning set forth in the definition of Special Purpose Entity.

"RELATED PARTY" shall have the meaning set forth in the definition of Special Purpose Entity.

"RELATED PROPERTY" shall mean a parcel of real property, together with improvements thereon and personal property related thereto, that is "related", within the meaning of the definition of Significant Obligor, to one or more of the Properties.

"REMIC TRUST" shall mean a "real estate mortgage investment conduit" within the meaning of Section 860D of the Code that holds the Note.

"RENTS" shall mean, all rents (including percentage rents), rent equivalents, moneys payable as damages or in lieu of rent or rent equivalents, royalties (including, without limitation, all oil and gas or other mineral royalties and bonuses), income, receivables, receipts, revenues, deposits (including, without limitation, security, utility and other deposits), accounts, cash, issues, profits, charges for services rendered, all other amounts payable as rent under any Lease or other agreement relating to the Property, including, without limitation, charges for electricity, oil, gas, water, steam, heat, ventilation, air-conditioning and any other energy, telecommunication, telephone, utility or similar items or time use charges, HVAC equipment charges, sprinkler charges, escalation charges, license fees, maintenance fees, charges for Taxes, Operating Expenses or other reimbursables payable to Borrower (or to the Manager, if any, for the account of Borrower) under any Lease, and other consideration of whatever form or nature received by or paid to or for the account of or benefit of Borrower or its agents or employees from any and all sources arising from or attributable to the Property.

"REPLACEMENT MANAGEMENT AGREEMENT" shall mean, collectively, (a) either (i) a management agreement with a Qualified Manager substantially in the same form and substance as the Management Agreement, or (ii) a management agreement with a Qualified Manager, which management agreement shall be reasonably acceptable to Lender in form and substance, provided, with respect to this subclause (ii), Lender, at its option, may require that Borrower shall have obtained prior written confirmation from the applicable Rating Agencies that such management agreement will not cause a downgrade, withdrawal or qualification of the then current rating of the Securities or any class thereof and (b) an assignment of management agreement and subordination of management fees substantially in the form then used by Lender (or of such other form and substance reasonably acceptable to Lender), executed and delivered to Lender by Borrower and such Qualified Manager at Borrower's expense.

"REPLACEMENT RESERVE ACCOUNT" shall have the meaning set forth in Section 7.3.1 hereof.

"REPLACEMENT RESERVE FUND" shall have the meaning set forth in Section 7.3.1 hereof.

"REPLACEMENT RESERVE MONTHLY DEPOSIT" shall have the meaning set forth in Section 7.3.1 hereof.

"REPLACEMENTS" shall have the meaning set forth in Section 7.3.1 hereof.

"RESERVE FUNDS" shall mean, collectively, the Tax and Insurance Escrow Fund, the Replacement Reserve Fund, the Required Repair Fund, the Rollover Reserve Fund and any other escrow fund established by the Loan Documents.

"RESIZING EVENT" shall have the meaning set forth in Section 9.1.2.

"RESTORATION" shall mean the repair and restoration of the Property after a Casualty or Condemnation as nearly as possible to the condition the Property was in immediately prior to such Casualty or Condemnation, with such alterations as may be reasonably approved by Lender.

"RESTRICTED PARTY" shall mean collectively, (a) Borrower, Principal, any Guarantor, and any Affiliated Manager and (b) any shareholder, partner, member, non-member manager, any direct or indirect legal or beneficial owner of, Borrower, Principal, any Guarantor, any Affiliated Manager or any non-member manager.

"ROLLOVER RESERVE ACCOUNT" shall have the meaning set forth in Section 7.4.1 hereof.

"ROLLOVER RESERVE FUND" shall have the meaning set forth in Section 7.4.1 hereof.

"S&P" shall mean Standard & Poor's Ratings Group, a division of the McGraw-Hill Companies.

"SALE OR PLEDGE" shall mean a voluntary or involuntary sale, conveyance, assignment, transfer, encumbrance, pledge, grant of option or other transfer or disposal of a legal or beneficial interest, whether direct or indirect.

"SCHEDULED DEFEASANCE PAYMENTS" shall have the meaning set forth in Section 2.5.1(b) hereof.

"SECURITIES" shall have the meaning set forth in Section 9.1 hereof.

"SECURITIES ACT" shall have the meaning set forth in Section 9.2(a) hereof.

"SECURITIZATION" shall have the meaning set forth in Section 9.1 hereof.

"SECURITY AGREEMENT" shall have the meaning set forth in Section 2.5.1(a)(vi) hereof.

"SERVICER" shall have the meaning set forth in Section 9.5 hereof.

"SERVICING AGREEMENT" shall have the meaning set forth in Section 9.5 hereof.

"SEVERED LOAN DOCUMENTS" shall have the meaning set forth in Section 8.2(c) hereof.

"SIGNIFICANT OBLIGOR" shall have the meaning set forth in Item 1101(k) of Regulation AB under the Securities Act.

"SPECIAL PURPOSE ENTITY" shall mean a corporation, limited partnership or limited liability company that, since the date of its formation and at all times on and after the date thereof, has complied with and shall at all times comply with the following requirements unless it has received either prior consent to do otherwise from Lender or a permitted administrative agent thereof, or, while the Loan is securitized, confirmation from each of the applicable Rating Agencies that such noncompliance would not result in the requalification, withdrawal, or downgrade of the ratings of any Securities or any class thereof:

(i) is and shall be organized solely for the purpose of (A) in the case of Borrower, acquiring, developing, owning, holding, selling, leasing, transferring, exchanging, managing and operating the Property, entering into and performing its obligations under the Loan Documents with Lender, refinancing the Property in connection with a permitted repayment of the Loan, and transacting lawful business that is incident, necessary and appropriate to accomplish the foregoing; or (B) in the case of a Principal, acting as a general partner of the limited partnership that owns the Property or as member of the limited liability company that owns the Property and transacting lawful business that is incident, necessary and appropriate to accomplish the foregoing;

(ii) has not engaged and shall not engage in any business unrelated to (A) the acquisition, development, ownership, management or operation of the Property, or (B) in the case of a Principal, acting as general partner of the limited partnership that owns the Property or acting as a member of the limited liability company that owns the Property, as applicable;

(iii) has not owned and shall not own any real property other than, in the case of Borrower, the Property;

(iv) does not have, shall not have and at no time had any assets other than (A) in the case of Borrower, the Property and personal property necessary or incidental to its ownership and operation of the Property or (B) in the case of a Principal, its partnership interest in the limited partnership or the member interest in the limited liability company that owns the Property and personal property necessary or incidental to its ownership of such interests;

(v) has not engaged in, sought, consented or permitted to and shall not engage in, seek, consent to or permit (A) any dissolution, winding up, liquidation, consolidation or merger, (B) any sale or other transfer of all or substantially all of its assets or any sale of assets outside the ordinary course of its business, except as permitted by the Loan Documents, or (C) in the case of a Principal, any transfer of its partnership or membership interests; (vi) shall not cause, consent to or permit any amendment of its limited partnership agreement, articles of incorporation, articles of organization, certificate of formation, operating agreement or other formation document or organizational document (as applicable) with respect to the matters set forth in this definition;

(vii) if such entity is a limited partnership, has and shall have at least one general partner and has and shall have, as its only general partners, Special Purpose Entities each of which (A) is a corporation or single-member Delaware limited liability company, (B) has one Independent Director, and (C) holds a direct interest as general partner in the limited partnership of not less than 0.5% (or 0.1%, if the limited partnership is a Delaware entity);

(viii) if such entity is a corporation, has and shall have at least one (1) Independent Director, and shall not cause or permit the board of directors of such entity to take any Material Action either with respect to itself or, if the corporation is a Principal, with respect to Borrower or any action requiring the unanimous affirmative vote of one hundred percent (100%) of the members of its board of directors unless one Independent Director shall have participated in such vote and shall have voted in favor of such action;

(ix) if such entity is a limited liability company (other than a limited liability company meeting all of the requirements applicable to a single-member limited liability company set forth in this definition of "Special Purpose Entity"), has and shall have at least one (1) member that is a Special Purpose Entity, that is a corporation, that has at least one (1) Independent Director and that directly owns at least one-half-of-one percent (0.5%) of the equity of the limited liability company (or 0.1% if the limited liability company is a Delaware entity);

(x) if such entity is a single-member limited liability company, (A) is and shall be a Delaware limited liability company, (B) has and shall have at least one (1) Independent Director serving as manager of such company, (C) shall not take any Material Action and shall not cause or permit the members or managers of such entity to take any Material Action, either with respect to itself or, if the company is a Principal, with respect to Borrower, in each case unless one Independent Director then serving as manager of the company shall have participated and consented in writing to such action, and (D) has and shall have either (1) a member which owns no economic interest in the company, has signed the company's limited liability company agreement and has no obligation to make capital contributions to the company, or (2) two natural persons or one entity that is not a member of the company, that has signed its limited liability company agreement and that, under the terms of such limited liability company agreement becomes a member of the company immediately prior to the withdrawal or dissolution of the last remaining member of the company;

(xi) has not and shall not (and, if such entity is (a) a limited liability company, has and shall have a limited liability agreement or an operating agreement, as applicable, (b) a limited partnership, has a limited partnership agreement, or (c) a corporation, has a certificate of incorporation or articles that, in each case, provide that such entity shall not) (1) dissolve, merge, liquidate, consolidate; (2) sell all or substantially all of its assets; (3) amend its organizational documents with respect to the matters set forth in this definition without the consent of Lender; or (4) without the affirmative vote of one Independent Director of itself or the consent of a Principal that is a member or general partner in it: (A) file or consent to the filing of any bankruptcy, insolvency or reorganization case or proceeding, institute any proceedings under any applicable insolvency law or otherwise seek relief under any laws relating to the relief from debts or the protection of debtors generally, file a bankruptcy or insolvency petition or otherwise institute insolvency proceedings; (B) seek or consent to the appointment of a receiver, liquidator, assignee, trustee, sequestrator, custodian or any similar official for the entity or a substantial portion of its property; (C) make an assignment for the benefit of the creditors of the entity; or (D) take any action in furtherance of any of the foregoing;

(xii) has at all times been and shall at all times remain solvent and has paid and shall pay its debts and liabilities (including, a fairly-allocated portion of any personnel and overhead expenses that it shares with any Affiliate) from its assets as the same shall become due, and has maintained and shall maintain adequate capital for the normal obligations reasonably foreseeable in a business of its size and character and in light of its contemplated business operations;

(xiii) has not failed and shall not fail to correct any known misunderstanding regarding the separate identity of such entity and has not identified and shall not identify itself as a division of any other Person;

(xiv) has maintained and shall maintain its bank accounts, books of account, books and records separate from those of any other Person and, to the extent that it is required to file tax returns under applicable law, has filed and shall file its own tax returns, except to the extent that it is required by law to file consolidated tax returns and, if it is a corporation, has not filed and shall not file a consolidated federal income tax return with any other corporation, except to the extent that it is required by law to file consolidated tax returns;

(xv) has maintained and shall maintain its own records, books, resolutions and agreements;

(xvi) has not commingled and shall not commingle its funds or assets with those of any other Person and has not participated and shall not participate in any cash management system with any other Person;

(xvii) has held and shall hold its assets in its own name;

(xviii) has conducted and shall conduct its business in its name or in a name franchised or licensed to it by an entity other than an Affiliate of itself or of Borrower, except for business conducted on behalf of itself by another Person under a business management services agreement that is on commercially-reasonable terms, so long as the manager, or equivalent thereof, under such business management services agreement holds itself out as an agent of Borrower;

(xix) (A) has maintained and shall maintain its financial statements, accounting records and other entity documents separate from those of any other Person; (B) has shown and shall show, in its financial statements, its asset and liabilities separate and apart from those of any other Person; and (C) has not permitted and shall not permit its assets to be listed as assets on the financial statement of any of its Affiliates except as required by GAAP; provided, however, that any such consolidated financial statement contains a note indicating that the Special Purpose Entity's separate assets and credit are not available to pay the debts of such Affiliate and that the Special Purpose Entity's liabilities do not constitute obligations of the consolidated entity;

(xx) has paid and shall pay its own liabilities and expenses, including the salaries of its own employees, out of its own funds and assets, and has maintained and shall maintain a sufficient number of employees in light of its contemplated business operations;

(xxi) has observed and shall observe all partnership, corporate or limited liability company formalities, as applicable;

(xxii) has not incurred any Indebtedness other than (i) acquisition financing with respect to the Property; construction financing with respect to the Improvements and certain off-site improvements required by municipal and other authorities as conditions to the construction of the Improvements; and first mortgage financings secured by the Property; and Indebtedness pursuant to letters of credit, guaranties, interest rate protection agreements and other similar instruments executed and delivered in connection with such financings, (ii) unsecured trade payables and operational debt not evidenced by a note, and (iii) Indebtedness incurred in the financing of equipment and other personal property used on the Property;

(xxiii) has not incurred and shall have no Indebtedness other than (i) the Loan, (ii) liabilities incurred in the ordinary course of business relating to the ownership and operation of the Property and the routine administration of Borrower, in amounts not to exceed \$690,000 which liabilities are not more than sixty (60) days past the date incurred, are not evidenced by a note and are paid when due, and which amounts are normal and reasonable under the circumstances, and (iii) such other liabilities that are permitted pursuant to this Agreement;

(xxiv) has not assumed, guaranteed or become obligated and shall not assume or guarantee or become obligated for the debts of any other Person, has not held out and shall not hold out its credit as being available to satisfy the obligations of any other Person or has not pledged and shall not pledge its assets for the benefit of any other Person, in each case except as permitted pursuant to this Agreement;

(xxv) has not acquired and shall not acquire obligations or securities of its partners, members or shareholders or any other owner or Affiliate;

(xxvi) has allocated and shall allocate fairly and reasonably any overhead expenses that are shared with any of its Affiliates, constituents, or owners, or any guarantors of any of their respective obligations, or any Affiliate of any of the foregoing (individually, a "Related Party" and collectively, the "Related Parties"), including, but not limited to, paying for shared office space and for services performed by any employee of an Affiliate;

(xxvii) has maintained and used and shall maintain and use separate stationery, invoices and checks bearing its name and not bearing the name of any other entity unless such entity is clearly designated as being the Special Purpose Entity's agent;

(xxviii) has not pledged and shall not pledge its assets to or for the benefit of any other Person other than with respect to loans secured by the Property and no such pledge remains outstanding except to Lender to secure the Loan;

(xxix) has held itself out and identified itself and shall hold itself out and identify itself as a separate and distinct entity under its own name or in a name franchised or licensed to it by an entity other than an Affiliate of Borrower and not as a division or part of any other Person;

(xxx) has maintained and shall maintain its assets in such a manner that it shall not be costly or difficult to segregate, ascertain or identify its individual assets from those of any other Person;

(xxxi) has not made and shall not make loans to any Person and has not held and shall not hold evidence of indebtedness issued by any other Person or entity (other than cash and investment-grade securities issued by an entity that is not an Affiliate of or subject to common ownership with such entity);

(xxxii) has not identified and shall not identify its partners, members or shareholders, or any Affiliate of any of them, as a division or part of it, and has not identified itself and shall not identify itself as a division of any other Person;

(xxxiii) other than capital contributions and distributions permitted under the terms of its organizational documents, has not entered into or been a party to, and shall not enter into or be a party to, any transaction with any of its partners, members, shareholders or Affiliates except in the ordinary course of its business and on terms which are commercially reasonable terms comparable to those of an arm's-length transaction with an unrelated third party;

(xxxiv) has not had and shall not have any obligation to, and has not indemnified and shall not indemnify its partners, officers, directors or members, as the case may be, in each case unless such an obligation or indemnification is fully subordinated to the Debt and shall not constitute a claim against it in the event that its cash flow is insufficient to pay the Debt;

(xxxv) if such entity is a corporation, has considered and shall consider the interests of its creditors in connection with all corporate actions;

(xxxvi) has not had and shall not have any of its obligations guaranteed by any Affiliate except as provided by the Loan Documents;

(xxxvii) has not formed, acquired or held and shall not form, acquire or hold any subsidiary, except that a Principal may acquire and hold its interest in Borrower;

(xxxviii) has complied and shall comply with all of the terms and provisions contained in its organizational documents.

(xxxix) has conducted and shall conduct its business so that each of the assumptions made about it and each of the facts stated about it in the Insolvency Opinion are true;

(xl) has not permitted and shall not permit any Affiliate or constituent party independent access to its bank accounts;

(xli) is and shall continue to be duly formed, validly existing, and in good standing in the state of its incorporation or formation and in all other jurisdictions where it is qualified to do business;

(xlii) has paid all taxes which it owes and is not currently involved in any dispute with any taxing authority;

(xlili) is not now party to any lawsuit, arbitration, summons, or legal proceeding that resulted in a judgment against it that has not been paid in full;

(xliv) has no judgments or Liens of any nature against it except for tax liens not yet due and the Permitted Encumbrances;

(xlv) has provided Lender with complete financial statements that reflect a fair and accurate view of the entity's financial condition; and

(xlvi) has no material contingent or actual obligations not related to the Property.

"STATE" shall mean, the State or Commonwealth in which the Property or any part thereof is located.

"SUCCESSOR BORROWER" shall have the meaning set forth in Section 2.5.3 hereof.

"SURVEY" shall mean a survey of the Property prepared by a surveyor licensed in the State and satisfactory to Lender and the company or companies issuing the Title Insurance Policy, and containing a certification of such surveyor satisfactory to Lender.

"TAX AND INSURANCE ESCROW FUND" shall have the meaning set forth in Section 7.2 hereof.

"TAXES" shall mean all real estate and personal property taxes, assessments, water rates or sewer rents, now or hereafter levied or assessed or imposed against the Property or part thereof.

"THRESHOLD AMOUNT" shall have the meaning set forth in Section 5.1.21 hereof.

"TITLE INSURANCE POLICY" shall mean, an ALTA mortgagee title insurance policy in the form acceptable to Lender (or, if the Property is in a State which does not permit the issuance of such ALTA policy, such form as shall be permitted in such State and acceptable to Lender) issued with respect to the Property and insuring the lien of the Mortgage.

"TRANSFER" shall have the meaning set forth in Section 5.2.10(b) hereof.

"TRANSFeree" shall have the meaning set forth in Section 5.2.10(e)(iii) hereof.

"TRANSFeree'S PRINCIPALS" shall mean collectively, (A) Transferee's managing members, general partners or principal shareholders and (B) such other members, partners or shareholders which directly or indirectly shall own a fifty-one percent (51%) or greater economic and voting interest in Transferee..

"UCC" or "UNIFORM COMMERCIAL CODE" shall mean the Uniform Commercial Code as in effect in the State in which the Property is located.

"U.S. OBLIGATIONS" shall mean non-redeemable securities evidencing an obligation to timely pay principal and/or interest in a full and timely manner that are (a) direct obligations of the United States of America for the payment of which its full faith and credit is pledged, (b) other non-callable "government securities" as defined in Treasury Regulations Section 1.860G-2(a)(8)(i), as amended, which will not result in a downgrade, withdrawal or qualification of the ratings for the Securities or any class thereof issued in connection with a Securitization which are then outstanding (c) issued by an agency of the United States of America only if (i) the Rating Agencies provide confirmation acceptable to Lender in its sole discretion which will not result in a downgrade, withdrawal or qualification of the ratings for the Securities or any class thereof issued in connection with a Securitization which are then outstanding and (ii) a tax opinion provided by Borrower's counsel in form and substance acceptable to Lender in its sole discretion confirming that, if a Securitization has occurred, the REMIC trust formed pursuant to such Securitization will not fail to maintain its status as a "real estate mortgage investment conduit" within the meaning of Section 860D of the Code or (d) other instruments which, if a Securitization has occurred, the REMIC Trust formed pursuant to such Securitization will not fail to maintain its status as a "real estate mortgage investment conduit" within the meaning of Section 860D of the Code and which will not result in a downgrade, withdrawal or qualification of the ratings for the Securities or any class thereof issued in connection with a Securitization which are then outstanding.

"WALGREEN" shall mean Walgreen Eastern Co., Inc.

"YIELD MAINTENANCE DEFAULT PREMIUM" shall mean an amount equal to the greater of (a) five percent (5%) of the outstanding principal balance of the Loan to be prepaid or satisfied and (b) the Defeasance Payment Amount that would be required if a Defeasance Event were to occur at such time (whether or not then permitted) in an amount equal to the outstanding principal amount of the Loan to be prepaid or satisfied.

"YIELD MAINTENANCE PREMIUM" shall mean an amount equal to the greater of (a) one percent (1%) of the outstanding principal of the Loan to be prepaid or satisfied and (b) the excess, if any, of (i) the sum of the present values of all then-scheduled payments of principal and interest under the Note assuming that all outstanding principal and interest on the Loan is paid on the Maturity Date (with each such payment and assumed payment discounted to its present value at the date of prepayment at the rate which, when compounded monthly, is equivalent to the Prepayment Rate when compounded semi-annually and deducting from the sum of such present values any short-term interest paid from the date of prepayment to the next succeeding Payment Date in the event such payment is not made on a Payment Date), over (ii) the principal amount being prepaid.

SECTION 1.2 PRINCIPLES OF CONSTRUCTION. All references to sections and schedules are to sections and schedules in or to this Agreement unless otherwise specified. All uses of the word "including" shall mean "including, without limitation" unless the context shall indicate otherwise. Unless otherwise specified, the words "hereof," "herein" and "hereunder" and words of similar import when used in this Agreement shall refer to this Agreement as a whole and not to any particular provision of this Agreement. Unless otherwise specified, all meanings attributed to defined terms herein shall be equally applicable to both the singular and plural forms of the terms so defined.

II. GENERAL TERMS

SECTION 2.1 LOAN COMMITMENT; DISBURSEMENT TO BORROWER.

2.1.1 AGREEMENT TO LEND AND BORROW. Subject to and upon the terms and conditions set forth herein, Lender hereby agrees to make and Borrower hereby agrees to accept the Loan on the Closing Date.

2.1.2 SINGLE DISBURSEMENT TO BORROWER. Borrower may request and receive only one (1) borrowing hereunder in respect of the Loan and any amount borrowed and repaid hereunder in respect of the Loan may not be reborrowed.

2.1.3 THE NOTE, MORTGAGE AND LOAN DOCUMENTS. The Loan shall be evidenced by the Note and secured by the Mortgage, the Assignment of Leases and the other Loan Documents.

2.1.4 USE OF PROCEEDS. Borrower shall use the proceeds of the Loan to (a) acquire the Property or repay and discharge any existing loans relating to the Property, (b) pay all past-due Basic Carrying Costs, if any, with respect to the Property, (c) make deposits into the Reserve Funds on the Closing Date in the amounts provided herein, (d) pay costs and expenses incurred in connection with the closing of the Loan, as approved by Lender, (e) fund any working capital requirements of the Property and (f) distribute the balance, if any, to Borrower.

SECTION 2.2 INTEREST RATE.

2.2.1 INTEREST RATE. Interest on the outstanding principal balance of the Loan shall accrue from (and include) the Closing Date to but excluding the Maturity Date at the Interest Rate.

2.2.2 INTEREST CALCULATION. Interest on the outstanding principal balance of the Loan shall be calculated by multiplying (a) the actual number of days elapsed in the period for which the calculation is being made by (b) a daily rate based on a three hundred sixty (360) day year by (c) the outstanding principal balance.

2.2.3 DEFAULT RATE. In the event that, and for so long as, any Event of Default shall have occurred and be continuing, the outstanding principal balance of the Loan and, to the extent permitted by law, all accrued and unpaid interest in respect of the Loan and any other amounts due pursuant to the Loan Documents, shall accrue interest at the Default Rate, calculated from the date such payment was due without regard to any grace or cure periods contained herein.

2.2.4 USURY SAVINGS. This Agreement, the Note and the other Loan Documents are subject to the express condition that at no time shall Borrower be obligated or required to pay interest on the principal balance of the Loan at a rate which could subject Lender to either civil or criminal liability as a result of being in excess of the Maximum Legal Rate. If, by the terms of this Agreement or the other Loan Documents, Borrower is at any time required or obligated to pay interest on the principal balance due hereunder at a rate in excess of the Maximum Legal Rate, the Interest Rate or the Default Rate, as the case may be, shall be deemed to be immediately reduced to the Maximum Legal Rate and all previous payments in excess of the Maximum Legal Rate shall be deemed to have been payments in reduction of principal and not on account of the interest due hereunder. All sums paid or agreed to be paid to Lender for the use, forbearance, or detention of the sums due under the Loan, shall, to the extent permitted by applicable law, be amortized, prorated, allocated, and spread throughout the full stated term of the Loan until payment in full so that the rate or amount of interest on account of the Loan does not exceed the Maximum Legal Rate of interest from time to time in effect and applicable to the Loan for so long as the Loan is outstanding.

SECTION 2.3 LOAN PAYMENT.

2.3.1 MONTHLY DEBT SERVICE PAYMENTS. Borrower shall pay to Lender (a) on the Closing Date, an amount equal to interest only on the outstanding principal balance of the Loan from the Closing Date up to and including December 31, 2005 and (b) on each Payment Date thereafter up to and including the Maturity Date, Borrower shall make a payment to Lender of principal and interest in an amount equal to the Monthly Debt Service Payment Amount, which payments shall be applied first to accrued and unpaid interest and the balance to principal.

2.3.2 PAYMENTS GENERALLY. The first (1st) interest accrual period hereunder shall commence on and include the Closing Date and shall end on and include December 31, 2005. Each interest accrual period thereafter shall commence on the first (1st) day of each calendar month during the term of this Agreement and shall end on and include the final calendar date of such calendar month. For purposes of making payments hereunder, but not for purposes of calculating interest accrual periods, if the day on which such payment is due is not a Business Day, then amounts due on such date shall be due on the immediately preceding Business Day and with respect to payments of principal due on the Maturity Date, interest shall be payable at the Interest Rate or the Default Rate, as the case may be, through and including the day immediately preceding such Maturity Date. All amounts due under this Agreement and the other Loan Documents shall be payable without setoff, counterclaim, defense or any other deduction whatsoever.

2.3.3 PAYMENT ON MATURITY DATE. Borrower shall pay to Lender on the Maturity Date the outstanding principal balance of the Loan, all accrued and unpaid interest and all other amounts due hereunder and under the Note, the Mortgage and the other Loan Documents.

2.3.4 LATE PAYMENT CHARGE. If any principal, interest or any other sums due under the Loan Documents (including the amounts due on the Maturity Date) are not paid by Borrower on or prior to the date on which it is due, Borrower shall pay to Lender upon demand an amount equal to the lesser of five percent (5%) of such unpaid sum or the Maximum Legal Rate in order to defray the expense incurred by Lender in handling and processing such delinquent payment and to compensate Lender for the loss of the use of such delinquent payment. Any such amount shall be secured by the Mortgage and the other Loan Documents to the extent permitted by applicable law.

2.3.5 METHOD AND PLACE OF PAYMENT. Except as otherwise specifically provided herein, all payments and prepayments under this Agreement and the Note shall be made to Lender not later than 11:00 A.M., New York City time, on the date when due and shall be made in lawful money of the United States of America in immediately available funds at Lender's office or as otherwise directed by Lender, and any funds received by Lender after such time shall, for all purposes hereof, be deemed to have been paid on the next succeeding Business Day.

SECTION 2.4 PREPAYMENTS.

2.4.1 VOLUNTARY PREPAYMENTS. Except as otherwise provided in this Section 2.4.1 and Section 2.4.2, Borrower shall not have the right to prepay the Loan in whole or in part prior to the Maturity Date. If for any reason Borrower prepays the Loan on a date other than a Payment Date, Borrower shall pay Lender, in addition to the Debt, all interest which would have accrued on the amount of the Loan through and including the Payment Date next occurring following the date of such prepayment. Notwithstanding anything to the contrary contained herein, commencing on the Payment Date two (2) months prior to the Maturity Date, or on any Payment Date thereafter (or on after date thereafter, provided that interest is paid through the next Payment Date), Borrower may, at its option, prepay the Debt in whole or in part without payment of the Yield Maintenance Premium.

2.4.2 MANDATORY PREPAYMENTS. On the next occurring Payment Date following the date on which Lender actually receives any Net Proceeds, if Lender is not obligated to make such Net Proceeds available to Borrower for the Restoration of the Property or otherwise remit such Net Proceeds to Borrower pursuant to Section 6.4 hereof, Borrower shall prepay or authorize Lender to apply Net Proceeds as a prepayment of all or a portion of the outstanding principal balance of the Loan together with accrued interest and any other sums due hereunder in an amount equal to one hundred percent (100%) of such Net Proceeds; provided, however, if an Event of Default has occurred and is continuing, Lender may apply such Net Proceeds to the Debt (until paid in full) in any order or priority in its sole discretion. Other than following an Event of Default, no Yield Maintenance Premium shall be due in connection with any prepayment made pursuant to this Section 2.4.2.

2.4.3 PREPAYMENTS AFTER DEFAULT. If following an Event of Default, payment of all or any part of the Debt is tendered by Borrower or otherwise recovered by Lender, such tender or recovery shall be (a) made on the next occurring Payment Date together with the Monthly Debt Service Payment and (b) deemed a voluntary prepayment by Borrower in violation of the prohibition against prepayment set forth in Section 2.4.1 hereof and Borrower shall pay, in addition to the Debt, an amount equal to the Yield Maintenance Default Premium.

2.4.4 PREPAYMENT PRIOR TO DEFEASANCE EXPIRATION DATE. If the Permitted Release Date has occurred but the Defeasance Expiration Date has not occurred, the Debt may be prepaid in whole (but not in part) prior to the date permitted under Section 2.4.1 hereof upon not less than thirty (30) days prior written notice to Lender specifying the Payment Date on which prepayment is to be made (a "PREPAYMENT DATE") provided no Event of Default exists and upon payment of an amount equal to the greater of (a) the Yield Maintenance Premium and (b) one percent (1%) of the outstanding principal balance of the Loan as of the Prepayment Date. Lender shall notify Borrower of the amount and the basis of determination of the required prepayment consideration. If any notice of prepayment is given, the Debt shall be due and payable on the Prepayment Date. Lender shall not be obligated to accept any prepayment of the Debt unless it is accompanied by the prepayment consideration due in connection therewith. If for any reason Borrower prepays the Loan on a date other than a Payment Date, Borrower shall pay Lender, in addition to the Debt, all interest which would have accrued on the amount of the Loan through and including the Payment Date next occurring following the date of such prepayment.

SECTION 2.5 DEFEASANCE.

2.5.1 VOLUNTARY DEFEASANCE. (a) Provided no Event of Default shall then exist, Borrower shall have the right at any time after the Defeasance Expiration Date and prior to the date voluntarily prepayments are permitted under Section 2.4.1 hereof to voluntarily defease all, but not part, of the Loan by and upon satisfaction of the following conditions (such event being a "DEFEASANCE EVENT"):

(i) Borrower shall provide not less than thirty (30) days prior written notice to Lender specifying the Payment Date (the "DEFEASANCE DATE") on which the Defeasance Event is to occur;

(ii) Borrower shall pay to Lender all accrued and unpaid interest on the principal balance of the Loan to and including the Defeasance Date. If for any reason the Defeasance Date is not a Payment Date, the Borrower shall also pay interest that would have accrued on the Note through and including the Payment Date immediately preceding the next Payment Date, provided, however, if the Defeasance Deposit shall include short-term interest computed from the date of such prepayment through to the next succeeding Payment Date, Borrower shall not be required to pay such short term interest pursuant to this sentence;

(iii) Borrower shall pay to Lender all other sums, not including scheduled interest or principal payments, then due under the Note, this Agreement, the Mortgage and the other Loan Documents;

(iv) Borrower shall pay to Lender the required Defeasance Deposit for the Defeasance Event;

(v) Borrower shall execute and deliver a pledge and security agreement, in form and substance that would be reasonably satisfactory to a prudent lender creating a first priority lien on the Defeasance Deposit and the U.S. Obligations purchased with the Defeasance Deposit in accordance with the provisions of this Section 2.5 (the "Security Agreement");

(vi) Borrower shall deliver an opinion of counsel for Borrower that is standard in commercial lending transactions and subject only to customary qualifications, assumptions and exceptions opining, among other things, that Borrower has legally and validly transferred and assigned the U.S. Obligations and all obligations, rights and duties under and to the Note to the Successor Borrower, that Lender has a perfected first priority security interest in the Defeasance Deposit and the U.S. Obligations delivered by Borrower and that any REMIC Trust formed pursuant to a Securitization will not fail to maintain its status as a "real estate mortgage investment conduit" within the meaning of Section 860D of the Code as a result of such Defeasance Event;

(vii) Borrower shall deliver confirmation in writing from each of the applicable Rating Agencies to the effect that such release will not result in a downgrade, withdrawal or qualification of the respective ratings in effect immediately prior to such Defeasance Event for the Securities issued in connection with the Securitization which are then outstanding. If required by the applicable Rating Agencies, Borrower shall also deliver or cause to be delivered an Additional Insolvency Opinion with respect to the Successor Borrower in form and substance satisfactory to Lender and the applicable Rating Agencies;

(viii) Borrower shall deliver an Officer's Certificate certifying that the requirements set forth in this Section 2.5.1(a) have been satisfied;

(ix) Borrower shall deliver a certificate of Borrower's independent certified public accountant certifying that the U.S. Obligations purchased with the Defeasance Deposit generate monthly amounts equal to or greater than the Scheduled Defeasance Payments;

(x) Borrower shall deliver such other certificates, documents or instruments as Lender may reasonably request; and

(xi) Borrower shall pay all costs and expenses of Lender incurred in connection with the Defeasance Event, including (A) any costs and expenses associated with a release of the Lien of the Mortgage as provided in Section 2.6 hereof, (B) reasonable attorneys' fees and expenses incurred in connection with the Defeasance Event, (C) the costs and expenses of the Rating Agencies, (D) any revenue, documentary stamp or intangible taxes or any other tax or charge due in connection with the transfer of the Note, or otherwise required to accomplish the defeasance and (E) the costs and expenses of Servicer and any trustee, including reasonable attorneys' fees.

(b) In connection with the Defeasance Event, Borrower shall use the Defeasance Deposit to purchase U.S. Obligations which provide payments on or prior to, but as close as possible to, all successive scheduled Payment Dates after the Defeasance Date upon which interest and principal payments are required under this Agreement and the Note, and in amounts equal to the scheduled payments due on such Payment Dates under this Agreement and the Note (including, without limitation, scheduled payments of principal, interest, servicing fees (if any), and any other amounts due under the Loan Documents on such Payment Dates) and assuming the Note is prepaid in full on the Anticipated Repayment Date (the "Scheduled Defeasance Payments"). Borrower, pursuant to the Security Agreement or other appropriate document, shall authorize and direct that the payments received from the U.S. Obligations may be made directly to the Lockbox Account (unless otherwise directed by Lender) and applied to satisfy the Debt Service obligations of Borrower under this Agreement and the Note. Any portion of the Defeasance Deposit in excess of the amount necessary to purchase the U.S. Obligations required by this Section 2.5 and satisfy Borrower's other obligations under this Section 2.5 and Section 2.6 shall be remitted to Borrower.

2.5.2 COLLATERAL. Each of the U.S. Obligations that are part of the defeasance collateral shall be duly endorsed by the holder thereof as directed by Lender or accompanied by a written instrument of transfer in form and substance that would be satisfactory to a prudent lender (including, without limitation, such instruments as may be required by the depository institution holding such securities or by the issuer thereof, as the case may be, to effectuate book-entry transfers and pledges through the book-entry facilities of such institution) in order to perfect upon the delivery of the defeasance collateral a first priority security interest therein in favor of Lender in conformity with all applicable state and federal laws governing the granting of such security interests.

2.5.3 SUCCESSOR BORROWER. In connection with any Defeasance Event, Borrower shall establish a successor entity (the "SUCCESSOR BORROWER") designated by Lender in its sole discretion, which shall be a Special Purpose Entity, which shall not own any other assets or have any other liabilities or operate other property (except in connection with other defeased loans held in the same securitized loan pool with the Loan). Borrower shall transfer and assign all obligations, rights and duties under and to the Note, together with the pledged U.S. Obligations to such Successor Borrower. Such Successor Borrower shall assume the obligations under the Note and the Security Agreement and Borrower shall be relieved of its obligations under such documents. Borrower shall pay One Thousand and 00/100 Dollars (\$1,000) to any such Successor Borrower as consideration for assuming the obligations under the Note and the Security Agreement. Notwithstanding anything in this Agreement to the contrary, no other assumption fee shall be payable upon a transfer of the Note in accordance with this Section 2.5.3, but Borrower shall pay all costs and expenses incurred by Lender, including Lender's attorneys' fees and expenses and any fees and expenses of any Rating Agencies, incurred in connection therewith.

SECTION 2.6 RELEASE OF PROPERTY. Except as set forth in this Section 2.6, no repayment, prepayment or defeasance of all or any portion of the Loan shall cause, give rise to a right to require, or otherwise result in, the release of the Lien of the Mortgage on the Property.

2.6.1 RELEASE OF PROPERTY.

(a) If Borrower has elected to defease the entire Loan and the requirements of Section 2.5 and this Section 2.6 have been satisfied, all of the Property shall be released from the Lien of the Mortgage and the U.S. Obligations, pledged pursuant to the Security Agreement, shall be the sole source of collateral securing the Note.

(b) In connection with the release of the Mortgage, Borrower shall submit to Lender, not less than thirty (30) days prior to the Defeasance Date, a release of Lien (and related Loan Documents) for the Property for execution by Lender. Such release shall be in a form appropriate in the jurisdiction in which the Property is located and that would be satisfactory to a prudent lender and contains standard provisions, if any, protecting the rights of the releasing lender. In addition, Borrower shall provide all other documentation Lender reasonably requires to be delivered by Borrower in connection with such release, together with an Officer's Certificate certifying that such documentation (i) is in compliance with all Legal Requirements, and (ii) will effect such releases in accordance with the terms of this Agreement.

2.6.2 RELEASE ON PAYMENT IN FULL. Lender shall, upon the written request and at the expense of Borrower, upon payment in full of all principal and interest due on the Loan and all other amounts due and payable under the Loan Documents in accordance with the terms and provisions of the Note and this Agreement, release the Lien of the Mortgage on the Property.

SECTION 2.7 LOCKBOX ACCOUNT/CASH MANAGEMENT.

2.7.1 LOCKBOX ACCOUNT/CASH MANAGEMENT. (a) During the term of the Loan, Borrower shall establish and maintain an account (the "LOCKBOX ACCOUNT") with Lockbox Bank in trust for the benefit of Lender, which Lockbox Account shall be under the sole dominion and control of Lender. The Lockbox Account shall be entitled "RP Elmwood Associates, L.P., as Borrower and Bear Stearns Commercial Mortgage, Inc., as Lender, pursuant to Loan Agreement dated as of December 9, 2005 - Lockbox Account". Borrower hereby grants to Lender a first-priority security interest in the Lockbox Account and all deposits at any time contained therein and the proceeds thereof and will take all actions necessary to maintain in favor of Lender a perfected first priority security interest in the Lockbox Account, including, without limitation, executing and filing UCC-1 Financing Statements and continuations thereof. Lender and Servicer shall have the sole right to make withdrawals from the Lockbox Account and all costs and expenses for establishing and maintaining the Lockbox Account shall be paid by Borrower. All monies now or hereafter deposited into the Lockbox Account shall be deemed additional security for the Debt.

(b) Borrower shall, or shall cause Manager, if any, to, deliver irrevocable written instructions to all tenants under Leases to deliver all Rents payable thereunder directly to the Lockbox Account. Borrower shall, and shall cause Manager, if any, to, deposit all amounts received by Borrower or Manager, if any, constituting Rents into the Lockbox Account within one (1) Business Day after receipt thereof.

(c) Borrower shall obtain from Lockbox Bank its agreement to transfer to the Cash Management Account in immediately available funds by federal wire transfer all amounts on deposit in the Lockbox Account once every Business Day throughout the term of the Loan.

(d) Upon the occurrence of an Event of Default, Lender may, in addition to any and all other rights and remedies available to Lender, apply any sums then present in the Lockbox Account to the payment of the Debt in any order in its sole discretion.

(e) The Lockbox Account shall be an Eligible Account and shall not be commingled with other monies held by Borrower or Lockbox Bank.

(f) Borrower shall not further pledge, assign or grant any security interest in the Lockbox Account or the monies deposited therein or permit any lien or encumbrance to attach thereto, or any levy to be made thereon, or any UCC-1 Financing Statements, except those naming Lender as the secured party, to be filed with respect thereto.

(g) Borrower shall indemnify Lender and hold Lender harmless from and against any and all actions, suits, claims, demands, liabilities, losses, damages, obligations and costs and expenses (including litigation costs and reasonable attorneys fees and expenses) arising from or in any way connected with the Lockbox Account and/or the Lockbox Agreement (unless arising from the gross negligence or willful misconduct of Lender) or the performance of the obligations for which the Lockbox Account was established.

2.7.2 CASH MANAGEMENT ACCOUNT. (a) During the term of the Loan, Borrower shall establish and maintain a segregated Eligible Account (the "CASH MANAGEMENT ACCOUNT") to be held by Agent in trust and for the benefit of Lender, which Cash Management Account shall be under the sole dominion and control of Lender. The Cash Management Account shall be entitled "RP Elmwood Associates, L.P., as Borrower and Bear Stearns Commercial Mortgage, Inc., as Lender, pursuant to Loan Agreement dated as of December 9, 2005 - Cash Management Account." Borrower hereby grants to Lender a first priority security interest in the Cash Management Account and all deposits at any time contained therein and the proceeds thereof and will take all actions necessary to maintain in favor of Lender a perfected first priority security interest in the Cash Management Account, including, without limitation, executing and filing UCC-1 Financing Statements and continuations thereof. Borrower will not in any way alter or modify the Cash Management Account and will notify Lender of the account number thereof. Lender and Servicer shall have the sole right to make withdrawals from the Cash Management Account and all costs and expenses for establishing and maintaining the Cash Management Account shall be paid by Borrower.

(b) The insufficiency of funds on deposit in the Cash Management Account shall not relieve Borrower from the obligation to make any payments, as and when due pursuant to this Agreement and the other Loan Documents, and such obligations shall be separate and independent, and not conditioned on any event or circumstance whatsoever.

(c) All funds on deposit in the Cash Management Account following the occurrence of an Event of Default may be applied by Lender in such order and priority as Lender shall determine.

(d) Borrower hereby agrees that Lender may modify the Cash Management Agreement for the purpose of establishing additional sub-accounts in connection with any payments otherwise required under this Agreement and the other Loan Documents and Lender shall provide notice thereof to Borrower.

2.7.3 PAYMENTS RECEIVED UNDER THE CASH MANAGEMENT AGREEMENT.

Notwithstanding anything to the contrary contained in this Agreement or the other Loan Documents, and provided no Event of Default has occurred and is continuing, Borrower's obligations with respect to the payment of the Monthly Debt Service Payment Amount and amounts required to be deposited into the Reserve Funds, if any, shall be deemed satisfied to the extent sufficient amounts are deposited in the Cash Management Account to satisfy such obligations pursuant to the Cash Management Agreement on the dates each such payment is required, regardless of whether any of such amounts are so applied by Lender.

III. CONDITIONS PRECEDENT

SECTION 3.1 CONDITIONS PRECEDENT TO CLOSING. The obligation of Lender to make the Loan hereunder is subject to the fulfillment by Borrower or waiver by Lender of the following conditions precedent no later than the Closing Date:

3.1.1 REPRESENTATIONS AND WARRANTIES; COMPLIANCE WITH CONDITIONS. The representations and warranties of Borrower contained in this Agreement and the other Loan Documents shall be true and correct in all material respects on and as of the Closing Date with the same effect as if made on and as of such date, and no Default or an Event of Default shall have occurred and be continuing; and Borrower shall be in compliance in all material respects with all terms and conditions set forth in this Agreement and in each other Loan Document on its part to be observed or performed.

3.1.2 LOAN AGREEMENT AND NOTE. Lender shall have received a copy of this Agreement and the Note, in each case, duly executed and delivered on behalf of Borrower.

3.1.3 DELIVERY OF LOAN DOCUMENTS; TITLE INSURANCE; REPORTS; LEASES.

(a) MORTGAGE, ASSIGNMENT OF LEASES. Lender shall have received from Borrower fully executed and acknowledged counterparts of the Mortgage and the Assignment of Leases and evidence that counterparts of the Mortgage and Assignment of Leases have been delivered to the title company for recording, in the reasonable judgment of Lender, so as to effectively create upon such recording valid and enforceable Liens upon the Property, of the requisite priority, in favor of Lender or Lender's nominee (or such other trustee as may be required or desired under local law), subject only to the Permitted Encumbrances and such other Liens as are permitted pursuant to the Loan Documents. Lender shall have also received from Borrower fully executed counterparts of the other Loan Documents.

(b) TITLE INSURANCE. Lender shall have received the Title Insurance Policy issued by a title company acceptable to Lender and dated as of the Closing Date, with reinsurance and direct access agreements acceptable to Lender. Such Title Insurance Policy shall (i) provide coverage in amounts satisfactory to Lender, (ii) insure Lender that the Mortgage creates a valid lien on the Property of the requisite priority, free and clear of all exceptions from coverage other than Permitted Encumbrances and standard exceptions and exclusions from coverage (as modified by the terms of any endorsements), (iii) contain such endorsements and affirmative coverages as Lender may reasonably request, and (iv) name Lender as the insured. The Title Insurance Policy shall be assignable. Lender also shall have received evidence that all premiums in respect of such Title Insurance Policy have been paid.

(c) SURVEY. Lender shall have received a current title survey for the Property, certified to the title company and Lender and their successors and assigns, in form and content satisfactory to Lender and prepared by a professional and properly licensed land surveyor satisfactory to Lender in accordance with the Accuracy Standards for ALTA/ACSM Land Title Surveys as adopted by American Land Title Association, American Congress on Surveying & Mapping and National Society of Professional Surveyors in 1999. The survey shall reflect the same legal description contained in the Title Insurance Policy referred to in clause (b) above and shall include, among other things, a metes and bounds description of the real property comprising part of the Property reasonably satisfactory to Lender. The surveyor's seal shall be affixed to the survey and the surveyor shall provide a certification for the survey in form and substance acceptable to Lender.

(d) INSURANCE. Lender shall have received valid certificates of insurance for the policies of insurance required hereunder, satisfactory to Lender in its sole discretion, and evidence of the payment of all premiums payable for the existing policy period.

(e) ENVIRONMENTAL REPORTS. Lender shall have received a Phase I environmental report (and, if recommended by the Phase I environmental report, a Phase II environmental report) in respect of the Property, in each case satisfactory in form and substance to Lender.

(f) ZONING. Lender shall have received, at Lender's option, (i) letters or other evidence with respect to the Property from the appropriate municipal authorities (or other Persons) concerning applicable zoning and building laws, and (ii) either (A) an ALTA 3.1 zoning endorsement for the applicable Title Insurance Policy or (B) a zoning opinion letter, in each case in substance reasonably satisfactory to Lender.

(g) ENCUMBRANCES. Borrower shall have taken or caused to be taken such actions in such a manner so that Lender has a valid and perfected first priority Lien as of the Closing Date with respect to the Mortgage, subject only to applicable Permitted Encumbrances and such other Liens as are permitted pursuant to the Loan Documents, and Lender shall have received satisfactory evidence thereof.

3.1.4 RELATED DOCUMENTS. Each additional document not specifically referenced herein, but relating to the transactions contemplated herein, shall be in form and substance reasonably satisfactory to Lender, and shall have been duly authorized, executed and delivered by all parties thereto and Lender shall have received and approved certified copies thereof.

3.1.5 DELIVERY OF ORGANIZATIONAL DOCUMENTS. On or before the Closing Date, Borrower shall deliver or cause to be delivered to Lender copies certified by Borrower of all organizational documentation related to Borrower and/or the formation, structure, existence, good standing and/or qualification to do business, as Lender may request in its sole discretion, including, without limitation, amendments (as requested by Lender), good standing certificates, qualifications to do business in the appropriate jurisdictions, resolutions authorizing the entering into of the Loan and incumbency certificates as may be requested by Lender.

3.1.6 OPINIONS OF BORROWER'S COUNSEL. Lender shall have received opinions from Borrower's counsel (a) the Insolvency Opinion, and (b) with respect to due execution, authority, enforceability of the Loan Documents and such other matters as Lender may require, all such opinions in form, scope and substance satisfactory to Lender and Lender's counsel in their sole discretion.

3.1.7 BUDGETS. Borrower shall have delivered, and Lender shall have approved, the Annual Budget for the current Fiscal Year.

3.1.8 BASIC CARRYING COSTS. Borrower shall have paid all Basic Carrying Costs relating to the Property which are in arrears, including without limitation, (a) accrued but unpaid Insurance Premiums due pursuant to the Policies, (b) currently due Taxes (including any in arrears) relating to the Property, and (c) currently due Other Charges relating to the Property, which amounts shall be funded with proceeds of the Loan.

3.1.9 COMPLETION OF PROCEEDINGS. All organizational and other proceedings taken or to be taken in connection with the transactions contemplated by this Agreement and other Loan Documents and all documents incidental thereto shall be satisfactory in form and substance to Lender, and Lender shall have received all such counterpart originals or certified copies of such documents as Lender may reasonably request.

3.1.10 PAYMENTS. All payments, deposits or escrows required to be made or established by Borrower under this Agreement, the Note and the other Loan Documents on or before the Closing Date shall have been paid.

3.1.11 TENANT ESTOPPELS. Lender shall have received an executed tenant estoppel letter, which shall be in form and substance satisfactory to Lender, from (a) each tenant identified by Lender as an "anchor tenant" of the Property, (b) each tenant leasing an entire building at the Property, (c) each tenant paying base rent in an amount equal to or exceeding five percent (5%) of the Gross Income from Operations from the Property occupied by such tenant and (d) disregarding the area leased by those described in clauses (a), (b) and (c), lessees of not less than seventy-five percent (75%) of the remaining gross leasable area of the Property.

3.1.12 TRANSACTION COSTS. Borrower shall have paid or reimbursed Lender for all title insurance premiums, recording and filing fees, costs of environmental reports, Physical Conditions Report, appraisals and other reports, the fees and costs of Lender's counsel and all other third party out-of-pocket expenses incurred in connection with the origination and closing of the Loan.

3.1.13 MATERIAL ADVERSE CHANGE. There shall have been no material adverse change in the financial condition or business condition of Borrower, Principal, Guarantor or the Property since the date of the most recent financial statements delivered to Lender. The income and expenses of the Property, the occupancy thereof, and all other features of the transaction shall be as represented to Lender without material adverse change. Neither Borrower, Principal, Guarantor nor any of their respective constituent Persons shall be the subject of any bankruptcy, reorganization, or insolvency proceeding.

3.1.14 LEASES AND RENT ROLL. Lender shall have received copies of all tenant leases, which tenant leases shall be certified by Borrower as being true, correct and complete and certified copies of all ground leases affecting the Property, if any. Lender shall have received a current certified rent roll of the Property, reasonably satisfactory in form and substance to Lender.

3.1.15 SUBORDINATION AND ATTORNMENT. Lender shall have received appropriate instruments acceptable to Lender subordinating all of the Leases designated by Lender to the Mortgage. Lender shall have received an agreement to attorn to Lender satisfactory to Lender from any tenant under a Lease that does not provide for such attornment by its terms.

3.1.16 TAX LOT. Lender shall have received evidence that the Property constitutes one (1) or more separate tax lots, which evidence shall be reasonably satisfactory in form and substance to Lender.

3.1.17 PHYSICAL CONDITIONS REPORT. Lender shall have received a Physical Conditions Report with respect to the Property, which report shall be issued by an engineer selected by Lender and shall be reasonably satisfactory in form and substance to Lender.

3.1.18 INTENTIONALLY OMITTED.

3.1.19 APPRAISAL. Lender shall have received an appraisal of the Property, from an appraiser selected by Lender, which appraisal shall be satisfactory in form and substance to Lender.

3.1.20 FINANCIAL STATEMENTS. Lender shall have received a balance sheet with respect to the Property for the two (2) most recent Fiscal Years and statements of income and statements of cash flows with respect to the Property for the three (3) most recent Fiscal Years, each in form and substance satisfactory to Lender.

3.1.21 FURTHER DOCUMENTS. Lender or its counsel shall have received such other documents and further approvals, opinions, documents and information as Lender or its counsel may have reasonably requested including the Loan Documents in form and substance satisfactory to Lender and its counsel.

IV. REPRESENTATIONS AND WARRANTIES

SECTION 4.1 BORROWER REPRESENTATIONS. Borrower represents and warrants as of the date hereof and as of the Closing Date that:

4.1.1 ORGANIZATION. Borrower has been duly organized and is validly existing and in good standing with requisite power and authority to own its properties and to transact the businesses in which it is now engaged. Borrower is duly qualified to do business and is in good standing in each jurisdiction where it is required to be so qualified in connection with its properties, businesses and operations. Borrower possesses all rights, licenses, permits and authorizations, governmental or otherwise, necessary to entitle it to own its properties and to transact the businesses in which it is now engaged, and the sole business of Borrower is the ownership, management and operation of the Property. The ownership interests in Borrower are as set forth on the organizational chart attached hereto as Schedule III.

4.1.2 PROCEEDINGS. Borrower has taken all necessary action to authorize the execution, delivery and performance of this Agreement and the other Loan Documents. This Agreement and such other Loan Documents have been duly executed and delivered by or on behalf of Borrower and constitute legal, valid and binding obligations of Borrower enforceable against Borrower in accordance with their respective terms, subject only to applicable bankruptcy, insolvency and similar laws affecting rights of creditors generally, and subject, as to enforceability, to general principles of equity (regardless of whether enforcement is sought in a proceeding in equity or at law).

4.1.3 NO CONFLICTS. The execution, delivery and performance of this Agreement and the other Loan Documents by Borrower will not conflict with or result in a breach of any of the terms or provisions of, or constitute a default under, or result in the creation or imposition of any lien, charge or encumbrance (other than pursuant to the Loan Documents) upon any of the property or assets of Borrower pursuant to the terms of any indenture, mortgage, deed of trust, loan agreement, partnership agreement, management agreement or other agreement or instrument to which Borrower is a party or by which any of Borrower's property or assets is subject, nor will such action result in any violation of the provisions of any statute or any order, rule or regulation of any Governmental Authority having jurisdiction over Borrower or any of Borrower's properties or assets, and any consent, approval, authorization, order, registration or qualification of or with any court or any such Governmental Authority required for the execution, delivery and performance by Borrower of this Agreement or any other Loan Documents has been obtained and is in full force and effect.

4.1.4 LITIGATION. There are no actions, suits or proceedings at law or in equity by or before any Governmental Authority or other agency now pending or threatened against or affecting Borrower, Guarantor, Principal or the Property, which actions, suits or proceedings, if determined against Borrower, Guarantor, Principal or the Property, might materially adversely affect the condition (financial or otherwise) or business of Borrower, Guarantor, Principal or the condition or ownership of the Property.

4.1.5 AGREEMENTS. Borrower is not a party to any agreement or instrument or subject to any restriction which might materially and adversely affect Borrower or the Property, or Borrower's business, properties or assets, operations or condition, financial or otherwise. Borrower is not in default in any material respect in the performance, observance or fulfillment of any of the obligations, covenants or conditions contained in any agreement or instrument to which it is a party or by which Borrower or the Property is bound. Borrower has no material financial obligation under any indenture, mortgage, deed of trust, loan agreement or other agreement or instrument to which Borrower is a party or by which Borrower or the Property is otherwise bound, other than (a) obligations incurred in the ordinary course of the operation of the Property as permitted pursuant to clause (xxiii) of the definition of "Special Purpose Entity" set forth in Section 1.1 hereof and (b) obligations under the Loan Documents.

4.1.6 TITLE. Borrower has good, marketable and insurable fee simple title to the real property comprising part of the Property and good title to the balance of the Property, free and clear of all Liens whatsoever except the Permitted Encumbrances, such other Liens as are permitted pursuant to the Loan Documents and the Liens created by the Loan Documents. The Permitted Encumbrances in the aggregate do not materially and adversely affect the value, operation or use of the Property (as currently used) or Borrower's ability to repay the Loan. The Mortgage, when properly recorded in the appropriate records, together with any Uniform Commercial Code financing statements required to be filed in connection therewith, will create (a) a valid, perfected first priority lien on the Property, subject only to Permitted Encumbrances and the Liens created by the Loan Documents and (b) perfected security interests in and to, and perfected collateral assignments of, all personalty (including the Leases), all in accordance with the terms thereof, in each case subject only to any applicable Permitted Encumbrances, such other Liens as are permitted pursuant to the Loan Documents and the Liens created by the Loan Documents. There are no claims for payment for work, labor or materials affecting the Property which are or may become a Lien prior to, or of equal priority with, the Liens created by the Loan Documents.

4.1.7 SOLVENCY. Borrower has (a) not entered into this transaction or executed the Note, this Agreement or any other Loan Documents with the actual intent to hinder, delay or defraud any creditor and (b) received reasonably equivalent value in exchange for its obligations under such Loan Documents. Giving effect to the Loan, the fair saleable value of Borrower's assets exceeds and will, immediately following the making of the Loan, exceed Borrower's total liabilities, including, without limitation, subordinated, unliquidated, disputed and contingent liabilities. The fair saleable value of Borrower's assets is and will, immediately following the making of the Loan, be greater than Borrower's probable liabilities, including the maximum amount of its contingent liabilities on its debts as such debts become absolute and matured. Borrower's assets do not and, immediately following the making of the Loan will not, constitute unreasonably small capital to carry out its business as conducted or as proposed to be conducted. Borrower does not intend to, and does not believe that it will, incur debt and liabilities (including contingent liabilities and other commitments) beyond its ability to pay such debt and liabilities as they mature (taking into account the timing and amounts of cash to be received by Borrower and the amounts to be payable on or in respect of obligations of Borrower). No petition in bankruptcy has been filed against Borrower or any constituent Person in the last seven (7) years, and neither Borrower nor any constituent Person in the last seven (7) years has ever made an assignment for the benefit of creditors or taken advantage of any insolvency act for the benefit of debtors. Neither Borrower nor any of its constituent Persons are contemplating either the filing of a petition by it under any state or federal bankruptcy or insolvency laws or the liquidation of all or a major portion of Borrower's assets or property, and Borrower has no knowledge of any Person contemplating the filing of any such petition against it or such constituent Persons.

4.1.8 FULL AND ACCURATE DISCLOSURE. No statement of fact made by Borrower in this Agreement or in any of the other Loan Documents contains any untrue statement of a material fact or omits to state any material fact necessary to make statements contained herein or therein not misleading. There is no material fact presently known to Borrower which has not been disclosed to Lender which adversely affects, nor as far as Borrower can foresee, might adversely affect, the Property or the business, operations or condition (financial or otherwise) of Borrower.

4.1.9 NO PLAN ASSETS. Borrower does not sponsor, is not obligated to contribute to, and is not itself an "employee benefit plan," as defined in Section 3(3) of ERISA, subject to Title I of ERISA or Section 4975 of the Code, and none of the assets of Borrower constitutes or will constitute "plan assets" of one or more such plans within the meaning of 29 C.F.R. Section 2510.3-101. In addition, (a) Borrower is not a "governmental plan" within the meaning of Section 3(32) of ERISA and (b) transactions by or with Borrower are not subject to any state or other statute, regulation or other restriction regulating investments of, or fiduciary obligations with respect to, governmental plans within the meaning of Section 3(32) of ERISA which is similar to the provisions of Section 406 of ERISA or Section 4975 of the Code and which prohibit or otherwise restrict the transactions contemplated by this Agreement, including but not limited to the exercise by Lender of any of its rights under the Loan Documents.

4.1.10 COMPLIANCE. Borrower and the Property and the use thereof comply in all material respects with all applicable Legal Requirements, including, without limitation, building and zoning ordinances and codes. Borrower is not in default or violation of any order, writ, injunction, decree or demand of any Governmental Authority. There has not been committed by Borrower or any other Person in occupancy of or involved with the operation or use of the Property any act or omission affording the federal government or any other Governmental Authority the right of forfeiture as against the Property or any part thereof or any monies paid in performance of Borrower's obligations under any of the Loan Documents.

4.1.11 FINANCIAL INFORMATION. All financial data, including, without limitation, the statements of cash flow and income and operating expense, that have been delivered to Lender in connection with the Loan (i) are true, complete and correct in all material respects, (ii) accurately represent the financial condition of Borrower and the Property, as applicable, as of the date of such reports, and (iii) to the extent prepared or audited by an independent certified public accounting firm, have been prepared in accordance with GAAP throughout the periods covered, except as disclosed therein. Except for Permitted Encumbrances, Borrower does not have any contingent liabilities, liabilities for taxes, unusual forward or long-term commitments or unrealized or anticipated losses from any unfavorable commitments that are known to Borrower and reasonably likely to have a materially adverse effect on the Property or the operation thereof as a shopping center, except as referred to or reflected in said financial statements. Since the date of such financial statements, there has been no materially adverse change in the financial condition, operations or business of Borrower from that set forth in said financial statements.

4.1.12 CONDEMNATION. No Condemnation or other similar proceeding has been commenced or, to Borrower's best knowledge, is threatened or contemplated with respect to all or any portion of the Property or for the relocation of roadways providing access to the Property.

4.1.13 FEDERAL RESERVE REGULATIONS. No part of the proceeds of the Loan will be used for the purpose of purchasing or acquiring any "margin stock" within the meaning of Regulation U of the Board of Governors of the Federal Reserve System or for any other purpose which would be inconsistent with such Regulation U or any other Regulations of such Board of Governors, or for any purposes prohibited by Legal Requirements or by the terms and conditions of this Agreement or the other Loan Documents.

4.1.14 UTILITIES AND PUBLIC ACCESS. The Property has rights of access to public ways and is served by water, sewer, sanitary sewer and storm drain facilities adequate to service the Property for its intended uses. All public utilities necessary or convenient to the full use and enjoyment of the Property are located either in the public right-of-way abutting the Property (which are connected so as to serve the Property without passing over other property) or in recorded easements serving the Property and such easements are set forth in and insured by the Title Insurance Policy. All roads necessary for the use of the Property for its current purposes have been completed and dedicated to public use and accepted by all Governmental Authorities.

4.1.15 NOT A FOREIGN PERSON. Borrower is not a "foreign person" within the meaning of ss.1445(f)(3) of the Code.

4.1.16 SEPARATE LOTS. The Property is comprised of one (1) or more parcels which constitute a separate tax lot or lots and does not constitute a portion of any other tax lot not a part of the Property.

4.1.17 ASSESSMENTS. There are no pending or proposed special or other assessments for public improvements or otherwise affecting the Property, nor are there any contemplated improvements to the Property that may result in such special or other assessments.

4.1.18 ENFORCEABILITY. The Loan Documents are not subject to any right of rescission, set-off, counterclaim or defense by Borrower or Guarantor, including the defense of usury, nor would the operation of any of the terms of the Loan Documents, or the exercise of any right thereunder, render the Loan Documents unenforceable (subject to principles of equity and bankruptcy, insolvency and other laws generally affecting creditors' rights and the enforcement of debtors' obligations), and neither Borrower nor Guarantor have asserted any right of rescission, set-off, counterclaim or defense with respect thereto.

4.1.19 NO PRIOR ASSIGNMENT. There are no prior assignments of the Leases or any portion of the Rents due and payable or to become due and payable which are presently outstanding.

4.1.20 INSURANCE. Borrower has obtained and has delivered to Lender certified copies of the Policies reflecting the insurance coverages, amounts and other requirements set forth in this Agreement. No claims have been made or are currently pending, outstanding or otherwise remain unsatisfied under any such Policy, and neither Borrower nor any other Person, has done, by act or omission, anything which would impair the coverage of any such Policy.

4.1.21 USE OF PROPERTY. The Property is used exclusively for retail shopping center purposes and other appurtenant and related uses.

4.1.22 CERTIFICATE OF OCCUPANCY; LICENSES. All certifications, permits, licenses and approvals, including without limitation, certificates of completion and occupancy permits required for the legal use, occupancy and operation of the Property as a retail shopping center (collectively, the "LICENSES"), have been obtained and are in full force and effect. Borrower shall keep and maintain all Licenses necessary for the operation of the Property as a retail shopping center with related retail uses. The use being made of the Property is in conformity with the certificate of occupancy issued for the Property.

4.1.23 FLOOD ZONE. None of the Improvements on the Property are located in an area as identified by the Federal Emergency Management Agency as an area having special flood hazards and, if so located, the flood insurance required pursuant to Section 6.1(a)(i) is in full force and effect with respect to the Property.

4.1.24 PHYSICAL CONDITION. The Property, including, without limitation, all buildings, improvements, parking facilities, sidewalks, storm drainage systems, roofs, plumbing systems, HVAC systems, fire protection systems, electrical systems, equipment, elevators, exterior sidings and doors, landscaping, irrigation systems and all structural components, are in good condition, order and repair in all material respects; there exists no structural or other material defects or damages in the Property, whether latent or otherwise, and Borrower has not received notice from any insurance company or bonding company of any defects or inadequacies in the Property, or any part thereof, which would adversely affect the insurability of the same or cause the imposition of extraordinary premiums or charges thereon or of any termination or threatened termination of any policy of insurance or bond.

4.1.25 BOUNDARIES. All of the improvements which were included in determining the appraised value of the Property lie wholly within the boundaries and building restriction lines of the Property, and no improvements on adjoining properties encroach upon the Property, and no easements or other encumbrances upon the Property encroach upon any of the Improvements, so as to affect the value or marketability of the Property except those which are insured against by the Title Insurance Policy.

4.1.26 LEASES. The Property is not subject to any leases other than the Leases described in the rent roll attached hereto as Schedule I and made a part hereof. Borrower is the owner and lessor of landlord's interest in the Leases. No Person has any possessory interest in the Property or right to occupy the same except under and pursuant to the provisions of the Leases. The current Leases are in full force and effect and there are no defaults thereunder by either party and there are no conditions that, with the passage of time or the giving of notice, or both, would constitute defaults thereunder. No Rent (including security deposits) has been paid more than one (1) month in advance of its due date. All work to be performed by Borrower under each Lease has been performed as required and has been accepted by the applicable tenant, and any payments, free rent, partial rent, rebate of rent or other payments, credits, allowances or abatements required to be given by Borrower to any tenant has already been received by such tenant. There has been no prior sale, transfer or assignment, hypothecation or pledge of any Lease or of the Rents received therein. No tenant listed on Schedule I has assigned its Lease or sublet all or any portion of the premises demised thereby, no such tenant holds its leased premises under assignment or sublease, nor does anyone except such tenant and its employees occupy such leased premises. No tenant under any Lease has a right

or option pursuant to such Lease or otherwise to purchase all or any part of the leased premises or the building of which the leased premises are a part. No tenant under any Lease has any right or option for additional space in the Improvements. No hazardous wastes or toxic substances, as defined by applicable federal, state or local statutes, rules and regulations, have been disposed, stored or treated by any tenant under any Lease on or about the leased premises nor does Borrower have any knowledge of any tenant's intention to use its leased premises for any activity which, directly or indirectly, involves the use, generation, treatment, storage, disposal or transportation of any petroleum product or any toxic or hazardous chemical, material, substance or waste.

4.1.27 SURVEY. The Survey for the Property delivered to Lender in connection with this Agreement has been prepared in accordance with the provisions of Section 3.1.3(c) hereof, and does not fail to reflect any material matter affecting the Property or the title thereto.

4.1.28 INVENTORY. Borrower is the owner of all of the Equipment, Fixtures and Personal Property (as such terms are defined in the Mortgage) located on or at the Property and shall not lease any Equipment, Fixtures or Personal Property other than as permitted hereunder. All of the Equipment, Fixtures and Personal Property are sufficient to operate the Property in the manner required hereunder and in the manner in which it is currently operated.

4.1.29 FILING AND RECORDING TAXES. All transfer taxes, deed stamps, intangible taxes or other amounts in the nature of transfer taxes required to be paid by any Person under applicable Legal Requirements currently in effect in connection with the transfer of the Property to Borrower have been paid. All mortgage, mortgage recording, stamp, intangible or other similar tax required to be paid by any Person under applicable Legal Requirements currently in effect in connection with the execution, delivery, recordation, filing, registration, perfection or enforcement of any of the Loan Documents, including, without limitation, the Mortgage, have been paid, and, under current Legal Requirements, the Mortgage is enforceable in accordance with its terms by Lender (or any subsequent holder thereof), subject to principles of equity and bankruptcy, insolvency and other laws generally applicable to creditors' rights and the enforcement of debtors' obligations.

4.1.30 SPECIAL PURPOSE ENTITY/SEPARATENESS. (a) Until the Debt has been paid in full, Borrower hereby represents, warrants and covenants that (i) Borrower is, shall be and shall continue to be a Special Purpose Entity and (ii) Principal is, shall be and shall continue to be a Special Purpose Entity.

(b) The representations, warranties and covenants set forth in Section 4.1.30(a) shall survive for so long as any amount remains payable to Lender under this Agreement or any other Loan Document.

(c) All of the facts stated and all of the assumptions made in the Insolvency Opinion, including, but not limited to, in any exhibits attached thereto, are true and correct in all respects and all facts stated and all assumptions made in any subsequent non-consolidation opinion required to be delivered in connection with the Loan Documents (an "ADDITIONAL INSOLVENCY OPINION"), including, but not limited to, any exhibits attached thereto, will have been and shall be true and correct in all respects. Borrower has complied and will comply with, and Principal has complied and Borrower will cause Principal to comply with, all of the assumptions made with respect to Borrower and Principal in the Insolvency Opinion. Borrower will have complied and will comply with all of the assumptions made with respect to Borrower and Principal in any Additional Insolvency Opinion. Each entity other than Borrower and Principal with respect to which an assumption shall be made in any Additional Insolvency Opinion will have complied and will comply with all of the assumptions made with respect to it in any Additional Insolvency Opinion.

4.1.31 PROPERTY MANAGEMENT. As of the Closing Date, there is no Management Agreement in effect with respect to, and no property management fee is or will be owed or payable to any Person in connection with the management of, the Property. The Property is managed solely by at will employees of Borrower's affiliate (presently the Guarantor), and no Manager shall be retained or appointed without the prior written consent of Lender. If such consent is granted, (a) the Property will be managed at all times by such Manager pursuant to a Management Agreement approved by Lender (unless terminated as herein provided), and (b) Borrower shall (i) diligently perform all terms and covenants of such Management Agreement, (ii) not surrender, terminate, cancel, or materially modify such Management Agreement, (iii) not enter into any other agreement relating to the management or operation of the Property with any other Person, (iv) not consent to the assignment by such Manager of its interest under such Management Agreement, or (v) not waive or release any of its rights and remedies under such Management Agreement, in each case, without the consent of Lender, which consent shall not be unreasonably withheld or delayed. If at any time Lender consents to the appointment of a Manager, such Manager and Borrower shall, as a condition to Lender's consent, execute a subordination of management agreement in form and substance reasonably satisfactory to Lender.

4.1.32 ILLEGAL ACTIVITY. No portion of the Property has been or will be purchased with proceeds of any illegal activity.

4.1.33 NO CHANGE IN FACTS OR CIRCUMSTANCES; DISCLOSURE. All information submitted by and on behalf of Borrower to Lender and in all financial statements, rent rolls (including the rent roll attached hereto as Schedule I), reports, certificates and other documents submitted in connection with the Loan or in satisfaction of the terms thereof and all statements of fact made by Borrower in this Agreement or in any other Loan Document, are accurate, complete and correct in all material respects. There has been no material adverse change in any condition, fact, circumstance or event that would make any such information inaccurate, incomplete or otherwise misleading in any material respect or that otherwise materially and adversely affects or might materially and adversely affect the use, operation or value of the Property or the business operations or the financial condition of Borrower. Borrower has disclosed to Lender all material facts and has not failed to disclose any material fact that could cause any Provided Information or representation or warranty made herein to be materially misleading.

4.1.34 INVESTMENT COMPANY ACT. Borrower is not (a) an "investment company" or a company "controlled" by an "investment company," within the meaning of the Investment Company Act of 1940, as amended; (b) a "holding company" or a "subsidiary company" of a "holding company" or an "affiliate" of either a "holding company" or a "subsidiary company" within the meaning of the Public Utility Holding Company Act of 1935, as amended; or (c) subject to any other federal or state law or regulation which purports to restrict or regulate its ability to borrow money.

4.1.35 EMBARGOED PERSON. As of the date hereof and at all times throughout the term of the Loan, including after giving effect to any Transfers permitted pursuant to the Loan Documents, (a) none of the funds or other assets of Borrower and Guarantor constitute property of, or are beneficially owned, directly or indirectly, by any Embargoed Person; (b) no Embargoed Person has any interest of any nature whatsoever in Borrower or Guarantor, as applicable, with the result that the investment in Borrower or Guarantor, as applicable (whether directly or indirectly), is prohibited by law or the Loan is in violation of law; and (c) none of the funds of Borrower or Guarantor, as applicable, have been derived from any unlawful activity with the result that the investment in Borrower or Guarantor, as applicable (whether directly or indirectly), is prohibited by law or the Loan is in violation of law.

4.1.36 PRINCIPAL PLACE OF BUSINESS; STATE OF ORGANIZATION. Borrower's principal place of business as of the date hereof is the address set forth in the introductory paragraph of this Agreement. The Borrower is organized under the laws of the State of Delaware.

4.1.37 LOAN TO VALUE. The maximum principal amount of the Loan does not exceed eighty percent (80%) of the fair market value of the Property.

4.1.38 MORTGAGE TAXES. As of the date hereof, Borrower represents that it has paid all state, county and municipal recording and all other taxes imposed upon the execution and recordation of the Mortgage.

4.1.39 CASH MANAGEMENT ACCOUNT. Borrower hereby represents and warrants to Lender that:

(a) This Agreement, together with the other Loan Documents, create a valid and continuing security interest (as defined in the Uniform Commercial Code of the State of New York) in the Lockbox Account and Cash Management Account in favor of Lender, which security interest is prior to all other Liens, other than Permitted Encumbrances, and is enforceable as such against creditors of and purchasers from Borrower. Other than in connection with the Loan Documents and except for Permitted Encumbrances, Borrower has not sold, pledged, transferred or otherwise conveyed the Lockbox Account and Cash Management Account;

(b) Each of the Lockbox Account and Cash Management Account constitute "deposit accounts" and/or "securities accounts" within the meaning of the Uniform Commercial Code of the State of New York);

(c) Pursuant and subject to the terms hereof and the other applicable Loan Documents, the Lockbox Bank and Agent have agreed to comply with all instructions originated by Lender, without further consent by Borrower, directing disposition of the Lockbox Account and Cash Management Account and all sums at any time held, deposited or invested therein, together with any interest or other earnings thereon, and all proceeds thereof (including proceeds of sales and other dispositions), whether accounts, general intangibles, chattel paper, deposit accounts, instruments, documents or securities; and

(d) The Lockbox Account and Cash Management Account are not in the name of any Person other than Borrower, as pledgor, or Lender, as pledgee. Borrower has not consented to the Lockbox Bank and Agent complying with instructions with respect to the Lockbox Account and Cash Management Account from any Person other than Lender.

SECTION 4.2 SURVIVAL OF REPRESENTATIONS. Borrower agrees that all of the representations and warranties of Borrower set forth in Section 4.1 hereof and elsewhere in this Agreement and in the other Loan Documents shall survive for so long as any amount remains owing to Lender under this Agreement or any of the other Loan Documents by Borrower. All representations, warranties, covenants and agreements made in this Agreement or in the other Loan Documents by Borrower shall be deemed to have been relied upon by Lender notwithstanding any investigation heretofore or hereafter made by Lender or on its behalf.

V. BORROWER COVENANTS

SECTION 5.1 AFFIRMATIVE COVENANTS. From the date hereof and until payment and performance in full of all obligations of Borrower under the Loan Documents or the earlier release of the Lien of the Mortgage encumbering the Property (and all related obligations) in accordance with the terms of this Agreement and the other Loan Documents, Borrower hereby covenants and agrees with Lender that:

5.1.1 EXISTENCE; COMPLIANCE WITH LEGAL REQUIREMENTS. Borrower shall do or cause to be done all things necessary to preserve, renew and keep in full force and effect its existence, rights, licenses, permits and franchises and comply with all Legal Requirements applicable to it and the Property. There shall never be committed by Borrower, and Borrower shall never permit any other Person in occupancy of or involved with the operation or use of the Property to commit any act or omission affording the federal government or any state or local government the right of forfeiture against the Property or any part thereof or any monies paid in performance of Borrower's obligations under any of the Loan Documents. Borrower hereby covenants and agrees not to commit, permit or suffer to exist any act or omission affording such right of forfeiture. Borrower shall at all times maintain, preserve and protect all franchises and trade names and preserve all the remainder of its property used or useful in the conduct of its business and shall keep the Property in good working order and repair, and from time to time make, or cause to be made, all reasonably necessary repairs, renewals, replacements, betterments and improvements thereto, all as more fully provided in the Mortgage. Borrower shall keep the Property insured at all times by financially sound and reputable insurers, to such extent and against such risks, and maintain liability and such other insurance, as is more fully provided in this Agreement. Borrower shall operate the Property in accordance with the terms and provisions of the O&M Agreement in all material respects. After prior written notice to Lender, Borrower, at its own expense, may contest by appropriate legal proceeding promptly initiated and conducted in good faith and with due diligence, the validity of any Legal Requirement, the applicability of any Legal Requirement to Borrower or the Property or any alleged violation of any Legal Requirement, provided that (i) no Default or Event of Default has occurred and remains uncured; (ii) Borrower is permitted to do so under the provisions of any mortgage or deed of trust superior in lien to the Mortgage; (iii) such proceeding shall be permitted under and be conducted in accordance with the provisions of any instrument to which Borrower is subject and shall not constitute a default thereunder and such proceeding shall be conducted in accordance with all applicable statutes, laws and ordinances; (iv) neither the Property nor any part thereof or interest therein will be in danger of being sold, forfeited, terminated, cancelled or lost; (v) Borrower shall

promptly upon final determination thereof comply with any such Legal Requirement determined to be valid or applicable or cure any violation of any Legal Requirement; (vi) such proceeding shall suspend the enforcement of the contested Legal Requirement against Borrower or the Property; and (vii) Borrower shall furnish such security as may be required in the proceeding, or as may be requested by Lender, to insure compliance with such Legal Requirement, together with all interest and penalties payable in connection therewith. Lender may apply any such security, as necessary to cause compliance with such Legal Requirement at any time when, in the reasonable judgment of Lender, the validity, applicability or violation of such Legal Requirement is finally established or the Property (or any part thereof or interest therein) shall be in danger of being sold, forfeited, terminated, cancelled or lost.

5.1.2 TAXES AND OTHER CHARGES. Borrower shall pay all Taxes and Other Charges now or hereafter levied or assessed or imposed against the Property or any part thereof as the same become due and payable; provided, however, Borrower's obligation to directly pay Taxes shall be suspended for so long as Borrower complies with the terms and provisions of Section 7.2 hereof. Borrower will deliver to Lender receipts for payment or other evidence satisfactory to Lender that the Taxes and Other Charges have been so paid or are not then delinquent no later than ten (10) days prior to the date on which the Taxes and/or Other Charges would otherwise be delinquent if not paid. Borrower shall furnish to Lender receipts for the payment of the Taxes and the Other Charges prior to the date the same shall become delinquent (provided, however, Borrower is not required to furnish such receipts for payment of Taxes in the event that such Taxes have been paid by Lender pursuant to Section 7.2 hereof). Borrower shall not suffer and shall promptly cause to be paid and discharged any Lien or charge whatsoever which may be or become a Lien or charge against the Property, and shall promptly pay for all utility services provided to the Property. After prior written notice to Lender, Borrower, at its own expense, may contest by appropriate legal proceeding, promptly initiated and conducted in good faith and with due diligence, the amount or validity or application in whole or in part of any Taxes or Other Charges, provided that (i) no Default or Event of Default has occurred and remains uncured; (ii) Borrower is permitted to do so under the provisions of any mortgage or deed of trust superior in lien to the Mortgage; (iii) such proceeding shall be permitted under and be conducted in accordance with the provisions of any other instrument to which Borrower is subject and shall not constitute a default thereunder and such proceeding shall be conducted in accordance with all applicable statutes, laws and ordinances; (iv) neither the Property nor any part thereof or interest therein will be in danger of being sold, forfeited, terminated, cancelled or lost; (v) Borrower shall promptly upon final determination thereof pay the amount of any such Taxes or Other Charges, together with all costs, interest and penalties which may be payable in connection therewith; (vi) such proceeding shall suspend the collection of such contested Taxes or Other Charges from the Property; and (vii) Borrower shall furnish such security as may be required in the proceeding, or as may be requested by Lender, to insure the payment of any such Taxes or Other Charges, together with all interest and penalties thereon. Lender may pay over any such cash deposit or part thereof held by Lender to the claimant entitled thereto at any time when, in the judgment of Lender, the entitlement of such claimant is established or the Property (or part thereof or interest therein) shall be in danger of being sold, forfeited, terminated, cancelled or lost or there shall be any danger of the Lien of the Mortgage being primed by any related Lien.

5.1.3 LITIGATION. Borrower shall give prompt written notice to Lender of any litigation or governmental proceedings pending or threatened against Borrower and/or Guarantor which might materially adversely affect Borrower's or Guarantor's condition (financial or otherwise) or business or the Property.

5.1.4 ACCESS TO PROPERTY. Borrower shall permit agents, representatives and employees of Lender to inspect the Property or any part thereof at reasonable hours upon reasonable advance notice.

5.1.5 NOTICE OF DEFAULT. Borrower shall promptly advise Lender of any material adverse change in Borrower's condition, financial or otherwise, or of the occurrence of any Default or Event of Default of which Borrower has knowledge.

5.1.6 COOPERATE IN LEGAL PROCEEDINGS. Borrower shall cooperate fully with Lender with respect to any proceedings before any court, board or other Governmental Authority which may in any way affect the rights of Lender hereunder or any rights obtained by Lender under any of the other Loan Documents and, in connection therewith, permit Lender, at its election, to participate in any such proceedings.

5.1.7 PERFORM LOAN DOCUMENTS. Borrower shall observe, perform and satisfy all the terms, provisions, covenants and conditions of, and shall pay when due all costs, fees and expenses to the extent required under the Loan Documents executed and delivered by, or applicable to, Borrower.

5.1.8 AWARD AND INSURANCE BENEFITS. Borrower shall cooperate with Lender in obtaining for Lender the benefits of any Awards or Insurance Proceeds lawfully or equitably payable in connection with the Property, and Lender shall be reimbursed for any expenses incurred in connection therewith (including attorneys' fees and disbursements, and the payment by Borrower of the expense of an appraisal on behalf of Lender in case of Casualty or Condemnation affecting the Property or any part thereof) out of such Insurance Proceeds.

5.1.9 FURTHER ASSURANCES. Borrower shall, at Borrower's sole cost and expense:

(a) furnish to Lender all instruments, documents, boundary surveys, footing or foundation surveys, certificates, plans and specifications, appraisals, title and other insurance reports and agreements, and each and every other document, certificate, agreement and instrument required to be furnished by Borrower pursuant to the terms of the Loan Documents or which are reasonably requested by Lender in connection therewith;

(b) execute and deliver to Lender such documents, instruments, certificates, assignments and other writings, and do such other acts necessary or desirable, to evidence, preserve and/or protect the collateral at any time securing or intended to secure the obligations of Borrower under the Loan Documents, as Lender may reasonably require; and

(c) do and execute all and such further lawful and reasonable acts, conveyances and assurances for the better and more effective carrying out of the intents and purposes of this Agreement and the other Loan Documents, as Lender shall reasonably require from time to time.

5.1.10 PRINCIPAL PLACE OF BUSINESS, STATE OF ORGANIZATION.

Borrower will not cause or permit any change to be made in its name, identity (including its trade name or names), place of organization or formation (as set forth in Section 4.1.36 hereof) or Borrower's corporate or partnership structure unless Borrower shall have first notified Lender in writing of such change at least thirty (30) days prior to the effective date of such change, and shall have first taken all action required by Lender for the purpose of perfecting or protecting the lien and security interests of Lender pursuant to this Agreement, the Cash Management Agreement and the other Loan Documents and, in the case of a change in Borrower's structure, without first obtaining the prior consent of Lender. Upon Lender's request, Borrower shall execute and deliver additional financing statements, security agreements and other instruments which may be necessary to effectively evidence or perfect Lender's security interest in the Property as a result of such change of principal place of business or place of organization. Borrower's principal place of business and chief executive office, and the place where Borrower keeps its books and records, including recorded data of any kind or nature, regardless of the medium or recording, including software, writings, plans, specifications and schematics, has been for the preceding four months (or, if less, the entire period of the existence of Borrower) and will continue to be the address of Borrower set forth at the introductory paragraph of this Agreement (unless Borrower notifies Lender in writing at least thirty (30) days prior to the date of such change). Borrower's organizational identification number, if any, assigned by the state of incorporation or organization is correctly set forth in the introductory paragraph of this Agreement. Borrower shall promptly notify Lender of any change in its organizational identification number. If Borrower does not now have an organizational identification number and later obtains one, Borrower promptly shall notify Lender of such organizational identification number.

5.1.11 FINANCIAL REPORTING. (a) Borrower will keep and

maintain or will cause to be kept and maintained on a Fiscal Year basis, in accordance with GAAP (or such other accounting basis acceptable to Lender), proper and accurate books, records and accounts reflecting all of the financial affairs of Borrower and all items of income and expense in connection with the operation of the Property. Lender shall have the right from time to time at all times during normal business hours upon reasonable notice to examine such books, records and accounts at the office of Borrower or any other Person maintaining such books, records and accounts and to make such copies or extracts thereof as Lender shall desire. After the occurrence of an Event of Default, Borrower shall pay any costs and expenses incurred by Lender to examine Borrower's accounting records with respect to the Property, as Lender shall determine to be necessary or appropriate in the protection of Lender's interest. Upon Lender's reasonable request, Borrower shall deliver to Lender such other information necessary and sufficient to fairly represent the financial condition of Borrower and the Property.

(b) Borrower will furnish to Lender annually, within one hundred twenty (120) days following the end of each Fiscal Year of Borrower, a complete internal copy of Borrower's annual (unaudited) financial statements covering the Property for such Fiscal Year and containing statements of profit and loss for Borrower and the Property and a balance sheet for Borrower. Such statements shall set forth the financial condition and the results of operations for the Property for such Fiscal Year, and shall include, but not be limited to, amounts representing annual Net Cash Flow, Net Operating Income, Gross Income from Operations and Operating Expenses. Borrower's annual financial statements shall be accompanied by (i) a comparison of the budgeted income and expenses and the actual income and expenses for the prior Fiscal Year and (ii) an Officer's Certificate stating that each such annual financial statement presents fairly the financial condition and the results of operations of Borrower and the Property being reported upon and has been prepared in accordance with GAAP. Together with Borrower's annual financial statements, Borrower shall furnish to Lender an Officer's Certificate certifying as of the date thereof whether there exists an event or circumstance which constitutes a Default or Event of Default under the Loan Documents executed and delivered by, or applicable to, Borrower, and if such Default or Event of Default exists, the nature thereof, the period of time it has existed and the action then being taken to remedy the same.

(c) Borrower will furnish, or cause to be furnished, to Lender on or before thirty (30) days after the end March, June, September and December throughout the term of the Loan the following items, accompanied by an Officer's Certificate stating that such items are true, correct, accurate, and complete and fairly present the financial condition and results of the operations of Borrower and the Property (subject to normal year-end adjustments) as applicable: (i) monthly and year-to-date operating statements (including Capital Expenditures) prepared for each calendar month, noting Net Operating Income, Gross Income from Operations, and Operating Expenses (not including any contributions to the Replacement Reserve Fund and the Required Repair Fund), and other information necessary and sufficient to fairly represent the financial position and results of operation of the Property during such calendar month, and containing a comparison of budgeted income and expenses and the actual income and expenses together with a detailed explanation of any variances of five percent (5%) or more between budgeted and actual amounts for such periods for an individual items in excess of \$5,000, all in form satisfactory to Lender; (ii) a calculation reflecting the annual Debt Service Coverage Ratio for the immediately preceding twelve (12) month period as of the last day of such month accompanied by an Officers' Certificate with respect thereto; and (iii) a Net Cash Flow Schedule. In addition, such Officer's Certificate shall also state the representations and warranties of Borrower set forth in Section 4.1.30 are true and correct as of the date of such certificate and that there are no trade payables outstanding for more than sixty (60) days.

(d) Borrower will furnish, or cause to be furnished, to Lender on or before thirty (30) days after the end March, June, September and December throughout the term of the Loan, a occupancy report for the subject month, including an average daily rate, accompanied by an Officer's Certificate stating that such report is true, correct, accurate, and complete and fairly presents the financial condition and results of the operations of Borrower and the Property (subject to normal year-end adjustments) as applicable.

(e) For the partial year period commencing on the date hereof, and for each Fiscal Year thereafter, Borrower shall submit to Lender an Annual Budget not later than thirty (30) days prior to the commencement of such period or Fiscal Year in form reasonably satisfactory to Lender. The Annual Budget shall be subject to Lender's written approval (each such Annual Budget, an "APPROVED ANNUAL BUDGET"). In the event that Lender objects to a proposed Annual Budget submitted by Borrower, Lender shall advise Borrower of such objections within fifteen (15) days after receipt thereof (and deliver to Borrower a reasonably detailed description of such objections) and Borrower shall promptly revise such Annual Budget and resubmit the same to Lender. Lender shall advise Borrower of any objections to such revised Annual Budget within ten (10) days after receipt thereof (and deliver to Borrower a reasonably detailed description of such objections) and Borrower shall promptly revise the same in accordance with the process described in this subsection until Lender approves the Annual Budget. Until such time that Lender approves a proposed Annual Budget, the most recently Approved Annual Budget shall apply; provided that, such Approved Annual Budget shall be adjusted to reflect actual increases in Taxes, Insurance Premiums and Other Charges. Notwithstanding anything to the contrary contained herein, Lender hereby approves Borrower's 2006 Annual Budget attached hereto as Schedule 5.1.11(e).

(f) In the event that, Borrower must incur an extraordinary operating expense or capital expense not set forth in the Approved Annual Budget (each an "EXTRAORDINARY EXPENSE"), then Borrower shall promptly deliver to Lender a reasonably detailed explanation of such proposed Extraordinary Expense for Lender's approval, except in the case of emergency (provided that Borrower will notify Lender promptly after such emergency).

(g) Reserved.

(h) Reserved.

(i) Reserved.

(j) Reserved.

(k) Reserved.

(l) Any reports, statements or other information required to be delivered under this Agreement shall be delivered (i) in paper form, (ii) on a diskette, and (iii) if requested by Lender and within the capabilities of Borrower's data systems without change or modification thereto, in electronic form and prepared using a Microsoft Word for Windows or WordPerfect for Windows files (which files may be prepared using a spreadsheet program and saved as word processing files). Borrower agrees that Lender may disclose information regarding the Property and Borrower that is provided to Lender pursuant to this Section 5.1.11(k) in connection with the Securitization to such parties requesting such information in connection with such Securitization.

5.1.12 BUSINESS AND OPERATIONS. Borrower will continue to engage in the businesses presently conducted by it as and to the extent the same are necessary for the ownership, maintenance, management and operation of the Property. Borrower will qualify to do business and will remain in good standing under the laws of the jurisdiction of its formation as and to the extent the same are required for the ownership, maintenance, management and operation of the Property. Borrower shall at all times during the term of the Loan, continue to own all of Equipment, Fixtures and Personal Property which are necessary to operate the Property in the manner required hereunder and in the manner in which it is currently operated.

5.1.13 TITLE TO THE PROPERTY. Borrower will warrant and defend

(a) the title to the Property and every part thereof, subject only to Liens permitted hereunder (including Permitted Encumbrances) and (b) the validity and priority of the Lien of the Mortgage and the Assignment of Leases on the Property, subject only to Liens permitted hereunder (including Permitted Encumbrances), in each case against the claims of all Persons whomsoever. Borrower shall reimburse Lender for any losses, costs, damages or expenses (including reasonable attorneys' fees and court costs) incurred by Lender if an interest in the Property, other than as permitted hereunder, is claimed by another Person.

5.1.14 COSTS OF ENFORCEMENT. In the event (a) that the

Mortgage encumbering the Property is foreclosed in whole or in part or that the Mortgage is put into the hands of an attorney for collection, suit, action or foreclosure, (b) of the foreclosure of any mortgage encumbering the Property prior to or subsequent to the Mortgage in which proceeding Lender is made a party, or (c) of the bankruptcy, insolvency, rehabilitation or other similar proceeding in respect of Borrower or any of its constituent Persons or an assignment by Borrower or any of its constituent Persons for the benefit of its creditors, Borrower, its successors or assigns, shall be chargeable with and agrees to pay all costs of collection and defense, including attorneys' fees and costs, incurred by Lender or Borrower in connection therewith and in connection with any appellate proceeding or post-judgment action involved therein, together with all required service or use taxes.

5.1.15 ESTOPPEL STATEMENT. (a) After request by Lender,

Borrower shall within ten (10) days furnish Lender with a statement, duly acknowledged and certified, setting forth (i) the original principal amount of the Note, (ii) the unpaid principal amount of the Note, (iii) the Interest Rate of the Note, (iv) the date installments of interest and/or principal were last paid, (v) any offsets or defenses to the payment of the Debt, if any, and (vi) that the Note, this Agreement, the Mortgage and the other Loan Documents are valid, legal and binding obligations and have not been modified or if modified, giving particulars of such modification.

(b) Borrower shall deliver to Lender upon request, tenant

estoppel certificates from each commercial tenant leasing space at the Property in form and substance reasonably satisfactory to Lender provided that Borrower shall not be required to deliver such certificates more frequently than two (2) times in any calendar year.

5.1.16 LOAN PROCEEDS. Borrower shall use the proceeds of the

Loan received by it on the Closing Date only for the purposes set forth in Section 2.1.4 hereof.

5.1.17 PERFORMANCE BY BORROWER. Borrower shall in a timely

manner observe, perform and fulfill each and every covenant, term and provision of each Loan Document executed and delivered by, or applicable to, Borrower, and shall not enter into or otherwise suffer or permit any amendment, waiver, supplement, termination or other modification of any Loan Document executed and delivered by, or applicable to, Borrower without the prior written consent of Lender.

5.1.18 CONFIRMATION OF REPRESENTATIONS. Borrower shall deliver, in connection with any Securitization, (a) one (1) or more Officer's Certificates certifying as to the accuracy of all representations made by Borrower in the Loan Documents as of the date of the closing of such Securitization in all relevant jurisdictions, and (b) certificates of the relevant Governmental Authorities in all relevant jurisdictions indicating the good standing and qualification of Borrower, Principal and Guarantor as of the date of the Securitization.

5.1.19 NO JOINT ASSESSMENT. Borrower shall not suffer, permit or initiate the joint assessment of the Property (a) with any other real property constituting a tax lot separate from the Property, and (b) which constitutes real property with any portion of the Property which may be deemed to constitute personal property, or any other procedure whereby the lien of any taxes which may be levied against such personal property shall be assessed or levied or charged to such real property portion of the Property.

5.1.20 LEASING MATTERS. Any Leases with respect to the Property written after the date hereof, for more than 10,000 square feet shall be approved by Lender, which approval shall not be unreasonably withheld, conditioned or delayed. Upon request, Borrower shall furnish Lender with executed copies of all Leases. All renewals of Leases and all proposed Leases shall provide for rental rates comparable to existing local market rates. All proposed Leases shall be on commercially reasonable terms and shall not contain any terms which would materially affect Lender's rights under the Loan Documents. All Leases executed after the date hereof shall provide that they are subordinate to the Mortgage and that the lessee agrees to attorn to Lender or any purchaser at a sale by foreclosure or power of sale. Borrower (i) shall observe and perform the obligations imposed upon the lessor under the Leases in a commercially reasonable manner; (ii) shall enforce and may amend or terminate the terms, covenants and conditions contained in the Leases upon the part of the lessee thereunder to be observed or performed in a commercially reasonable manner and in a manner not to impair the value of the Property involved except that no termination by Borrower or acceptance of surrender by a tenant of any Leases shall be permitted unless by reason of a tenant default and then only in a commercially reasonable manner to preserve and protect the Property; provided, however, that no such termination or surrender of any Lease covering more than 10,000 square feet will be permitted without the written consent of Lender; (iii) shall not collect any of the rents more than one (1) month in advance (other than security deposits); (iv) shall not execute any other assignment of lessor's interest in the Leases or the Rents (except as contemplated by the Loan Documents); (v) shall not alter, modify or change the terms of the Leases in a manner inconsistent with the provisions of the Loan Documents; and (vi) shall execute and deliver at the request of Lender all such further assurances, confirmations and assignments in connection with the Leases as Lender shall from time to time reasonably require. Notwithstanding anything to the contrary contained herein, Borrower shall not enter into a lease of all or substantially all of the Property without Lender's prior written consent. Further notwithstanding anything to the contrary contained herein, Borrower shall provide Lender at least fifteen (15) days prior notice for the approval or rejection of any proposed Lease demising over 10,000 (each a "Material Lease"). In the event that Lender fails to respond within the required time period, such failure shall be deemed to be the consent and approval of the Material Lease by Lender if (I) Borrower has delivered to Lender all required documents and information necessary to adequately and completely evaluate the Material Lease, (II) Borrower has resubmitted the Material Lease with the notation "IMMEDIATE RESPONSE REQUIRED, FAILURE TO RESPOND TO THIS LEASE APPROVAL REQUEST WITHIN FIFTEEN (15) BUSINESS DAYS FROM RECEIPT SHALL BE DEEMED TO BE LENDER'S APPROVAL OF THE LEASE" prominently displayed in bold, all caps and fourteen (14) point or larger font at the top of each page of the Material Lease and the envelope containing such Material Lease and (III) Lender does not approve or reject the proposed Material Lease within fifteen (15) Business Days from the date Lender receives the resubmitted request; provided, however, in no event shall Lender's consent be deemed given without the written approval of Lender if the Lease is for 10,000 square feet or greater.

5.1.21 ALTERATIONS. Borrower shall obtain Lender's prior written consent to any alterations to any Improvements, which consent shall not be unreasonably withheld or delayed except with respect to alterations that may have a material adverse effect on Borrower's financial condition, the value of the Property or the Net Operating Income. Notwithstanding the foregoing, Lender's consent shall not be required in connection with any alterations that will not have a material adverse effect on Borrower's financial condition, the value of the Property or the Net Operating Income, provided that such alterations are made in connection with (a) tenant improvement work performed pursuant to the terms of any Lease executed on or before the date hereof, (b) tenant improvement work performed pursuant to the terms and provisions of a Lease and not adversely affecting any structural component of any Improvements, any utility or HVAC system contained in any Improvements or the exterior of any building constituting a part of any Improvements, or (c) alterations performed in connection with the Restoration of the Property after the occurrence of a Casualty or Condemnation in accordance with the terms and provisions of this Agreement. If the total unpaid amounts due and payable with respect to alterations to the Improvements at the Property (other than such amounts to be paid or reimbursed by tenants under the Leases) shall at any time exceed Two Hundred Fifty Thousand and 00/100 Dollars (\$250,000.00) (the "THRESHOLD AMOUNT"), Borrower shall promptly deliver to Lender as security for the payment of such amounts and as additional security for Borrower's obligations under the Loan Documents any of the following: (A) cash, (B) U.S. Obligations, (C) other securities having a rating acceptable to Lender and that the applicable Rating Agencies have confirmed in writing will not, in and of itself, result in a downgrade, withdrawal or qualification of the initial, or, if higher, then current ratings assigned to any Securities or any class thereof in connection with any Securitization or (D) a completion and performance bond or an irrevocable letter of credit (payable on sight draft only) issued by a financial institution having a rating by S&P of not less than "A-1+" if the term of such bond or letter of credit is no longer than three (3) months or, if such term is in excess of three (3) months, issued by a financial institution having a rating that is acceptable to Lender and that the applicable Rating Agencies have confirmed in writing will not, in and of itself, result in a downgrade, withdrawal or qualification of the initial, or, if higher, then current ratings assigned to any Securities or class thereof in connection with any Securitization. Such security shall be in an amount equal to the excess of the total unpaid amounts with respect to alterations to the Improvements on the Property (other than such amounts to be paid or reimbursed by tenants under the Leases) over the Threshold Amount and Lender may apply such security from time to time at the option of Lender to pay for such alterations.

5.1.22 OPERATION OF PROPERTY. (a) Borrower shall cause the Property to be maintained in a good and safe condition and repair. (b) To the extent a Management Agreement is in effect, Borrower shall cause the Property to be operated, in all material respects, in accordance with the Management Agreement (or Replacement Management Agreement) as applicable. In the event that the Management Agreement expires or is terminated (without limiting any obligation of Borrower to obtain Lender's consent to any termination or modification of the Management Agreement in accordance with the terms and provisions of this Agreement), Borrower shall promptly enter into a Replacement Management Agreement with Manager or another Qualified Manager, as applicable.

(c) Borrower shall: (i) promptly perform and/or observe, in all material respects, all of the covenants and agreements required to be performed and observed by it under the Management Agreement, if any, and do all things necessary to preserve and to keep unimpaired its material rights thereunder; (ii) promptly notify Lender of any material default under the Management Agreement of which it is aware; (iii) promptly deliver to Lender a copy of each financial statement, business plan, capital expenditures plan, notice, report and estimate received by it under the Management Agreement; and (iv) enforce the performance and observance of all of the covenants and agreements required to be performed and/or observed by Manager under the Management Agreement, in a commercially reasonable manner.

5.1.23 EMBARGOED PERSON. Borrower has performed and shall perform reasonable due diligence to insure that at all times throughout the term of the Loan, including after giving effect to any Transfers permitted pursuant to the Loan Documents, (a) none of the funds or other assets of Borrower, Principal and Guarantor constitute property of, or are beneficially owned, directly or indirectly, by any person, entity or government subject to trade restrictions under U.S. law, including, but not limited to, The USA PATRIOT Act (including the anti-terrorism provisions thereof), the International Emergency Economic Powers Act, 50 U.S.C. ss.ss. 1701, et seq., The Trading with the Enemy Act, 50 U.S.C. App. 1 et seq., and any Executive Orders or regulations promulgated thereunder including those related to Specially Designated Nationals and Specially Designated Global Terrorists, with the result that the investment in Borrower, Principal or Guarantor, as applicable (whether directly or indirectly), is prohibited by law or the Loan made by the Lender is in violation of law ("EMBARGOED PERSON"); (b) no Embargoed Person has any interest of any nature whatsoever in Borrower, Principal or Guarantor, as applicable, with the result that the investment in Borrower, Principal or Guarantor, as applicable (whether directly or indirectly), is prohibited by law or the Loan is in violation of law; and (c) none of the funds of Borrower, Principal or Guarantor, as applicable, have been derived from, or are the proceeds of, any unlawful activity, including money laundering, terrorism or terrorism activities, with the result that the investment in Borrower, Principal or Guarantor, as applicable (whether directly or indirectly), is prohibited by law or the Loan is in violation of law, or may cause the Property to be subject to forfeiture or seizure.

SECTION 5.2 NEGATIVE COVENANTS. From the date hereof until payment and performance in full of all obligations of Borrower under the Loan Documents or the earlier release of the Lien of the Mortgage and any other collateral in accordance with the terms of this Agreement and the other Loan Documents, Borrower covenants and agrees with Lender that it will not do, directly or indirectly, any of the following:

5.2.1 OPERATION OF PROPERTY. (a) Borrower shall not, without Lender's prior written consent (which consent shall not be unreasonably withheld): (i) surrender, terminate, cancel, amend or modify the Management Agreement; provided, that Borrower may, without Lender's consent, replace the Manager so long as the replacement manager is a Qualified Manager pursuant to a Replacement Management Agreement; (ii) reduce or consent to the reduction of the term of the Management Agreement; (iii) increase or consent to the increase of the amount of any charges under the Management Agreement; or (iv) otherwise modify, change, supplement, alter or amend, or waive or release any of its rights and remedies under, the Management Agreement in any material respect.

(b) Following the occurrence and during the continuance of an Event of Default, Borrower shall not exercise any rights, make any decisions, grant any approvals or otherwise take any action under the Management Agreement without the prior written consent of Lender, which consent may be granted, conditioned or withheld in Lender's sole discretion.

5.2.2 LIENS. Borrower shall not create, incur, assume or suffer to exist any Lien on any portion of the Property or permit any such action to be taken, except:

- (i) Permitted Encumbrances;
- (ii) Liens created by or permitted pursuant to the Loan Documents; and
- (iii) Liens for Taxes or Other Charges not yet due.

5.2.3 DISSOLUTION. Borrower shall not (a) engage in any dissolution, liquidation or consolidation or merger with or into any other business entity, (b) engage in any business activity not related to the ownership and operation of the Property, (c) transfer, lease or sell, in one transaction or any combination of transactions, the assets or all or substantially all of the properties or assets of Borrower except to the extent permitted by the Loan Documents, (d) modify, amend, waive or terminate its organizational documents or its qualification and good standing in any jurisdiction or (e) cause the Principal to (i) dissolve, wind up or liquidate or take any action, or omit to take an action, as a result of which the Principal would be dissolved, wound up or liquidated in whole or in part, or (ii) amend, modify, waive or terminate the certificate of incorporation or bylaws of the Principal, in each case, without obtaining the prior written consent of Lender or Lender's designee.

5.2.4 CHANGE IN BUSINESS. Borrower shall not enter into any line of business other than the ownership and operation of the Property, or make any material change in the scope or nature of its business objectives, purposes or operations, or undertake or participate in activities other than the continuance of its present business. Nothing contained in this Section 5.2.4 is intended to expand the rights of Borrower contained in Section 5.2.10(d) hereof.

5.2.5 DEBT CANCELLATION. Borrower shall not cancel or otherwise forgive or release any claim or debt (other than termination of Leases in accordance herewith) owed to Borrower by any Person, except for adequate consideration and in the ordinary course of Borrower's business.

5.2.6 ZONING. Borrower shall not initiate or consent to any zoning reclassification of any portion of the Property or seek any variance under any existing zoning ordinance or use or permit the use of any portion of the Property in any manner that could result in such use becoming a non-conforming use under any zoning ordinance or any other applicable land use law, rule or regulation, without the prior consent of Lender.

5.2.7 INTENTIONALLY OMITTED.

5.2.8 INTENTIONALLY OMITTED.

5.2.9 ERISA. (a) Borrower shall not engage in any transaction which would cause any obligation, or action taken or to be taken, hereunder (or the exercise by Lender of any of its rights under the Note, this Agreement or the other Loan Documents) to be a non-exempt (under a statutory or administrative class exemption) prohibited transaction under ERISA.

(b) Borrower further covenants and agrees to deliver to Lender such certifications or other evidence from time to time throughout the term of the Loan, as requested by Lender in its sole discretion, that (A) Borrower is not and does not maintain an "employee benefit plan" as defined in Section 3(3) of ERISA, which is subject to Title I of ERISA, or a "governmental plan" within the meaning of Section 3(32) of ERISA; (B) Borrower is not subject to any state statute regulating investment of, or fiduciary obligations with respect to governmental plans and (C) one or more of the following circumstances is true:

(i) Equity interests in Borrower are publicly offered securities, within the meaning of 29 C.F.R. ss.2510.3-101(b)(2);

(ii) Less than twenty-five percent (25%) of each outstanding class of equity interests in Borrower are held by "benefit plan investors" within the meaning of 29 C.F.R. ss.2510.3-101(f)(2); or

(iii) Borrower qualifies as an "operating company" or a "real estate operating company" within the meaning of 29 C.F.R. ss.2510.3-101(c) or (e).

5.2.10 TRANSFERS. (a) Borrower acknowledges that Lender has examined and relied on the experience of Borrower and its stockholders, general partners, members, principals and (if Borrower is a trust) beneficial owners in owning and operating properties such as the Property in agreeing to make the Loan, and will continue to rely on Borrower's ownership of the Property as a means of maintaining the value of the Property as security for repayment of the Debt and the performance of the Other Obligations. Borrower acknowledges that Lender has a valid interest in maintaining the value of the Property so as to ensure that, should Borrower default in the repayment of the Debt or the performance of the Other Obligations, Lender can recover the Debt by a sale of the Property.

(b) Without the prior written consent of Lender, and except to the extent otherwise set forth in this Section 5.2.10, Borrower shall not, and shall not permit any Restricted Party do any of the following (collectively, a "Transfer"): (i) sell, convey, mortgage, grant, bargain, encumber, pledge, assign, grant options with respect to, or otherwise transfer or dispose of (directly or indirectly, voluntarily or involuntarily, by operation of law or otherwise, and whether or not for consideration or of record) the Property or any part thereof or any legal or beneficial interest therein or (ii) permit a Sale or Pledge of an interest in any Restricted Party, other than (A) pursuant to Leases of space in the Improvements to tenants in accordance with the provisions of Section 5.1.20 and (B) Permitted Transfers.

(c) A Transfer shall include, but not be limited to, (i) an installment sales agreement wherein Borrower agrees to sell the Property or any part thereof for a price to be paid in installments; (ii) an agreement by Borrower leasing all or a substantial part of the Property for other than actual occupancy by a space tenant thereunder or a sale, assignment or other transfer of, or the grant of a security interest in, Borrower's right, title and interest in and to any Leases or any Rents; (iii) if a Restricted Party is a corporation, any merger, consolidation or Sale or Pledge of such corporation's stock or the creation or issuance of new stock; (iv) if a Restricted Party is a limited or general partnership or joint venture, any merger or consolidation or the change, removal, resignation or addition of a general partner or the Sale or Pledge of the partnership interest of any general partner or any profits or proceeds relating to such partnership interest, or the Sale or Pledge of limited partnership interests or any profits or proceeds relating to such limited partnership interest or the creation or issuance of new limited partnership interests; (v) if a Restricted Party is a limited liability company, any merger or consolidation or the change, removal, resignation or addition of a managing member or non-member manager (or if no managing member, any member) or the Sale or Pledge of the membership interest of a managing member (or if no managing member, any member) or any profits or proceeds relating to such membership interest, or the Sale or Pledge of non-managing membership interests or the creation or issuance of new non-managing membership interests; (vi) if a Restricted Party is a trust or nominee trust, any merger, consolidation or the Sale or Pledge of the legal or beneficial interest in a Restricted Party or the creation or issuance of new legal or beneficial interests; or (vii) the removal or the resignation of the managing agent (including, without limitation, an Affiliated Manager) other than in accordance with Section 5.1.22 hereof.

(d) Notwithstanding the provisions of this Section 5.2.10, Lender's consent shall not be required in connection with one or a series of Transfers, of not more than forty-nine percent (49%) of the stock, the limited partnership interests or non-managing membership interests (as the case may be) in a Restricted Party; provided, however, no such Transfer shall result in the change of Control in a Restricted Party, and as a condition to each such Transfer, Lender shall receive not less than thirty (30) days prior notice of such proposed Transfer. If after giving effect to any such Transfer, more than forty-nine percent (49%) in the aggregate of direct or indirect interests in a Restricted Party are owned by any Person and its Affiliates that owned less than forty-nine percent (49%) direct or indirect interest in such Restricted Party as of the Closing Date, Borrower shall, no less than thirty (30) days prior to the effective date of any such Transfer, deliver to Lender an Additional Insolvency Opinion acceptable to Lender and the Rating Agencies. In addition, at all times, Acadia Realty Trust must continue to Control Borrower, Guarantor and Manager, if any, and own, directly or indirectly, at least a 51% legal and beneficial interest in Borrower, Guarantor and Manager. Notwithstanding anything to the contrary contained herein, provided the conditions set forth in this subsection (d) are satisfied, Lender's consent shall not be required in connection the Transfer publicly traded shares in Acadia Realty Trust.

(e) No consent to any assumption of the Loan shall occur on or before the first (1st) anniversary of the first (1st) Payment Date. Thereafter, Lender's consent to a one (1) time Transfer of the Property and assumption of the Loan shall not be unreasonably withheld provided that Lender receives sixty (60) days prior written notice of such Transfer and no Event of Default has occurred and is continuing, and further provided that the following additional requirements are satisfied:

(i) Borrower shall pay Lender a transfer fee equal to one percent (1%) of the outstanding principal balance of the Loan at the time of such transfer;

(ii) Borrower shall pay any and all reasonable out-of-pocket costs incurred in connection with such Transfer (including, without limitation, Lender's counsel fees and disbursements and all recording fees, title insurance premiums and mortgage and intangible taxes and the fees and expenses of the Rating Agencies pursuant to clause (x) below);

(iii) The proposed transferee (the "Transferee") or Transferee's Principals must have demonstrated expertise in owning and operating properties similar in location, size, class and operation to the Property, which expertise shall be reasonably determined by Lender;

(iv) Transferee and Transferee's Principals shall, as of the date of such transfer, have an aggregate net worth and liquidity reasonably acceptable to Lender;

(v) Transferee, Transferee's Principals and all other entities which may be owned or Controlled directly or indirectly by Transferee's Principals ("Related Entities") must not have been party to any bankruptcy proceedings, voluntary or involuntary, made an assignment for the benefit of creditors or taken advantage of any insolvency act, or any act for the benefit of debtors within seven (7) years prior to the date of the proposed Transfer;

(vi) Transferee shall assume all of the obligations of Borrower under the Loan Documents in a manner satisfactory to Lender in all respects, including, without limitation, by entering into an assumption agreement in form and substance satisfactory to Lender;

(vii) There shall be no material litigation or regulatory action pending or threatened against Transferee, Transferee's Principals or Related Entities which is not reasonably acceptable to Lender;

(viii) Transferee, Transferee's Principals and Related Entities shall not have defaulted under its or their obligations with respect to any other Indebtedness in a manner which is not reasonably acceptable to Lender;

(ix) Transferee and Transferee's Principals must be able to satisfy all the representations and covenants set forth in Sections 4.1.30, 4.1.35, 5.1.23 and 5.2.9 of this Agreement, no Default or Event of Default shall otherwise occur as a result of such Transfer, and Transferee and Transferee's Principals shall deliver (A) all organizational documentation reasonably requested by Lender, which shall be reasonably satisfactory to Lender and (B) all certificates, agreements and covenants reasonably required by Lender;

(x) Transferee shall be approved by the Rating Agencies selected by Lender, which approval, if required by Lender, shall take the form of a confirmation in writing from such Rating Agencies to the effect that such Transfer will not result in a requalification, reduction, downgrade or withdrawal of the ratings in effect immediately prior to such assumption or transfer for the Securities or any class thereof issued in connection with a Securitization which are then outstanding;

(xi) Borrower or Transferee, at its sole cost and expense, shall deliver to Lender an Additional Insolvency Opinion reflecting such Transfer satisfactory in form and substance to Lender;

(xii) Prior to any release of Guarantor, one (1) or more substitute guarantors reasonably acceptable to Lender shall have assumed all of the liabilities and obligations of Guarantor under the Guaranty and Environmental Indemnity executed by Guarantor or execute a replacement guaranty and environmental indemnity reasonably satisfactory to Lender;

(xiii) Borrower shall deliver, at its sole cost and expense, an endorsement to the Title Insurance Policy, as modified by the assumption agreement, as a valid first lien on the Property and naming the Transferee as owner of the Property, which endorsement shall insure that, as of the date of the recording of the assumption agreement, the Property shall not be subject to any additional exceptions or liens other than those contained in the Title Policy issued on the date hereof and the Permitted Encumbrances; and

(xiv) The Property shall be managed by a Qualified Manager pursuant to a Replacement Management Agreement.

Immediately upon a Transfer to such Transferee and the satisfaction of all of the above requirements, the named Borrower and Guarantor herein shall be released from all liability under this Agreement, the Note, the Mortgage and the other Loan Documents accruing after such Transfer. The foregoing release shall be effective upon the date of such Transfer, but Lender agrees to provide written evidence thereof reasonably requested by Borrower.

(f) Lender shall not be required to demonstrate any actual impairment of its security or any increased risk of default hereunder in order to declare the Debt immediately due and payable upon Borrower's Transfer without Lender's consent. This provision shall apply to every Transfer regardless of whether voluntary or not, or whether or not Lender has consented to any previous Transfer.

VI. INSURANCE; CASUALTY; CONDEMNATION; REQUIRED REPAIRS

SECTION 6.1 INSURANCE. (a) Borrower shall obtain and maintain, or cause to be maintained, insurance for Borrower and the Property providing at least the following coverages:

(i) comprehensive all risk insurance ("Special Form") including, but not limited to, loss caused by any type of windstorm or hail on the Improvements and the Personal Property, (A) in an amount equal to one hundred percent (100%) of the "Full Replacement Cost," which for purposes of this Agreement shall mean actual replacement value (exclusive of costs of excavations, foundations, underground utilities and footings) with a waiver of depreciation, but the amount shall in no event be less than the outstanding principal balance of the Loan; (B) containing an agreed amount endorsement with respect to the Improvements and Personal Property waiving all co-insurance provisions or to be written on a no co-insurance form; (C) providing for no deductible in excess of Ten Thousand and 00/100 Dollars (\$10,000.00) for all such insurance coverage excluding windstorm and earthquake and (D) if any of the Improvements or the use of the Property shall at any time constitute legal non-conforming structures or uses, coverage for loss due to operation of law in an amount equal to the full Replacement Cost, coverage for demolition costs and coverage for increased costs of construction. In addition, Borrower shall obtain: (x) if any portion of the Improvements is currently or at any time in the future located in a federally designated "special flood hazard area", flood hazard insurance in an amount equal to the lesser of (1) the outstanding principal balance of the Note or (2) the maximum amount of such insurance available under the National Flood Insurance Act of 1968, the Flood Disaster Protection Act of 1973 or the National Flood Insurance Reform Act of 1994, as each may be amended or such greater amount as Lender shall require and (y) earthquake insurance in amounts and in form and substance satisfactory to Lender in the event the Property is located in an area with a high degree of seismic activity;

(ii) business income insurance (A) with loss payable to Lender; (B) covering all risks required to be covered by the insurance provided for in subsection (i) above; (C) in an amount equal to one hundred percent (100%) of the projected gross revenues from the operation of the Property (as reduced to reflect expenses not incurred during a period of Restoration) for a period of at least twenty-four (24) months after the date of the Casualty; and (D) containing an extended period of indemnity endorsement which provides that after the physical loss to the Improvements and Personal Property has been repaired, the continued loss of income will be insured until such income either returns to the same level it was at prior to the loss, or the expiration of six (6) months from the date that the Property is repaired or replaced and operations are resumed, whichever first occurs, and notwithstanding that the policy may expire prior to the end of such period. The amount of such business income insurance shall be determined prior to the date hereof and at least once each year thereafter based on Borrower's reasonable estimate of the gross revenues from the Property for the succeeding twenty-four (24) month period. Notwithstanding the provisions of Section 2.7.1 hereof, all proceeds payable to Lender pursuant to this subsection shall be held by Lender and shall be applied to the obligations secured by the Loan Documents from time to time due and payable hereunder and under the Note; provided, however, that nothing herein contained shall be deemed to relieve Borrower of its obligations to pay the obligations secured by the Loan Documents on the respective dates of payment provided for in this Agreement and the other Loan Documents except to the extent such amounts are actually paid out of the proceeds of such business income insurance;

(iii) at all times during which structural construction, repairs or alterations are being made with respect to the Improvements, and only if the Property coverage form does not otherwise apply, (A) owner's contingent or protective liability insurance, otherwise known as Owner Contractor's Protective Liability, covering claims not covered by or under the terms or provisions of the above mentioned commercial general liability insurance policy and (B) the insurance provided for in subsection (i) above written in a so-called builder's risk completed value form (1) on a non-reporting basis, (2) against all risks insured against pursuant to subsection (i) above, (3) including permission to occupy the Property and (4) with an agreed amount endorsement waiving co-insurance provisions;

(iv) comprehensive boiler and machinery insurance, if steam boilers or other pressure-fixed vessels are in operation, in amounts as shall be reasonably required by Lender on terms consistent with the commercial property insurance policy required under subsection (i) above;

(v) commercial general liability insurance against claims for personal injury, bodily injury, death or property damage occurring upon, in or about the Property, such insurance (A) to be on the so-called "occurrence" form with a combined limit of not less than Two Million and 00/100 Dollars (\$2,000,000.00) in the aggregate and One Million and 00/100 Dollars (\$1,000,000.00) per occurrence; (B) to continue at not less than the aforesaid limit until required to be changed by Lender in writing by reason of changed economic conditions making such protection inadequate and (C) to cover at least the following hazards: (1) premises and operations; (2) products and completed operations on an "if any" basis; (3) independent contractors; (4) blanket contractual liability for all written contracts and (5) contractual liability covering the indemnities contained in Article 9 of the Mortgage to the extent the same is available;

(vi) automobile liability coverage for all owned and non-owned vehicles, including rented and leased vehicles containing minimum limits per occurrence of One Million Dollars and 00/100 Dollars (\$1,000,000.00);

(vii) worker's compensation and employee's liability subject to the worker's compensation laws of the applicable state;

(viii) umbrella and excess liability insurance in an amount not less than Fifty Million and 00/100 Dollars (\$50,000,000.00) per occurrence on terms consistent with the commercial general liability insurance policy required under subsection (v) above, including, but not limited to, supplemental coverage for employer liability and automobile liability, which umbrella liability coverage shall apply in excess of the automobile liability coverage in clause (vi) above;

(ix) the insurance required under this Section 6.1(a) above shall cover perils of terrorism and acts of terrorism and Borrower shall maintain insurance for loss resulting from perils and acts of terrorism on terms (including amounts) consistent with those required under Sections 6.1(a) above at all times during the term of the Loan; and

(x) upon sixty (60) days written notice, such other reasonable insurance, including, but not limited to, sinkhole or land subsidence insurance, and in such reasonable amounts as Lender from time to time may reasonably request against such other insurable hazards which at the time are commonly insured against for property similar to the Property located in or around the region in which the Property is located.

(b) All insurance provided for in Section 6.1(a) hereof, shall be obtained under valid and enforceable policies (collectively, the "Policies" or in the singular, the "Policy"), and shall be subject to the approval of Lender as to insurance companies, amounts, deductibles, loss payees and insureds. The Policies shall be issued by financially sound and responsible insurance companies authorized to do business in the State and having a claims paying ability rating of "AA" or better (and the equivalent thereof) by at least two (2) of the Rating Agencies rating the Securities (one (1) of which shall be S&P if they are rating the Securities and one (1) of which will be Moody's if they are rating the Securities), or if only one (1) Rating Agency is rating the Securities, then only by such Rating Agency. The Policies described in Section 6.1 hereof (other than those strictly limited to liability protection) shall designate Lender as loss payee. Not less than ten (10) days prior to the expiration dates of the Policies theretofore furnished to Lender, certificates of insurance evidencing the Policies accompanied by evidence satisfactory to Lender of payment of the premiums due thereunder (the "Insurance Premiums"), shall be delivered by Borrower to Lender.

(c) Any blanket insurance Policy shall specifically allocate to the Property the amount of coverage from time to time required hereunder and shall otherwise provide the same protection as would a separate Policy insuring only the Property in compliance with the provisions of Section 6.1(a) hereof.

(d) All Policies provided for or contemplated by Section 6.1(a) hereof, except for the Policy referenced in Section 6.1(a)(vii) of this Agreement, shall name Borrower as the insured and Lender as the additional insured, as its interests may appear, and in the case of property damage, boiler and machinery, flood and earthquake insurance, shall contain a so-called New York standard non-contributing mortgagee clause in favor of Lender providing that the loss thereunder shall be payable to Lender.

(e) All Policies shall contain clauses or endorsements to the effect that:

(i) no act or negligence of Borrower, or anyone acting for Borrower, or of any tenant or other occupant, or failure to comply with the provisions of any Policy, which might otherwise result in a forfeiture of the insurance or any part thereof, shall in any way affect the validity or enforceability of the insurance insofar as Lender is concerned;

(ii) the Policy shall not be materially changed (other than to increase the coverage provided thereby) or canceled without at least thirty (30) days written notice to Lender and any other party named therein as an additional insured;

(iii) the issuers thereof shall give written notice to Lender if the Policy has not been renewed thirty (30) days prior to its expiration; and

(iv) Lender shall not be liable for any Insurance Premiums thereon or subject to any assessments thereunder.

(f) If at any time Lender is not in receipt of written evidence that all insurance required hereunder is in full force and effect, Lender shall have the right, without notice to Borrower, to take such action as Lender deems necessary to protect its interest in the Property, including, without limitation, the obtaining of such insurance coverage as Lender in its sole discretion deems appropriate after three (3) Business Days notice to Borrower if prior to the date upon which any such coverage will lapse or at any time Lender deems necessary (regardless of prior notice to Borrower) to avoid the lapse of any such coverage. All premiums incurred by Lender in connection with such action or in obtaining such insurance and keeping it in effect shall be paid by Borrower to Lender upon demand and, until paid, shall be secured by the Mortgage and shall bear interest at the Default Rate.

SECTION 6.2 CASUALTY. If the Property shall be damaged or destroyed, in whole or in part, by fire or other casualty (a "Casualty"), Borrower shall give prompt notice of such damage to Lender and shall promptly commence and diligently prosecute the completion of the Restoration of the Property pursuant to Section 6.4 hereof as nearly as possible to the condition the Property was in immediately prior to such Casualty, with such alterations as may be reasonably approved by Lender and otherwise in accordance with Section 6.4 hereof. Borrower shall pay all costs of such Restoration whether or not such costs are covered by insurance. Lender may, but shall not be obligated to make proof of loss if not made promptly by Borrower. In addition, Lender may participate in any settlement discussions with any insurance companies (and shall approve the final settlement, which approval shall not be unreasonably withheld or delayed) with respect to any Casualty in which the Net Proceeds or the costs of completing the Restoration are equal to or greater than One Million and 00/100 Dollars (\$1,000,000.00) and Borrower shall deliver to Lender all instruments required by Lender to permit such participation.

SECTION 6.3 CONDEMNATION. Borrower shall promptly give Lender notice of the actual or threatened commencement of any proceeding for the Condemnation of the Property and shall deliver to Lender copies of any and all papers served in connection with such proceedings. Lender may participate in any such proceedings, and Borrower shall from time to time deliver to Lender all instruments requested by it to permit such participation. Borrower shall, at its expense, diligently prosecute any such proceedings, and shall consult with Lender, its attorneys and experts, and cooperate with them in the carrying on or defense of any such proceedings. Notwithstanding any taking by any public or quasi-public authority through Condemnation or otherwise (including, but not limited to, any transfer made in lieu of or in anticipation of the exercise of such taking), Borrower shall continue to pay the Debt at the time and in the manner provided for its payment in the Note and in this Agreement and the Debt shall not be reduced until any Award shall have been actually received and applied by Lender, after the deduction of expenses of collection, to the reduction or discharge of the Debt. Lender shall not be limited to the interest paid on the Award by the condemning authority but shall be entitled to receive out of the Award interest at the rate or rates provided herein or in the Note. If any portion of the Property is taken by a condemning authority, Borrower shall promptly commence and diligently prosecute the Restoration of the Property pursuant to Section 6.4 hereof and otherwise comply with the provisions of Section 6.4 hereof. If the Property is sold, through foreclosure or otherwise, prior to the receipt by Lender of the Award, Lender shall have the right, whether or not a deficiency judgment on the Note shall have been sought, recovered or denied, to receive the Award, or a portion thereof sufficient to pay the Debt.

SECTION 6.4 RESTORATION. The following provisions shall apply in connection with the Restoration of the Property:

(a) If the Net Proceeds shall be less than One Million and 00/100 Dollars (\$1,000,000.00) and the costs of completing the Restoration shall be less than One Million and 00/100 Dollars (\$1,000,000.00), the Net Proceeds will be disbursed by Lender to Borrower upon receipt, provided that all of the conditions set forth in Section 6.4(b)(i) hereof are met and Borrower delivers to Lender a written undertaking to expeditiously commence and to satisfactorily complete with due diligence the Restoration in accordance with the terms of this Agreement.

(b) If the Net Proceeds are equal to or greater than One Million and 00/100 Dollars (\$1,000,000.00) or the costs of completing the Restoration is equal to or greater than One Million and 00/100 Dollars (\$1,000,000.00) Lender shall make the Net Proceeds available for the Restoration in accordance with the provisions of this Section 6.4. The term "Net Proceeds" for purposes of this Section 6.4 shall mean: (i) the net amount of all insurance proceeds received by Lender pursuant to Section 6.1 (a)(i), (iv), (ix) and (x) as a result of such damage or destruction, after deduction of its reasonable costs and expenses (including, but not limited to, reasonable counsel fees), if any, in collecting same ("Insurance Proceeds"), or (ii) the net amount of the Award, after deduction of its reasonable costs and expenses (including, but not limited to, reasonable counsel fees), if any, in collecting same ("Condemnation Proceeds"), whichever the case may be.

(i) The Net Proceeds shall be made available to Borrower for Restoration provided that each of the following conditions are met:

(A) no Event of Default shall have occurred and be continuing;

(B) (1) in the event the Net Proceeds are Insurance Proceeds, less than twenty-five percent (25%) of the total floor area of the Improvements on the Property has been damaged, destroyed or rendered unusable as a result of such Casualty or (2) in the event the Net Proceeds are Condemnation Proceeds, less than ten percent (10%) of the land constituting the Property is taken, and such land is located along the perimeter or periphery of the Property, and no portion of the Improvements is located on such land;

(C) Leases demising in the aggregate a percentage amount equal to or greater than the Rentable Space Percentage of the total rentable space in the Property which has been demised under executed and delivered Leases in effect as of the date of the occurrence of such Casualty or Condemnation, whichever the case may be, shall remain in full force and effect during and after the completion of the Restoration, notwithstanding the occurrence of any such Casualty or Condemnation, whichever the case may be, and Borrower and/or Tenant, as applicable under the respective Lease, will make all necessary repairs and restorations thereto at their sole cost and expense. The term "Rentable Space Percentage" shall mean (1) in the event the Net Proceeds are Insurance Proceeds, a percentage amount equal to ninety percent (90%) and (2) in the event the Net Proceeds are Condemnation Proceeds, a percentage amount equal to ninety percent (90%);

(D) Borrower shall commence the Restoration as soon as reasonably practicable (but in no event later than sixty (60) days after such Casualty or Condemnation, whichever the case may be, occurs) and shall diligently pursue the same to satisfactory completion;

(E) Lender shall be satisfied that any operating deficits, including all scheduled payments of principal and interest under the Note, which will be incurred with respect to the Property as a result of the occurrence of any such Casualty or Condemnation, whichever the case may be, will be covered out of (1) the Net Proceeds, (2) the insurance coverage referred to in Section 6.1(a)(ii) hereof, if applicable, or (3) by other funds of Borrower;

(F) Lender shall be satisfied that the Restoration will be completed on or before the earliest to occur of (1) six (6) months prior to the Maturity Date, (2) the earliest date required for such completion under the terms of any Leases, (3) such time as may be required under all applicable Legal Requirements in order to repair and restore the Property to the condition it was in immediately prior to such Casualty or to as nearly as possible the condition it was in immediately prior to such Condemnation, as applicable, or (4) the expiration of the insurance coverage referred to in Section 6.1(a)(ii) hereof;

(G) the Property and the use thereof after the Restoration will be in compliance with and permitted under all applicable Legal Requirements;

(H) the Restoration shall be done and completed by Borrower in an expeditious and diligent fashion and in compliance with all applicable Legal Requirements;

(I) such Casualty or Condemnation, as applicable, does not result in the loss of access to the Property or the Improvements;

(J) the Debt Service Coverage Ratio for the Property, after giving effect to the Restoration, shall be equal to or greater than 1.05 to 1.0;

(K) Borrower shall deliver, or cause to be delivered, to Lender a signed detailed budget approved in writing by Borrower's architect or engineer stating the entire cost of completing the Restoration, which budget shall be acceptable to Lender; and

(L) the Net Proceeds together with any cash or cash equivalent deposited by Borrower with Lender are sufficient in Lender's discretion to cover the cost of the Restoration.

(ii) The Net Proceeds shall be held by Lender in an interest-bearing account and, until disbursed in accordance with the provisions of this Section 6.4(b), shall constitute additional security for the Debt and Other Obligations under the Loan Documents. The Net Proceeds shall be disbursed by Lender to, or as directed by, Borrower from time to time during the course of the Restoration, upon receipt of evidence satisfactory to Lender that (A) all materials installed and work and labor performed (except to the extent that they are to be paid for out of the requested disbursement) in connection with the Restoration have been paid for in full, and (B) there exist no notices of pendency, stop orders, mechanic's or materialman's liens or notices of intention to file same, or any other liens or encumbrances of any nature whatsoever on the Property which have not either been fully bonded to the satisfaction of Lender and discharged of record or in the alternative fully insured to the satisfaction of Lender by the title company issuing the Title Insurance Policy.

(iii) All plans and specifications required in connection with the Restoration shall be subject to prior review and acceptance in all respects by Lender and by an independent consulting engineer selected by Lender (the "Casualty Consultant"). Lender shall have the use of the plans and specifications and all permits, licenses and approvals required or obtained in connection with the Restoration. The identity of the contractors, subcontractors and materialmen engaged in the Restoration, as well as the contracts under which they have been engaged, shall be subject to prior review and acceptance by Lender and the Casualty Consultant. All costs and expenses incurred by Lender in connection with making the Net Proceeds available for the Restoration including, without limitation, reasonable counsel fees and disbursements and the Casualty Consultant's fees, shall be paid by Borrower.

(iv) In no event shall Lender be obligated to make disbursements of the Net Proceeds in excess of an amount equal to the costs actually incurred from time to time for work in place as part of the Restoration, as certified by the Casualty Consultant, minus the Casualty Retainage. The term "Casualty Retainage" shall mean an amount equal to ten percent (10%) of the costs actually incurred for work in place as part of the Restoration, as certified by the Casualty Consultant, until the Restoration has been completed. The Casualty Retainage shall in no event, and notwithstanding anything to the contrary set forth above in this Section 6.4(b), be less than the amount actually held back by Borrower from contractors, subcontractors and materialmen engaged in the Restoration. The Casualty Retainage shall not be released until the Casualty Consultant certifies to Lender that the Restoration has been completed in accordance with the provisions of this Section 6.4(b) and that all approvals necessary for the re-occupancy and use of the Property have been obtained from all appropriate governmental and quasi-governmental authorities, and Lender receives evidence satisfactory to Lender that the costs of the Restoration have been paid in full or will be paid in full out of the Casualty Retainage; provided, however, that Lender will release the portion of the Casualty Retainage being held with respect to any contractor, subcontractor or materialman engaged in the Restoration as of the date upon which the Casualty Consultant certifies to Lender that the contractor, subcontractor or materialman has satisfactorily completed all work and has supplied all materials in accordance with the provisions of the contractor's, subcontractor's or materialman's contract, the contractor, subcontractor or materialman delivers the lien waivers and evidence of payment in full of all sums due to the contractor, subcontractor or materialman as may be reasonably requested by Lender or by the title company issuing the Title Insurance Policy, and Lender receives an endorsement to the Title Insurance Policy insuring the continued priority of the lien of the Mortgage and evidence of payment of any premium payable for such endorsement. If required by Lender, the release of any such portion of the Casualty Retainage shall be approved by the surety company, if any, which has issued a payment or performance bond with respect to the contractor, subcontractor or materialman.

(v) Lender shall not be obligated to make disbursements of the Net Proceeds more frequently than once every calendar month.

(vi) If at any time the Net Proceeds or the undisbursed balance thereof shall not, in the opinion of Lender in consultation with the Casualty Consultant, be sufficient to pay in full the balance of the costs which are estimated by the Casualty Consultant to be incurred in connection with the completion of the Restoration, Borrower shall deposit the deficiency (the "Net Proceeds Deficiency") with Lender before any further disbursement of the Net Proceeds shall be made. The Net Proceeds Deficiency deposited with Lender shall be held by Lender and shall be disbursed for costs actually incurred in connection with the Restoration on the same conditions applicable to the disbursement of the Net Proceeds, and until so disbursed pursuant to this Section 6.4(b) shall constitute additional security for the Debt and Other Obligations under the Loan Documents.

(vii) The excess, if any, of the Net Proceeds (and the remaining balance, if any, of the Net Proceeds Deficiency) deposited with Lender after the Casualty Consultant certifies to Lender that the Restoration has been completed in accordance with the provisions of this Section 6.4(b), and the receipt by Lender of evidence satisfactory to Lender that all costs incurred in connection with the Restoration have been paid in full, shall be deposited in the Cash Management Account to be disbursed in accordance with the Cash Management Agreement, provided no Event of Default shall have occurred and shall be continuing under the Note, this Agreement or any of the other Loan Documents.

(c) All Net Proceeds not required (i) to be made available for the Restoration or (ii) to be returned to Borrower as excess Net Proceeds pursuant to Section 6.4(b)(vii) hereof may be retained and applied by Lender toward the payment of the Debt in accordance with Section 2.4.2 hereof, whether or not then due and payable in such order, priority and proportions as Lender in its sole discretion shall deem proper, or, at the discretion of Lender, the same may be paid, either in whole or in part, to Borrower for such purposes as Lender shall approve, in its discretion.

(d) In the event of foreclosure of the Mortgage, or other transfer of title to the Property in extinguishment in whole or in part of the Debt all right, title and interest of Borrower in and to the Policies that are not blanket Policies then in force concerning the Property and all proceeds payable thereunder shall thereupon vest in the purchaser at such foreclosure or Lender or other transferee in the event of such other transfer of title.

VII. RESERVE FUNDS

SECTION 7.1 REQUIRED REPAIRS.

7.1.1 DEPOSITS. Borrower shall perform the repairs at the Property, as more particularly set forth on Schedule II hereto (such repairs hereinafter referred to as "Required Repairs"). Borrower shall complete the Required Repairs on or before the required deadline for each repair as set forth on Schedule II. It shall be an Event of Default under this Agreement if (a) Borrower does not complete the Required Repairs at the Property by the required deadline for each repair as set forth on Schedule II, or (b) Borrower does not satisfy each condition contained in Section 7.1.2 hereof. Upon the occurrence of such an Event of Default, Lender, at its option, may withdraw all Required Repair Funds from the Required Repair Account and Lender may apply such funds either to completion of the Required Repairs at the Property or toward payment of the Debt in such order, proportion and priority as Lender may determine in its sole discretion. Lender's right to withdraw and apply Required Repair Funds shall be in addition to all other rights and remedies provided to Lender under this Agreement and the other Loan Documents. On the Closing Date, Borrower shall deposit with Lender the amount for the Property set forth on such Schedule II hereto to perform the Required Repairs for the Property. Amounts so deposited with Lender shall be held by Lender in accordance with Section 7.5 hereof. Amounts so deposited shall hereinafter be referred to as Borrower's "Required Repair Fund" and the account in which such amounts are held shall hereinafter be referred to as Borrower's "Required Repair Account".

7.1.2 RELEASE OF REQUIRED REPAIR FUNDS. Lender shall disburse to Borrower the Required Repair Funds from the Required Repair Account from time to time upon satisfaction by Borrower of each of the following conditions: (a) Borrower shall submit a written request for payment to Lender at least thirty (30) days prior to the date on which Borrower requests such payment be made and specifies the Required Repairs to be paid, (b) on the date such request is received by Lender and on the date such payment is to be made, no Default or Event of Default shall exist and remain uncured, (c) Lender shall have received an Officers' Certificate (i) stating that all Required Repairs to be funded by the requested disbursement have been completed in good and workmanlike manner and in accordance with all applicable federal, state and local laws, rules and regulations, such certificate to be accompanied by a copy of any license, permit or other approval by any Governmental Authority required to commence and/or complete the Required Repairs, (ii) identifying each Person that supplied materials or labor in connection with the Required Repairs to be funded by the requested disbursement, and (iii) stating that each such Person has been paid in full or will be paid in full upon such disbursement, such Officers' Certificate to be accompanied by lien waivers or other evidence of payment satisfactory to Lender, (d) at Lender's option, a title search for the Property indicating that the Property is free from all liens, claims and other encumbrances not previously approved by Lender, and (e) Lender shall have received such other evidence as Lender shall reasonably request that the Required Repairs to be funded by the requested disbursement have been completed and are paid for or will be paid upon such disbursement to Borrower. Lender shall not be required to make disbursements from the Required Repair Account with respect to the Property unless such requested disbursement is in an amount greater than Twenty-five Thousand and 00/100 Dollars (\$25,000.00) (or a lesser amount if the total amount in the Required Repair Account is less than Twenty-five Thousand and 00/100 Dollars (\$25,000.00), in which case only one disbursement of the amount remaining in the account shall be made) and such disbursement shall be made only upon satisfaction of each condition contained in this Section 7.1.2.

SECTION 7.2 TAX AND INSURANCE ESCROW FUND. Borrower shall pay to Lender on each Payment Date (a) one-twelfth (1/12) of the Taxes and Other Charges that Lender estimates will be payable during the next ensuing twelve (12) months in order to accumulate with Lender sufficient funds to pay all such Taxes and Other Charges at least thirty (30) days prior to their respective due dates, and (b) one-twelfth (1/12) of the Insurance Premiums that Lender estimates will be payable for the renewal of the coverage afforded by the Policies upon the expiration thereof in order to accumulate with Lender sufficient funds to pay all such Insurance Premiums at least thirty (30) days prior to the expiration of the Policies (said amounts in (a) and (b) above hereinafter called the "Tax and Insurance Escrow Fund"). The Tax and Insurance Escrow Fund and the Monthly Debt Service Payment Amount, shall be added together and shall be paid as an aggregate sum by Borrower to Lender. Lender will apply the Tax and Insurance Escrow Fund to payments of Taxes and Insurance Premiums required to be made by Borrower pursuant to Section 5.1.2 hereof and under the Mortgage. In making any payment relating to the Tax and Insurance Escrow Fund, Lender may do so according to any bill, statement or estimate procured from the appropriate public office (with respect to Taxes) or insurer or agent (with respect to Insurance Premiums), without inquiry into the accuracy of such bill, statement or estimate or into the validity of any tax, assessment, sale, forfeiture, tax lien or title or claim thereof. If the amount of the Tax and Insurance Escrow Fund shall exceed the amounts due for Taxes, Other Charges and Insurance Premiums pursuant to Section 5.1.2 hereof, Lender shall, in its sole discretion, return any excess to Borrower or credit such excess against future payments to be made to the Tax and Insurance Escrow Fund. Any amount remaining in the Tax and Insurance Escrow Fund after the Debt has been paid in full shall be returned to Borrower. If at any time Lender reasonably determines that the Tax and Insurance Escrow Fund is not or will not be sufficient to pay Taxes, Other Charges and Insurance Premiums by the dates set forth in (a) and (b) above, Lender shall notify Borrower of such determination and Borrower shall increase its monthly payments to Lender by the amount that Lender estimates is sufficient to make up the deficiency at least thirty (30) days prior to the due date of the Taxes and Other Charges and/or thirty (30) days prior to expiration of the Policies, as the case may be. Notwithstanding anything contained in this Section 7.2 to the contrary, Borrower shall not be required to make monthly escrow payments to Tax and Insurance Escrow Fund for Insurance Premiums so long as (i) no Event of Default exists hereunder (or under any of the other Loan Documents), (ii) Borrower maintains a blanket insurance policy including the Property and (iii) Borrower provides evidence reasonably acceptable to Lender that such Insurance Premiums due under said blanket policy have been paid on or before the due date therefore.

SECTION 7.3 REPLACEMENTS AND REPLACEMENT RESERVE.

7.3.1 REPLACEMENT RESERVE FUND. Borrower shall pay to Lender on each Payment Date one-twelfth (1/12) of \$22,576.00 [\$0.15 psf] (the "Replacement Reserve Monthly Deposit") reasonably estimated by Lender in its sole discretion to be due for replacements and repairs required to be made to the Property during the calendar year (collectively, the "Replacements"). Amounts so deposited shall hereinafter be referred to as Borrower's "Replacement Reserve Fund" and the account in which such amounts are held shall hereinafter be referred to as Borrower's "Replacement Reserve Account". Lender may reassess its estimate of the amount necessary for the Replacement Reserve Fund from time to time, and may increase the monthly amounts required to be deposited into the Replacement Reserve Fund upon thirty (30) days notice to Borrower if Lender determines in its reasonable discretion that an increase is necessary to maintain the proper maintenance and operation of the Property.

7.3.2 DISBURSEMENTS FROM REPLACEMENT RESERVE ACCOUNT. (a) Lender shall make disbursements from the Replacement Reserve Account to pay Borrower only for the costs of the Replacements. Lender shall not be obligated to make disbursements from the Replacement Reserve Account to reimburse Borrower for the costs of routine maintenance to the Property, replacements of inventory or for costs which are to be reimbursed from the Required Repair Fund or Rollover Reserve Fund.

(b) Lender shall, upon written request from Borrower and satisfaction of the requirements set forth in this Section 7.3.2, disburse to Borrower amounts from the Replacement Reserve Account necessary to pay for the actual approved costs of Replacements or to reimburse Borrower therefor, upon completion of such Replacements (or, upon partial completion in the case of Replacements made pursuant to Section 7.3.2(e) hereof) as determined by Lender. In no event shall Lender be obligated to disburse funds from the Replacement Reserve Account if a Default or an Event of Default exists.

(c) Each request for disbursement from the Replacement Reserve Account shall be in a form specified or approved by Lender and shall specify (i) the specific Replacements for which the disbursement is requested, (ii) the quantity and price of each item purchased, if the Replacement includes the purchase or replacement of specific items, (iii) the price of all materials (grouped by type or category) used in any Replacement other than the purchase or replacement of specific items, and (iv) the cost of all contracted labor or other services applicable to each Replacement for which such request for disbursement is made. With each request Borrower shall certify that all Replacements have been made in accordance with all applicable Legal Requirements of any Governmental Authority having jurisdiction over the Property. Each request for disbursement shall include copies of invoices for all items or materials purchased and all contracted labor or services provided and, unless Lender has agreed to issue joint checks as described below in connection with a particular Replacement, each request shall include evidence satisfactory to Lender of payment of all such amounts. Except as provided in Section 7.3.2(e) hereof, each request for disbursement from the Replacement Reserve Account shall be made only after completion of the Replacement for which disbursement is requested. Borrower shall provide Lender evidence of completion of the subject Replacement satisfactory to Lender in its reasonable judgment.

(d) Borrower shall pay all invoices in connection with the Replacements with respect to which a disbursement is requested prior to submitting such request for disbursement from the Replacement Reserve Account or, at the request of Borrower, Lender will issue joint checks, payable to Borrower and the contractor, supplier, materialman, mechanic, subcontractor or other party to whom payment is due in connection with a Replacement. In the case of payments made by joint check, Lender may require a waiver of lien from each Person receiving payment prior to Lender's disbursement from the Replacement Reserve Account. In addition, as a condition to any disbursement, Lender may require Borrower to obtain lien waivers from each contractor, supplier, materialman, mechanic or subcontractor who receives payment in an amount equal to or greater than Twenty-five Thousand and 00/100 Dollars (\$25,000.00) for completion of its work or delivery of its materials. Any lien waiver delivered hereunder shall conform to the requirements of applicable law and shall cover all work performed and materials supplied (including equipment and fixtures) for the Property by that contractor, supplier, subcontractor, mechanic or materialman through the date covered by the current reimbursement request (or, in the event that payment to such contractor, supplier, subcontractor, mechanic or materialmen is to be made by a joint check, the release of lien shall be effective through the date covered by the previous release of funds request).

(e) If (i) the cost of a Replacement exceeds Twenty-five Thousand and 00/100 Dollars (\$25,000.00), (ii) the contractor performing such Replacement requires periodic payments pursuant to terms of a written contract, and (iii) Lender has approved in writing in advance such periodic payments, a request for reimbursement from the Replacement Reserve Account may be made after completion of a portion of the work under such contract, provided (A) such contract requires payment upon completion of such portion of the work, (B) the materials for which the request is made are on site at the Property and are properly secured or have been installed in the Property, (C) all other conditions in this Agreement for disbursement have been satisfied, (D) funds remaining in the Replacement Reserve Account are, in Lender's judgment, sufficient to complete such Replacement and other Replacements when required, and (E) if required by Lender, each contractor or subcontractor receiving payments under such contract shall provide a waiver of lien with respect to amounts which have been paid to that contractor or subcontractor.

(f) Borrower shall not make a request for disbursement from the Replacement Reserve Account more frequently than once in any calendar month and (except in connection with the final disbursement) the total cost of all Replacements in any request shall not be less than Twenty-five Thousand and 00/100 Dollars (\$25,000.00).

7.3.3 PERFORMANCE OF REPLACEMENTS. (a) Borrower shall make Replacements when required in order to keep the Property in condition and repair consistent with other first class, full service shopping centers in the same market segment in the metropolitan area in which the Property is located, and to keep the Property or any portion thereof from deteriorating. Borrower shall complete all Replacements in a good and workmanlike manner as soon as practicable following the commencement of making each such Replacement.

(b) Lender reserves the right, at its option, to approve all contracts or work orders with materialmen, mechanics, suppliers, subcontractors, contractors or other parties providing labor or materials in connection with the Replacements. Upon Lender's request, Borrower shall assign any contract or subcontract to Lender.

(c) In the event Lender determines in its reasonable discretion that any Replacement is not being performed in a workmanlike or timely manner or that any Replacement has not been completed in a workmanlike or timely manner, Lender shall have the option to withhold disbursement for such unsatisfactory Replacement and to proceed under existing contracts or to contract with third parties to complete such Replacement and to apply the Replacement Reserve Fund toward the labor and materials necessary to complete such Replacement, without providing any prior notice to Borrower and to exercise any and all other remedies available to Lender upon an Event of Default hereunder.

(d) In order to facilitate Lender's completion or making of such Replacements pursuant to Section 7.3.3(c) above, Borrower grants Lender the right to enter onto the Property and perform any and all work and labor necessary to complete or make such Replacements and/or employ watchmen to protect the Property from damage. All sums so expended by Lender, to the extent not from the Replacement Reserve Fund, shall be deemed to have been advanced under the Loan to Borrower and secured by the Mortgage. For this purpose Borrower constitutes and appoints Lender its true and lawful attorney-in-fact with full power of substitution to complete or undertake such Replacements in the name of Borrower. Such power of attorney shall be deemed to be a power coupled with an interest and cannot be revoked. Borrower empowers said attorney-in-fact as follows: (i) to use any funds in the Replacement Reserve Account for the purpose of making or completing such Replacements; (ii) to make such additions, changes and corrections to such Replacements as shall be necessary or desirable to complete such Replacements; (iii) to employ such contractors, subcontractors, agents, architects and inspectors as shall be required for such purposes; (iv) to pay, settle or compromise all existing bills and claims which are or may become Liens against the Property, or as may be necessary or desirable for the completion of such Replacements, or for clearance of title; (v) to execute all applications and certificates in the name of Borrower which may be required by any of the contract documents; (vi) to prosecute and defend all actions or proceedings in connection with the Property or the rehabilitation and repair of the Property; and (vii) to do any and every act which Borrower might do in its own behalf to fulfill the terms of this Agreement.

(e) Nothing in this Section 7.3.3 shall: (i) make Lender responsible for making or completing any Replacements; (ii) require Lender to expend funds in addition to the Replacement Reserve Fund to make or complete any Replacement; (iii) obligate Lender to proceed with any Replacements; or (iv) obligate Lender to demand from Borrower additional sums to make or complete any Replacement.

(f) Borrower shall permit Lender and Lender's agents and representatives (including, without limitation, Lender's engineer, architect, or inspector) or third parties making Replacements pursuant to this Section 7.3.3 to enter onto the Property during normal business hours (subject to the rights of tenants under their Leases) to inspect the progress of any Replacements and all materials being used in connection therewith, to examine all plans and shop drawings relating to such Replacements which are or may be kept at the Property, and to complete any Replacements made pursuant to this Section 7.3.3. Borrower shall cause all contractors and subcontractors to cooperate with Lender or Lender's representatives or such other persons described above in connection with inspections described in this Section 7.3.3(f) or the completion of Replacements pursuant to this Section 7.3.3.

(g) Lender may require an inspection of the Property at Borrower's expense prior to making a monthly disbursement from the Replacement Reserve Account in order to verify completion of the Replacements for which reimbursement is sought. Lender may require that such inspection be conducted by an appropriate independent qualified professional selected by Lender and/or may require a copy of a certificate of completion by an independent qualified professional acceptable to Lender prior to the disbursement of any amounts from the Replacement Reserve Account. Borrower shall pay the expense of the inspection as required hereunder, whether such inspection is conducted by Lender or by an independent qualified professional.

(h) The Replacements and all materials, equipment, fixtures, or any other item comprising a part of any Replacement shall be constructed, installed or completed, as applicable, free and clear of all mechanic's, materialmen's or other liens (except for those Liens existing on the date of this Agreement which have been approved in writing by Lender).

(i) Before each disbursement from the Replacement Reserve Account, Lender may require Borrower to provide Lender with a search of title to the Property effective to the date of the disbursement, which search shows that no mechanic's or materialmen's liens or other liens of any nature have been placed against the Property since the date of recordation of the related Mortgage and that title to the Property is free and clear of all Liens (other than the lien of the related Mortgage and any other Liens previously approved in writing by Lender, if any).

(j) All Replacements shall comply with all applicable Legal Requirements of all Governmental Authorities having jurisdiction over the Property and applicable insurance requirements including, without limitation, applicable building codes, special use permits, environmental regulations, and requirements of insurance underwriters.

(k) In addition to any insurance required under the Loan Documents, Borrower shall provide or cause to be provided workmen's compensation insurance, builder's risk, and public liability insurance and other insurance to the extent required under applicable law in connection with a particular Replacement. All such policies shall be in form and amount reasonably satisfactory to Lender. All such policies which can be endorsed with standard mortgagee clauses making loss payable to Lender or its assigns shall be so endorsed. Certified copies of such policies shall be delivered to Lender.

7.3.4 FAILURE TO MAKE REPLACEMENTS. (a) It shall be an Event of Default under this Agreement if Borrower fails to comply with any provision of this Section 7.3 and such failure is not cured within thirty (30) days after notice from Lender. Upon the occurrence of such an Event of Default, Lender may use the Replacement Reserve Fund (or any portion thereof) for any purpose, including but not limited to completion of the Replacements as provided in Section 7.3.3, or for any other repair or replacement to the Property or toward payment of the Debt in such order, proportion and priority as Lender may determine in its sole discretion. Lender's right to withdraw and apply the Replacement Reserve Fund shall be in addition to all other rights and remedies provided to Lender under this Agreement and the other Loan Documents.

(b) Nothing in this Agreement shall obligate Lender to apply all or any portion of the Replacement Reserve Fund on account of an Event of Default to payment of the Debt or in any specific order or priority.

7.3.5 BALANCE IN THE REPLACEMENT RESERVE ACCOUNT. The insufficiency of any balance in the Replacement Reserve Account shall not relieve Borrower from its obligation to fulfill all preservation and maintenance covenants in the Loan Documents.

SECTION 7.4 ROLLOVER RESERVE.

7.4.1 DEPOSITS TO ROLLOVER RESERVE FUND. Borrower shall pay to Lender on each Payment Date the sum of \$3,583.33, which amounts shall be deposited with and held by Lender for tenant improvement and leasing commission obligations incurred following the date hereof. Amounts so deposited shall hereinafter be referred to as the "Rollover Reserve Fund" and the account to which such amounts are held shall hereinafter be referred to as the "Rollover Reserve Account".

7.4.2 WITHDRAWAL OF ROLLOVER RESERVE FUNDS. Lender shall make disbursements from the Rollover Escrow Fund for tenant improvement and leasing commission obligations incurred by Borrower. All such expenses shall be approved by Lender in its sole discretion. Lender shall make disbursements as requested by Borrower on a quarterly basis in increments of no less than \$5,000.00 upon delivery by Borrower of Lender's standard form of draw request accompanied by copies of paid invoices for the amounts requested and, if required by Lender, lien waivers and releases from all parties furnishing materials and/or services in connection with the requested payment. Lender may require an inspection of the Property at Borrower's expense prior to making a quarterly disbursement in order to verify completion of improvements for which reimbursement is sought. All earnings or interest on the Rollover Escrow Fund shall be and become part of such Rollover Escrow Fund and shall be disbursed as provided in this Section 7.4.

SECTION 7.5 RESERVE FUNDS, GENERALLY. Borrower grants to Lender a first-priority perfected security interest in each of the Reserve Funds and any and all monies now or hereafter deposited in each Reserve Fund as additional security for payment of the Debt. Until expended or applied in accordance herewith, the Reserve Funds shall constitute additional security for the Debt. Upon the occurrence of an Event of Default, Lender may, in addition to any and all other rights and remedies available to Lender, apply any sums then present in any or all of the Reserve Funds to the payment of the Debt in any order in its sole discretion. The Reserve Funds shall not constitute trust funds and may be commingled with other monies held by Lender. The Reserve Funds shall be held in an Eligible Account in Permitted Investments in accordance with the terms and provisions of the Cash Management Agreement. All interest on a Reserve Fund shall not be added to or become a part thereof and shall be the sole property of and shall be paid to Lender, except the Rollover Escrow Fund. Borrower shall be responsible for payment of any federal, state or local income or other tax applicable to the interest earned on the Reserve Funds credited or paid to Borrower. Borrower shall not, without obtaining the prior written consent of Lender, further pledge, assign or grant any security interest in any Reserve Fund or the monies deposited therein or permit any lien or encumbrance to attach thereto, or any levy to be made thereon, or any UCC-1 Financing Statements, except those naming Lender as the secured party, to be filed with respect thereto. Lender shall not be liable for any loss sustained on the investment of any funds constituting the Reserve Funds. Borrower shall indemnify Lender and hold Lender harmless from and against any and all actions, suits, claims, demands, liabilities, losses, damages, obligations and costs and expenses (including litigation costs and reasonable attorneys fees and expenses) arising from or in any way connected with the Reserve Funds or the performance of the obligations for which the Reserve Funds were established. Borrower shall assign to Lender all rights and claims Borrower may have against all persons or entities supplying labor, materials or other services which are to be paid from or secured by the Reserve Funds; provided, however, that Lender may not pursue any such right or claim unless an Event of Default has occurred and remains uncured.

VIII. DEFAULTS

SECTION 8.1 EVENT OF DEFAULT. (a) Each of the following events shall constitute an event of default hereunder (an "Event of Default"):

(i) if any portion of the Debt is not paid within five (5) days of the date when due (except that Borrower shall not be afforded such 5-day cure period for the portion of the Debt due and payable on the Maturity Date);

(ii) if any of the Taxes (other than Taxes being contested pursuant to Section 5.1.2 of this Agreement) are not paid when the same are due and payable or Other Charges are not paid within five (5) days after the date that the same are due and payable;

(iii) if the Policies are not kept in full force and effect, or if certified copies of the Policies are not delivered to Lender upon request;

(iv) if Borrower Transfers or otherwise encumbers any portion of the Property without Lender's prior written consent in violation of the provisions of this Agreement and Article 6 of the Mortgage;

(v) if any material representation or warranty made by Borrower herein or in any other Loan Document, or in any report, certificate, financial statement or other instrument, agreement or document furnished to Lender shall have been false or misleading in any material respect as of the date the representation or warranty was made;

(vi) if Borrower, Principal, Guarantor or any other guarantor under any guaranty issued in connection with the Loan shall make an assignment for the benefit of creditors;

(vii) if a receiver, liquidator or trustee shall be appointed for Borrower, Principal, Guarantor or any other guarantor under any guarantee issued in connection with the Loan or if Borrower, Principal, Guarantor or such other guarantor shall be adjudicated a bankrupt or insolvent, or if any petition for bankruptcy, reorganization or arrangement pursuant to federal bankruptcy law, or any similar federal or state law, shall be filed by or against, consented to, or acquiesced in by, Borrower, Principal, Guarantor or such other guarantor, or if any proceeding for the dissolution or liquidation of Borrower, Principal, Guarantor or such other guarantor shall be instituted; provided, however, if such appointment, adjudication, petition or proceeding was involuntary and not consented to by Borrower, Principal, Guarantor or such other guarantor, upon the same not being discharged, stayed or dismissed within ninety (90) days;

(viii) if Borrower attempts to assign its rights under this Agreement or any of the other Loan Documents or any interest herein or therein in contravention of the Loan Documents;

(ix) if Borrower breaches any covenant contained in Section 4.1.30 hereof;

(x) with respect to any term, covenant or provision set forth herein which specifically contains a notice requirement or grace period, if Borrower shall be in default under such term, covenant or condition after the giving of such notice or the expiration of such grace period;

(xi) if any of the assumptions contained in the Insolvency Opinion delivered to Lender in connection with the Loan, or in any Additional Insolvency Opinion delivered subsequent to the closing of the Loan, is or shall become untrue in any material respect;

(xii) if a material default has occurred and continues beyond any applicable cure period under the Management Agreement (or any Replacement Management Agreement) and if such default permits the Manager thereunder to terminate or cancel the Management Agreement (or any Replacement Management Agreement);

(xiii) if Borrower shall continue to be in Default under any of the terms, covenants or conditions of Section 9.1 hereof, or fails to cooperate with Lender in connection with a Securitization pursuant to the provisions of Section 9.1 hereof, for three (3) days after notice to Borrower from Lender;

(xiv) if Borrower shall continue to be in Default under any of the other terms, covenants or conditions of this Agreement not specified in subsections (i) to (xii) above, for twenty (20) days after notice to Borrower from Lender, in the case of any Default which can be cured by the payment of a sum of money, or for thirty (30) days after notice from Lender in the case of any other Default; provided, however, that if such non-monetary Default is susceptible of cure but cannot reasonably be cured within such thirty (30) day period and provided further that Borrower shall have commenced to cure such Default within such thirty (30) day period and thereafter diligently and expeditiously proceeds to cure the same, such thirty (30) day period shall be extended for such time as is reasonably necessary for Borrower in the exercise of due diligence to cure such Default, such additional period not to exceed sixty (60) days; or

(xv) if there shall be default under any of the other Loan Documents beyond any applicable cure periods contained in such documents, whether as to Borrower or the Property, or if any other such event shall occur or condition shall exist, if the effect of such default, event or condition is to accelerate the maturity of any portion of the Debt or to permit Lender to accelerate the maturity of all or any portion of the Debt.

(b) Upon the occurrence of an Event of Default (other than an Event of Default described in clauses (vi), (vii) or (viii) above) and at any time thereafter, in addition to any other rights or remedies available to it pursuant to this Agreement and the other Loan Documents or at law or in equity, Lender may take such action, without notice or demand, that Lender deems advisable to protect and enforce its rights against Borrower and the Property, including, without limitation, declaring the Debt to be immediately due and payable, and Lender may enforce or avail itself of any or all rights or remedies provided in the Loan Documents against Borrower and any or all of the Property, including, without limitation, all rights or remedies available at law or in equity; and upon any Event of Default described in clauses (vi), (vii) or (viii) above, the Debt and Other Obligations of Borrower hereunder and under the other Loan Documents shall immediately and automatically become due and payable, without notice or demand, and Borrower hereby expressly waives any such notice or demand, anything contained herein or in any other Loan Document to the contrary notwithstanding.

SECTION 8.2 REMEDIES. (a) Upon the occurrence of an Event of Default, all or any one or more of the rights, powers, privileges and other remedies available to Lender against Borrower under this Agreement or any of the other Loan Documents executed and delivered by, or applicable to, Borrower or at law or in equity may be exercised by Lender at any time and from time to time, whether or not all or any of the Debt shall be declared due and payable, and whether or not Lender shall have commenced any foreclosure proceeding or other action for the enforcement of its rights and remedies under any of the Loan Documents with respect to all or any part of the Property. Any such actions taken by Lender shall be cumulative and concurrent and may be pursued independently, singularly, successively, together or otherwise, at such time and in such order as Lender may determine in its sole discretion, to the fullest extent permitted by law, without impairing or otherwise affecting the other rights and remedies of Lender permitted by law, equity or contract or as set forth herein or in the other Loan Documents. Without limiting the generality of the foregoing, Borrower agrees that if an Event of Default is continuing (i) Lender is not subject to any "one action" or "election of remedies" law or rule, and (ii) all liens and other rights, remedies or privileges provided to Lender shall remain in full force and effect until Lender has exhausted all of its remedies against the Property and the Mortgage has been foreclosed, sold and/or otherwise realized upon in satisfaction of the Debt or the Debt has been paid in full.

(b) With respect to Borrower and the Property, nothing contained herein or in any other Loan Document shall be construed as requiring Lender to resort to the Property for the satisfaction of any of the Debt in any preference or priority, and Lender may seek satisfaction out of the Property, or any part thereof, in its absolute discretion in respect of the Debt. In addition, Lender shall have the right from time to time to partially foreclose the Mortgage in any manner and for any amounts secured by the Mortgage then due and payable as determined by Lender in its sole discretion including, without limitation, the following circumstances: (i) in the event Borrower defaults beyond any applicable grace period in the payment of one or more scheduled payments of principal and interest, Lender may foreclose the Mortgage to recover such delinquent payments or (ii) in the event Lender elects to accelerate less than the entire outstanding principal balance of the Loan, Lender may foreclose the Mortgage to recover so much of the principal balance of the Loan as Lender may accelerate and such other sums secured by the Mortgage as Lender may elect. Notwithstanding one or more partial foreclosures, the Property shall remain subject to the Mortgage to secure payment of sums secured by the Mortgage and not previously recovered.

(c) Lender shall have the right from time to time to sever the Note and the other Loan Documents into one or more separate notes, mortgages and other security documents (the "Severed Loan Documents") in such denominations as Lender shall determine in its sole discretion for purposes of evidencing and enforcing its rights and remedies provided hereunder. Borrower shall execute and deliver to Lender from time to time, promptly after the request of Lender, a severance agreement and such other documents as Lender shall request in order to effect the severance described in the preceding sentence, all in form and substance reasonably satisfactory to Lender. Borrower hereby absolutely and irrevocably appoints Lender as its true and lawful attorney, coupled with an interest, in its name and stead to make and execute all documents necessary or desirable to effect the aforesaid severance, Borrower ratifying all that its said attorney shall do by virtue thereof; provided, however, Lender shall not make or execute any such documents under such power until three (3) days after notice has been given to Borrower by Lender of Lender's intent to exercise its rights under such power. Borrower shall be obligated to pay any costs or expenses incurred in connection with the preparation, execution, recording or filing of the Severed Loan Documents and the Severed Loan Documents shall not contain any representations, warranties or covenants not contained in the Loan Documents and any such representations and warranties contained in the Severed Loan Documents will be given by Borrower only as of the Closing Date.

SECTION 8.3 REMEDIES CUMULATIVE; WAIVERS. The rights, powers and remedies of Lender under this Agreement shall be cumulative and not exclusive of any other right, power or remedy which Lender may have against Borrower pursuant to this Agreement or the other Loan Documents, or existing at law or in equity or otherwise. Lender's rights, powers and remedies may be pursued singularly, concurrently or otherwise, at such time and in such order as Lender may determine in Lender's sole discretion. No delay or omission to exercise any remedy, right or power accruing upon an Event of Default shall impair any such remedy, right or power or shall be construed as a waiver thereof, but any such remedy, right or power may be exercised from time to time and as often as may be deemed expedient. A waiver of one Default or Event of Default with respect to Borrower shall not be construed to be a waiver of any subsequent Default or Event of Default by Borrower or to impair any remedy, right or power consequent thereon.

IX. SPECIAL PROVISIONS

SECTION 9.1 SECURITIZATION.

9.1.1 SALE OF NOTES AND SECURITIZATION. Borrower acknowledges and agrees that Lender may sell all or any portion of the Loan and the Loan Documents, or issue one or more participations therein, or consummate one or more private or public securitizations of rated single- or multi-class securities (the "Securities") secured by or evidencing ownership interests in all or any portion of the Loan and the Loan Documents or a pool of assets that include the Loan and the Loan Documents (such sales, participations and/or securitizations, collectively, a "Securitization"). At the request of Lender, and to the extent not already required to be provided by or on behalf of Borrower under this Agreement, Borrower shall use reasonable efforts to provide information not in the possession of Lender or which may be reasonably required by Lender or take other actions reasonably required by Lender, in each case in order to satisfy the market standards to which Lender customarily adheres or which may be reasonably required by prospective investors and/or the Rating Agencies in connection with any such Securitization including, without limitation, to:

(a) provide additional and/or updated Provided Information, together with appropriate verification and/or consents related to the Provided Information through letters of auditors or opinions of counsel of independent attorneys reasonably acceptable to Lender, prospective investors and/or the Rating Agencies;

(b) assist in preparing descriptive materials for presentations to any or all of the Rating Agencies, and work with, and if requested, supervise, third-party service providers engaged by Borrower and approved by Lender, Principal and their respective affiliates to obtain, collect, and deliver information requested or required by Lender, prospective investors and/or the Rating Agencies;

(c) deliver (i) an Additional Insolvency Opinion and an opinion with respect to, due execution and enforceability with respect to the Property, Borrower, Principal, Guarantor and their respective Affiliates and the Loan Documents, including, without limitation, a so called "10b-5" opinion, and (ii) revised organizational documents for Borrower, which counsel opinions and organizational documents shall be reasonably satisfactory to Lender, prospective investors and/or the Rating Agencies;

(d) if required by any prospective investor and/or any Rating Agency, use commercially reasonable efforts to deliver such additional tenant estoppel letters, subordination agreements or other agreements from parties to agreements that affect the Property, which estoppel letters, subordination agreements or other agreements shall be reasonably satisfactory to Lender, prospective investors and/or the Rating Agencies;

(e) make such representations and warranties as of the closing date of the Securitization with respect to the Property, Borrower, Principal, Guarantor and the Loan Documents as may be reasonably requested by Lender, prospective investors and/or the Rating Agencies and consistent with the facts covered by such representations and warranties as they exist on the date thereof, including the representations and warranties made in the Loan Documents;

(f) execute such amendments to the Loan Documents as may be requested by Lender, prospective investors and/or the Rating Agencies to effect the Securitization;

(g) if requested by Lender, review any information regarding the Property, Borrower, Principal, Guarantor, Manager and the Loan which is contained in a preliminary or final private placement memorandum, prospectus, prospectus supplement (including any amendment or supplement to either thereof), or other disclosure document to be used by Lender or any affiliate thereof; and

(h) supply to Lender such documentation, financial statements and reports in form and substance required in order to comply with any applicable securities laws.

9.1.2 LOAN COMPONENTS. Borrower covenants and agrees that in connection with any Securitization of the Loan, upon Lender's request Borrower shall deliver one or more new component notes to replace the original note or modify the original note to reflect multiple components of the Loan or create one or more mezzanine loans (including amending Borrower's organizational structure to provide for one or more mezzanine borrowers) [or re-size the Components of the Loan] (each a "RESIZING EVENT"). Lender agrees that such new notes or modified note or mezzanine notes [or re-sized Components] shall immediately after the Resizing Event have the same initial weighted average coupon as the original note prior to such Resizing Event, notwithstanding that such new notes or modified note or mezzanine notes or [re-sized Component] may, in connection with the application of principal to such new notes or modified note or mezzanine notes [or re-sized Components], subsequently cause the weighted average spread of such new notes or modified note or mezzanine notes [or re-sized Components] to change (but not increase, except that the weighted average spread may subsequently increase due to involuntary prepayments or if an Event of Default shall occur) and apply principal, interest rates and amortization of the Loan between such new components and/or mezzanine loans in a manner specified by Lender in its sole discretion such that the pricing and marketability of the Securities and the size of each class of Securities and the rating assigned to each such class by the Rating Agencies shall provide the most favorable rating levels and achieve the optimum bond execution for the Loan. In connection with any Resizing Event, Borrower covenants and agrees to modify the Cash Management Agreement with respect to the newly created components and/or mezzanine loans.

9.1.3 SECURITIZATION COSTS. All reasonable third party costs and expenses incurred by Borrower and Guarantor in connection with Borrower's complying with requests made under this Section 9.1 (including, without limitation, the fees and expenses of the Rating Agencies) shall be paid by Lender.

SECTION 9.2 SECURITIZATION INDEMNIFICATION. (a) Borrower understands that certain of the Provided Information may be included in Disclosure Documents in connection with the Securitization and may also be included in filings with the Securities and Exchange Commission pursuant to the Securities Act of 1933, as amended (the "Securities Act"), or the Securities and Exchange Act of 1934, as amended (the "Exchange Act"), or provided or made available to investors or prospective investors in the Securities, the Rating Agencies, and service providers relating to the Securitization. In the event that the Disclosure Document is required to be revised prior to the sale of all Securities, Borrower will cooperate with the holder of the Note in updating the Disclosure Document by providing all current information necessary to keep the Disclosure Document accurate and complete in all material respects.

(b) The Indemnifying Persons agree to provide, in connection with the Securitization, an indemnification agreement (A) certifying that (i) the Indemnifying Persons have carefully examined the Disclosure Documents, including without limitation, the sections entitled "Risk Factors," "Special Considerations," "Description of the Mortgages," "Description of the Mortgage Loans and Mortgaged Property," "The Manager," "The Borrower" and "Certain Legal Aspects of the Mortgage Loan," and (ii) such sections and such other information in the Disclosure Documents (to the extent such information relates to or includes any Provided Information or any information regarding the Properties, Borrower, Manager and/or the Loan) (collectively with the Provided Information, the "Covered Disclosure Information") do not contain any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading, (B) jointly and severally indemnifying Lender, BSCMI (whether or not it is the Lender), any Affiliate of BSCMI that has filed any registration statement relating to the Securitization or has acted as the sponsor or depositor in connection with the Securitization, any Affiliate of BSCMI that acts as an underwriter, placement agent or initial purchaser of Securities issued in the Securitization, any other co-underwriters, co-placement agents or co-initial purchasers of Securities issued in the Securitization, and each of their respective officers, directors, partners, employees, representatives, agents and Affiliates and each Person or entity who Controls any such Person within the meaning of Section 15 of the Securities Act or Section 20 of the Exchange Act (collectively, the "Indemnified Persons"), for any losses, claims, damages, liabilities, costs or expenses (including without limitation legal fees and expenses for enforcement of these obligations (collectively, the "Liabilities") to which any such Indemnified Person may become subject insofar as the Liabilities arise out of or are based upon any untrue statement or alleged untrue statement of any material fact contained in the Covered

Disclosure Information or arise out of or are based upon the omission or alleged omission to state in the Covered Disclosure Information a material fact required to be stated therein or necessary in order to make the statements in the Covered Disclosure Information, in light of the circumstances under which they were made, not misleading and (C) agreeing to reimburse each Indemnified Person for any legal or other expenses incurred by such Indemnified Person, as they are incurred, in connection with investigating or defending the Liabilities. This indemnity agreement will be in addition to any liability which Borrower may otherwise have. Moreover, the indemnification and reimbursement obligations provided for in clauses (B) and (C) above shall be effective, valid and binding obligations of the Indemnifying Persons whether or not an indemnification agreement described in clause (A) above is provided.

(c) In connection with Exchange Act Filings, the Indemnifying Persons jointly and severally agree to indemnify (i) the Indemnified Persons for Liabilities to which any such Indemnified Person may become subject insofar as the Liabilities arise out of or are based upon any untrue statement or alleged untrue statement of any material fact in the Covered Disclosure Information, or the omission or alleged omission to state in the Covered Disclosure Information a material fact required to be stated therein or necessary in order to make the statements in the Covered Disclosure Information, in light of the circumstances under which they were made, not misleading and (ii) reimburse each Indemnified Person for any legal or other expenses incurred by such Indemnified Persons, as they are incurred, in connection with defending or investigating the Liabilities.

(d) Promptly after receipt by an Indemnified Person of notice of any claim or the commencement of any action, the Indemnified Person shall, if a claim in respect thereof is to be made against any Indemnifying Person, notify such Indemnifying Person in writing of the claim or the commencement of that action; provided, however, that the failure to notify such Indemnifying Person shall not relieve it from any liability which it may have under the indemnification provisions of this Section 9.2 except to the extent that it has been materially prejudiced by such failure and, provided further that the failure to notify such Indemnifying Person shall not relieve it from any liability which it may have to an Indemnified Person otherwise than under the provisions of this Section 9.2. If any such claim or action shall be brought against an Indemnified Person, and it shall notify any Indemnifying Person thereof, such Indemnifying Person shall be entitled to participate therein and, to the extent that it wishes, assume the defense thereof with counsel reasonably satisfactory to the Indemnified Person. After notice from any Indemnifying Person to the Indemnified Person of its election to assume the defense of such claim or action, such Indemnifying Person shall not be liable to the Indemnified Person for any legal or other expenses subsequently incurred by the Indemnified Person in connection with the defense thereof except as provided in the following sentence; provided, however, if the defendants in any such action include both an Indemnifying Person, on the one hand, and one or more Indemnified Persons on the other hand, and an Indemnified Person shall have reasonably concluded that there are any legal defenses available to it and/or other Indemnified Persons that are different or in addition to those available to the Indemnifying Person, the Indemnified Person or Persons shall have the right to select separate counsel to assert such legal defenses and to otherwise participate in the defense of such action on behalf of such Indemnified Person

or Persons. The Indemnified Person shall instruct its counsel to maintain reasonably detailed billing records for fees and disbursements for which such Indemnified Person is seeking reimbursement hereunder and shall submit copies of such detailed billing records to substantiate that such counsel's fees and disbursements are solely related to the defense of a claim for which the Indemnifying Person is required hereunder to indemnify such Indemnified Person. No Indemnifying Person shall be liable for the expenses of more than one (1) such separate counsel unless such Indemnified Person shall have reasonably concluded that there may be legal defenses available to it that are different from or additional to those available to another Indemnified Person.

(e) Without the prior written consent of BSCMI (which consent shall not be unreasonably withheld or delayed), no Indemnifying Person shall settle or compromise or consent to the entry of any judgment in any pending or threatened claim, action, suit or proceeding in respect of which indemnification may be sought hereunder (whether or not any Indemnified Person is an actual or potential party to such claim, action, suit or proceeding) unless the Indemnifying Person shall have given BSCMI reasonable prior written notice thereof and shall have obtained an unconditional release of each Indemnified Person hereunder from all liability arising out of such claim, action, suit or proceedings. As long as an Indemnifying Person has complied with its obligations to defend and indemnify hereunder, such Indemnifying Person shall not be liable for any settlement made by any Indemnified Person without the consent of such Indemnifying Person (which consent shall not be unreasonably withheld or delayed).

(f) The Indemnifying Persons agree that if any indemnification or reimbursement sought pursuant to this Section 9.2 is finally judicially determined to be unavailable for any reason or is insufficient to hold any Indemnified Person harmless (with respect only to the Liabilities that are the subject of this Section 9.2), then the Indemnifying Persons, on the one hand, and such Indemnified Person, on the other hand, shall contribute to the Liabilities for which such indemnification or reimbursement is held unavailable or is insufficient: (x) in such proportion as is appropriate to reflect the relative benefits to the Indemnifying Persons, on the one hand, and such Indemnified Person, on the other hand, from the transactions to which such indemnification or reimbursement relates; or (y) if the allocation provided by clause (x) above is not permitted by applicable law, in such proportion as is appropriate to reflect not only the relative benefits referred to in clause (x) but also the relative faults of the Indemnifying Persons, on the one hand, and all Indemnified Persons, on the other hand, as well as any other equitable considerations. Notwithstanding the provisions of this Section 9.2, (A) no party found liable for a fraudulent misrepresentation shall be entitled to contribution from any other party who is not also found liable for such fraudulent misrepresentation, and (B) the Indemnifying Persons agree that in no event shall the amount to be contributed by the Indemnified Persons collectively pursuant to this paragraph exceed the amount of the fees actually received by the Indemnified Persons in connection with the closing of the Loan.

(g) The Indemnifying Persons agree that the indemnification, contribution and reimbursement obligations set forth in this Section 9.2 shall apply whether or not any Indemnified Person is a formal party to any lawsuits, claims or other proceedings. The Indemnifying Persons further agree that the Indemnified Persons are intended third party beneficiaries under this Section 9.2.

(h) The liabilities and obligations of the Indemnified Persons and the Indemnifying Persons under this Section 9.2 shall survive the termination of this Agreement and the satisfaction and discharge of the Debt.

(i) Notwithstanding anything to the contrary contained herein, Borrower shall have no obligation to act as depositor with respect to the Loan or an issuer or registrant with respect to the Securities issued in any Securitization.

SECTION 9.3 EXCULPATION. Subject to the qualifications below, Lender shall not enforce the liability and obligation of Borrower to perform and observe the obligations contained in the Note, this Agreement, the Mortgage or the other Loan Documents by any action or proceeding wherein a money judgment shall be sought against Borrower, except that Lender may bring a foreclosure action, an action for specific performance or any other appropriate action or proceeding to enable Lender to enforce and realize upon its interest under the Note, this Agreement, the Mortgage and the other Loan Documents, or in the Property, the Rents, or any other collateral given to Lender pursuant to the Loan Documents; provided, however, that, except as specifically provided herein, any judgment in any such action or proceeding shall be enforceable against Borrower only to the extent of Borrower's interest in the Property, in the Rents and in any other collateral given to Lender, and Lender, by accepting the Note, this Agreement, the Mortgage and the other Loan Documents, agrees that it shall not sue for, seek or demand any deficiency judgment against Borrower in any such action or proceeding under or by reason of or under or in connection with the Note, this Agreement, the Mortgage or the other Loan Documents. The provisions of this Section shall not, however, (a) constitute a waiver, release or impairment of any obligation evidenced or secured by any of the Loan Documents; (b) impair the right of Lender to name Borrower as a party defendant in any action or suit for foreclosure and sale under the Mortgage; (c) affect the validity or enforceability of or any guaranty made in connection with the Loan or any of the rights and remedies of Lender thereunder; (d) impair the right of Lender to obtain the appointment of a receiver; (e) impair the enforcement of any of the Assignment of Leases; (f) constitute a prohibition against Lender to seek a deficiency judgment against Borrower in order to fully realize the security granted by the Mortgage or to commence any other appropriate action or proceeding in order for Lender to exercise its remedies against the Property; or (g) constitute a waiver of the right of Lender to enforce the liability and obligation of Borrower, by money judgment or otherwise, to the extent of any loss, damage, cost, expense, liability, claim or other obligation incurred by Lender (including attorneys' fees and costs reasonably incurred) arising out of or in connection with the following:

(i) fraud or intentional misrepresentation by Borrower or Principal or Guarantor in connection with the Loan;

(ii) the gross negligence or willful misconduct of Borrower;

(iii) the breach of any representation, warranty, covenant or indemnification provision in the Environmental Indemnity Agreement or in the Mortgage concerning environmental laws, hazardous substances and asbestos and any indemnification of Lender with respect thereto in either document;

(iv) the removal or disposal of any portion of the Property after an Event of Default;

(v) the misapplication or conversion by Borrower of (A) any Insurance Proceeds paid by reason of any loss, damage or destruction to the Property, (B) any Awards received in connection with a Condemnation of all or a portion of the Property, (C) any Rents following an Event of Default, or (D) any Rents paid more than one month in advance;

(vi) failure to pay charges for labor or materials or other charges that can create Liens on any portion of the Property; and

(vii) any security deposits, advance deposits or any other deposits collected with respect to the Property which are not delivered to Lender upon a foreclosure of the Property or action in lieu thereof, except to the extent any such security deposits were applied in accordance with the terms and conditions of any of the Leases prior to the occurrence of the Event of Default that gave rise to such foreclosure or action in lieu thereof.

Notwithstanding anything to the contrary in this Agreement, the Note or any of the Loan Documents, (A) Lender shall not be deemed to have waived any right which Lender may have under Section 506(a), 506(b), 1111(b) or any other provisions of the Bankruptcy Code to file a claim for the full amount of the Debt secured by the Mortgage or to require that all collateral shall continue to secure all of the Debt owing to Lender in accordance with the Loan Documents, and (B) the Debt shall be fully recourse to Borrower (i) in the event of: (a) Borrower filing a voluntary petition under the Bankruptcy Code or any other Federal or state bankruptcy or insolvency law; (b) the filing of an involuntary petition against Borrower under the Bankruptcy Code or any other Federal or state bankruptcy or insolvency law, in which Borrower colludes with, or otherwise assists such Person, or solicits or causes to be solicited petitioning creditors for any involuntary petition against Borrower from any Person; (c) Borrower filing an answer consenting to or otherwise acquiescing in or joining in any involuntary petition filed against it, by any other Person under the Bankruptcy Code or any other Federal or state bankruptcy or insolvency law; (d) Borrower consenting to or acquiescing in or joining in an application for the appointment of a custodian, receiver, trustee, or examiner for Borrower or any portion of the Property; (e) Borrower making an assignment for the benefit of creditors, or admitting, in writing or in any legal proceeding, its insolvency or inability to pay its debts as they become due; (ii) if the first full monthly payment of principal and interest on the Note is not paid when due; (iii) if Borrower fails to permit on-site inspections of the Property, fails to provide financial information, fails to maintain its status as a Single Purpose Entity or fails to appoint a new property manager upon the request of Lender as permitted under this Agreement, each as required by, and in accordance with, the terms and provisions of this Agreement or the Mortgage; (iv) if Borrower fails to obtain Lender's prior written consent to any Indebtedness or voluntary Lien encumbering the Property; or (v) if Borrower fails to obtain Lender's prior written consent to any Transfer as required by this Agreement or the Mortgage.

SECTION 9.4 MATTERS CONCERNING MANAGER. If (a) an Event of Default occurs, (b) Manager shall become bankrupt or insolvent or (c) a default occurs under the Management Agreement, Borrower shall, at the request of Lender, terminate the Management Agreement and replace the Manager with a Qualified Manager pursuant to a Replacement Management Agreement, it being understood and agreed that the management fee for such Qualified Manager shall not exceed then prevailing market rates.

SECTION 9.5 SERVICER. At the option of Lender, the Loan may be serviced by a servicer/trustee (any such servicer/trustee, together with its agents, nominees or designees, are collectively referred to as "Servicer") selected by Lender and Lender may delegate all or any portion of its responsibilities under this Agreement and the other Loan Documents to Servicer pursuant to a servicing agreement (the "Servicing Agreement") between Lender and Servicer. Borrower shall be responsible for any reasonable set-up fees or any other initial costs relating to or arising under the Servicing Agreement; provided, however, that Borrower shall not be responsible for payment of the monthly servicing fee due to Servicer under the Servicing Agreement.

X. MISCELLANEOUS

SECTION 10.1 SURVIVAL. This Agreement and all covenants, agreements, representations and warranties made herein and in the certificates delivered pursuant hereto shall survive the making by Lender of the Loan and the execution and delivery to Lender of the Note, and shall continue in full force and effect so long as all or any of the Debt is outstanding and unpaid unless a longer period is expressly set forth herein or in the other Loan Documents. Whenever in this Agreement any of the parties hereto is referred to, such reference shall be deemed to include the legal representatives, successors and assigns of such party. All covenants, promises and agreements in this Agreement, by or on behalf of Borrower, shall inure to the benefit of the legal representatives, successors and assigns of Lender.

SECTION 10.2 LENDER'S DISCRETION. Whenever pursuant to this Agreement, Lender exercises any right given to it to approve or disapprove, or any arrangement or term is to be satisfactory to Lender, the decision of Lender to approve or disapprove or to decide whether arrangements or terms are satisfactory or not satisfactory shall (except as is otherwise specifically herein provided) be in the sole discretion of Lender and shall be final and conclusive.

SECTION 10.3 GOVERNING LAW.

(a) THIS AGREEMENT WAS NEGOTIATED IN THE STATE OF NEW YORK, THE LOAN WAS MADE BY LENDER AND ACCEPTED BY BORROWER IN THE STATE OF NEW YORK, AND THE PROCEEDS OF THE LOAN DELIVERED PURSUANT HERETO WERE DISBURSED FROM THE STATE OF NEW YORK, WHICH STATE THE PARTIES AGREE HAS A SUBSTANTIAL RELATIONSHIP TO THE PARTIES AND TO THE UNDERLYING TRANSACTION EMBODIED HEREBY, AND IN ALL RESPECTS, INCLUDING, WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, MATTERS OF CONSTRUCTION, VALIDITY AND PERFORMANCE, THIS AGREEMENT, THE NOTE AND THE OTHER LOAN DOCUMENTS AND THE OBLIGATIONS ARISING HEREUNDER AND THEREUNDER SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK APPLICABLE TO CONTRACTS MADE AND PERFORMED IN SUCH STATE (WITHOUT REGARD TO PRINCIPLES OF CONFLICTS OF LAWS) AND ANY APPLICABLE LAW OF THE UNITED STATES OF AMERICA, EXCEPT THAT AT ALL TIMES THE PROVISIONS FOR THE CREATION, PERFECTION, AND ENFORCEMENT OF THE LIEN AND SECURITY INTEREST CREATED PURSUANT HERETO AND PURSUANT TO THE OTHER LOAN DOCUMENTS SHALL BE GOVERNED BY AND CONSTRUED

ACCORDING TO THE LAW OF THE STATE IN WHICH THE PROPERTY IS LOCATED, IT BEING UNDERSTOOD THAT, TO THE FULLEST EXTENT PERMITTED BY THE LAW OF SUCH STATE, THE LAW OF THE STATE OF NEW YORK SHALL GOVERN THE CONSTRUCTION, VALIDITY AND ENFORCEABILITY OF ALL LOAN DOCUMENTS AND ALL OF THE OBLIGATIONS ARISING HEREUNDER OR THEREUNDER. TO THE FULLEST EXTENT PERMITTED BY LAW, BORROWER HEREBY UNCONDITIONALLY AND IRREVOCABLY WAIVES ANY CLAIM TO ASSERT THAT THE LAW OF ANY OTHER JURISDICTION GOVERNS THIS AGREEMENT, THE NOTE AND THE OTHER LOAN DOCUMENTS, AND THIS AGREEMENT, THE NOTE AND THE OTHER LOAN DOCUMENTS SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK PURSUANT TO SECTION 5-1401 OF THE NEW YORK GENERAL OBLIGATIONS LAW.

(b) ANY LEGAL SUIT, ACTION OR PROCEEDING AGAINST LENDER OR BORROWER ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE OTHER LOAN DOCUMENTS MAY AT LENDER'S OPTION BE INSTITUTED IN ANY FEDERAL OR STATE COURT IN THE CITY OF NEW YORK, COUNTY OF NEW YORK, PURSUANT TO SECTION 5-1402 OF THE NEW YORK GENERAL OBLIGATIONS LAW AND BORROWER WAIVES ANY OBJECTIONS WHICH IT MAY NOW OR HEREAFTER HAVE BASED ON VENUE AND/OR FORUM NON CONVENIENS OF ANY SUCH SUIT, ACTION OR PROCEEDING, AND BORROWER HEREBY IRREVOCABLY SUBMITS TO THE JURISDICTION OF ANY SUCH COURT IN ANY SUIT, ACTION OR PROCEEDING. BORROWER DOES HEREBY DESIGNATE AND APPOINT:

Corporation Service Company
2711 Centerville Road, Suite 400
Wilmington, DE 19808

AS ITS AUTHORIZED AGENT TO ACCEPT AND ACKNOWLEDGE ON ITS BEHALF SERVICE OF ANY AND ALL PROCESS WHICH MAY BE SERVED IN ANY SUCH SUIT, ACTION OR PROCEEDING IN ANY FEDERAL OR STATE COURT IN NEW YORK, NEW YORK, AND AGREES THAT SERVICE OF PROCESS UPON SAID AGENT AT SAID ADDRESS AND WRITTEN NOTICE OF SAID SERVICE MAILED OR DELIVERED TO BORROWER IN THE MANNER PROVIDED HEREIN SHALL BE DEEMED IN EVERY RESPECT EFFECTIVE SERVICE OF PROCESS UPON BORROWER IN ANY SUCH SUIT, ACTION OR PROCEEDING IN THE STATE OF NEW YORK. BORROWER (I) SHALL GIVE PROMPT NOTICE TO LENDER OF ANY CHANGED ADDRESS OF ITS AUTHORIZED AGENT HEREUNDER, (II) MAY AT ANY TIME AND FROM TIME TO TIME DESIGNATE A SUBSTITUTE AUTHORIZED AGENT WITH AN OFFICE IN NEW YORK, NEW YORK (WHICH SUBSTITUTE AGENT AND OFFICE SHALL BE DESIGNATED AS THE PERSON AND ADDRESS FOR SERVICE OF PROCESS), AND (III) SHALL PROMPTLY DESIGNATE SUCH A SUBSTITUTE IF ITS AUTHORIZED AGENT CEASES TO HAVE AN OFFICE IN NEW YORK, NEW YORK OR IS DISSOLVED WITHOUT LEAVING A SUCCESSOR.

SECTION 10.4 MODIFICATION, WAIVER IN WRITING. No modification, amendment, extension, discharge, termination or waiver of any provision of this Agreement, or of the Note, or of any other Loan Document, nor consent to any departure by Borrower therefrom, shall in any event be effective unless the same shall be in a writing signed by the party against whom enforcement is sought, and then such waiver or consent shall be effective only in the specific instance, and for the purpose, for which given. Except as otherwise expressly provided herein, no notice to, or demand on Borrower, shall entitle Borrower to any other or future notice or demand in the same, similar or other circumstances.

SECTION 10.5 DELAY NOT A WAIVER. Neither any failure nor any delay on the part of Lender in insisting upon strict performance of any term, condition, covenant or agreement, or exercising any right, power, remedy or privilege hereunder, or under the Note or under any other Loan Document, or any other instrument given as security therefor, shall operate as or constitute a waiver thereof, nor shall a single or partial exercise thereof preclude any other future exercise, or the exercise of any other right, power, remedy or privilege. In particular, and not by way of limitation, by accepting payment after the due date of any amount payable under this Agreement, the Note or any other Loan Document, Lender shall not be deemed to have waived any right either to require prompt payment when due of all other amounts due under this Agreement, the Note or the other Loan Documents, or to declare a default for failure to effect prompt payment of any such other amount.

SECTION 10.6 NOTICES. All notices, consents, approvals and requests required or permitted hereunder or under any other Loan Document shall be given in writing and shall be effective for all purposes if hand delivered or sent by (a) certified or registered United States mail, postage prepaid, return receipt requested or (b) expedited prepaid delivery service, either commercial or United States Postal Service, with proof of attempted delivery, and by telecopier (with answer back acknowledged), addressed as follows (or at such other address and Person as shall be designated from time to time by any party hereto, as the case may be, in a written notice to the other parties hereto in the manner provided for in this Section):

If to Lender: Bear Stearns Commercial Mortgage, Inc.
383 Madison Avenue
New York, New York 10179
Attention: J. Christopher Hoeffel
Facsimile No.: (212) 272-7047

with a copy to: Kelley Drye & Warren LLP
101 Park Avenue
New York, New York 10178
Attention: Paul A. Keenan, Esq.
Facsimile No.: (212) 808-7897

If to Borrower: c/o Acadia Realty Trust
1311 Mamaroneck Avenue, Suite 260
White Plains, New York 10605
Attention: Mr. Michael Nelsen, Chief
Financial Officer
Facsimile No.: (914) 288.2162

With a copy to: Acadia Realty Trust
1311 Mamaroneck Avenue, Suite 260
White Plains, New York 10605
Attention: Robert Masters, Esq., General
Counsel
Facsimile No.: (914) 288.2162

A notice shall be deemed to have been given: in the case of hand delivery, at the time of delivery; in the case of registered or certified mail, when delivered or the first attempted delivery on a Business Day; or in the case of expedited prepaid delivery and telecopy, upon the first attempted delivery on a Business Day; or in the case of telecopy, upon sender's receipt of a machine-generated confirmation of successful transmission after advice by telephone to recipient that a telecopy notice is forthcoming.

SECTION 10.7 TRIAL BY JURY.

BORROWER HEREBY AGREES NOT TO ELECT A TRIAL BY JURY OF ANY ISSUE TRIABLE OF RIGHT BY JURY, AND WAIVES ANY RIGHT TO TRIAL BY JURY FULLY TO THE EXTENT THAT ANY SUCH RIGHT SHALL NOW OR HEREAFTER EXIST WITH REGARD TO THE LOAN DOCUMENTS, OR ANY CLAIM, COUNTERCLAIM OR OTHER ACTION ARISING IN CONNECTION THEREWITH. THIS WAIVER OF RIGHT TO TRIAL BY JURY IS GIVEN KNOWINGLY AND VOLUNTARILY BY BORROWER, AND IS INTENDED TO ENCOMPASS INDIVIDUALLY EACH INSTANCE AND EACH ISSUE AS TO WHICH THE RIGHT TO A TRIAL BY JURY WOULD OTHERWISE ACCRUE. LENDER IS HEREBY AUTHORIZED TO FILE A COPY OF THIS PARAGRAPH IN ANY PROCEEDING AS CONCLUSIVE EVIDENCE OF THIS WAIVER BY BORROWER.

SECTION 10.8 HEADINGS. The Article and/or Section headings and the Table of Contents in this Agreement are included herein for convenience of reference only and shall not constitute a part of this Agreement for any other purpose.

SECTION 10.9 SEVERABILITY. Wherever possible, each provision of this Agreement shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Agreement shall be prohibited by or invalid under applicable law, such provision shall be ineffective to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Agreement.

SECTION 10.10 PREFERENCES. Lender shall have the continuing and exclusive right to apply or reverse and reapply any and all payments by Borrower to any portion of the obligations of Borrower hereunder. To the extent Borrower makes a payment or payments to Lender, which payment or proceeds or any part thereof are subsequently invalidated, declared to be fraudulent or preferential, set aside or required to be repaid to a trustee, receiver or any other party under any bankruptcy law, state or federal law, common law or equitable cause, then, to the extent of such payment or proceeds received, the obligations hereunder or part thereof intended to be satisfied shall be revived and continue in full force and effect, as if such payment or proceeds had not been received by Lender.

SECTION 10.11 WAIVER OF NOTICE. Borrower shall not be entitled to any notices of any nature whatsoever from Lender except with respect to matters for which this Agreement or the other Loan Documents specifically and expressly provide for the giving of notice by Lender to Borrower and except with respect to matters for which Borrower is not, pursuant to applicable Legal Requirements, permitted to waive the giving of notice. Borrower hereby expressly waives the right to receive any notice from Lender with respect to any matter for which this Agreement or the other Loan Documents do not specifically and expressly provide for the giving of notice by Lender to Borrower.

SECTION 10.12 REMEDIES OF BORROWER. In the event that a claim or adjudication is made that Lender or its agents have acted unreasonably or unreasonably delayed acting in any case where by law or under this Agreement or the other Loan Documents, Lender or such agent, as the case may be, has an obligation to act reasonably or promptly, Borrower agrees that neither Lender nor its agents shall be liable for any monetary damages, and Borrower's sole remedies shall be limited to commencing an action seeking injunctive relief or declaratory judgment. The parties hereto agree that any action or proceeding to determine whether Lender has acted reasonably shall be determined by an action seeking declaratory judgment.

SECTION 10.13 EXPENSES; INDEMNITY. (a) Borrower covenants and agrees to pay or, if Borrower fails to pay, to reimburse, Lender upon receipt of written notice from Lender for all reasonable costs and expenses (including reasonable attorneys' fees and disbursements) incurred by Lender in connection with (i) the preparation, negotiation, execution and delivery of this Agreement and the other Loan Documents and the consummation of the transactions contemplated hereby and thereby and all the costs of furnishing all opinions by counsel for Borrower (including without limitation any opinions requested by Lender as to any legal matters arising under this Agreement or the other Loan Documents with respect to the Property); (ii) Borrower's ongoing performance of and compliance with Borrower's respective agreements and covenants contained in this Agreement and the other Loan Documents on its part to be performed or complied with after the Closing Date, including, without limitation, confirming compliance with environmental and insurance requirements; (iii) Lender's ongoing performance and compliance with all agreements and conditions contained in this Agreement and the other Loan Documents on its part to be performed or complied with after the Closing Date; (iv) the negotiation, preparation, execution, delivery and administration of any consents, amendments, waivers or other modifications to this Agreement and the other Loan Documents and any other documents or matters requested by Lender; (v) securing Borrower's compliance with any requests made pursuant to the provisions of this Agreement; (vi) the filing and recording fees and expenses, title insurance and reasonable fees and expenses of counsel for providing to Lender all required legal opinions, and other similar expenses incurred in creating and perfecting the Lien in favor of Lender pursuant to this Agreement and the other Loan Documents; (vii) enforcing or preserving any rights, in response to third party claims or the prosecuting or defending of any action or proceeding or other litigation, in each case

against, under or affecting Borrower, this Agreement, the other Loan Documents, the Property, or any other security given for the Loan; and (viii) enforcing any obligations of or collecting any payments due from Borrower under this Agreement, the other Loan Documents or with respect to the Property (including any fees incurred by Servicer in connection with the transfer of the Loan to a special servicer prior to a Default or Event of Default) or in connection with any refinancing or restructuring of the credit arrangements provided under this Agreement in the nature of a "work-out" or of any insolvency or bankruptcy proceedings; provided, however, that Borrower shall not be liable for the payment of any such costs and expenses to the extent the same arise by reason of the gross negligence, illegal acts, fraud or willful misconduct of Lender. Any cost and expenses due and payable to Lender may be paid from any amounts in the Lockbox Account or Cash Management Account, as applicable.

(b) Borrower shall indemnify, defend and hold harmless Lender from and against any and all other liabilities, obligations, losses, damages, penalties, actions, judgments, suits, claims, costs, expenses and disbursements of any kind or nature whatsoever (including, without limitation, the reasonable fees and disbursements of counsel for Lender in connection with any investigative, administrative or judicial proceeding commenced or threatened, whether or not Lender shall be designated a party thereto), that may be imposed on, incurred by, or asserted against Lender in any manner relating to or arising out of (i) any breach by Borrower of its obligations under, or any material misrepresentation by Borrower contained in, this Agreement or the other Loan Documents, or (ii) the use or intended use of the proceeds of the Loan (collectively, the "Indemnified Liabilities"); provided, however, that Borrower shall not have any obligation to Lender hereunder to the extent that such Indemnified Liabilities arise from the gross negligence, illegal acts, fraud or willful misconduct of Lender. To the extent that the undertaking to indemnify, defend and hold harmless set forth in the preceding sentence may be unenforceable because it violates any law or public policy, Borrower shall pay the maximum portion that it is permitted to pay and satisfy under applicable law to the payment and satisfaction of all Indemnified Liabilities incurred by Lender.

(c) Borrower covenants and agrees to pay for or, if Borrower fails to pay, to reimburse Lender for, any fees and expenses incurred by any Rating Agency in connection with any Rating Agency review of the Loan, the Loan Documents or any transaction contemplated thereby or any consent, approval, waiver or confirmation obtained from such Rating Agency pursuant to the terms and conditions of this Agreement or any other Loan Document and Lender shall be entitled to require payment of such fees and expenses as a condition precedent to the obtaining of any such consent, approval, waiver or confirmation.

SECTION 10.14 SCHEDULES INCORPORATED. The Schedules annexed hereto are hereby incorporated herein as a part of this Agreement with the same effect as if set forth in the body hereof.

SECTION 10.15 OFFSETS, COUNTERCLAIMS AND DEFENSES. Any assignee of Lender's interest in and to this Agreement, the Note and the other Loan Documents shall take the same free and clear of all offsets, counterclaims or defenses which are unrelated to such documents which Borrower may otherwise have against any assignor of such documents, and no such unrelated counterclaim or defense shall be interposed or asserted by Borrower in any action or proceeding brought by any such assignee upon such documents and any such right to interpose or assert any such unrelated offset, counterclaim or defense in any such action or proceeding is hereby expressly waived by Borrower.

SECTION 10.16 NO JOINT VENTURE OR PARTNERSHIP; NO THIRD PARTY BENEFICIARIES. (a) Borrower and Lender intend that the relationships created hereunder and under the other Loan Documents be solely that of borrower and lender. Nothing herein or therein is intended to create a joint venture, partnership, tenancy-in-common, or joint tenancy relationship between Borrower and Lender nor to grant Lender any interest in the Property other than that of mortgagee, beneficiary or lender.

(b) This Agreement and the other Loan Documents are solely for the benefit of Lender and Borrower and nothing contained in this Agreement or the other Loan Documents shall be deemed to confer upon anyone other than Lender and Borrower any right to insist upon or to enforce the performance or observance of any of the obligations contained herein or therein. All conditions to the obligations of Lender to make the Loan hereunder are imposed solely and exclusively for the benefit of Lender and no other Person shall have standing to require satisfaction of such conditions in accordance with their terms or be entitled to assume that Lender will refuse to make the Loan in the absence of strict compliance with any or all thereof and no other Person shall under any circumstances be deemed to be a beneficiary of such conditions, any or all of which may be freely waived in whole or in part by Lender if, in Lender's sole discretion, Lender deems it advisable or desirable to do so.

SECTION 10.17 PUBLICITY. All news releases, publicity or advertising by Borrower or its Affiliates through any media intended to reach the general public which refers to the Loan Documents or the financing evidenced by the Loan Documents, to Lender, BSCMI, or any of their Affiliates shall be subject to the prior written approval of Lender.

SECTION 10.18 WAIVER OF MARSHALLING OF ASSETS. To the fullest extent permitted by law, Borrower, for itself and its successors and assigns, waives all rights to a marshalling of the assets of Borrower, Borrower's partners and others with interests in Borrower, and of the Property, and agrees not to assert any right under any laws pertaining to the marshalling of assets, the sale in inverse order of alienation, homestead exemption, the administration of estates of decedents, or any other matters whatsoever to defeat, reduce or affect the right of Lender under the Loan Documents to a sale of the Property for the collection of the Debt without any prior or different resort for collection or of the right of Lender to the payment of the Debt out of the net proceeds of the Property in preference to every other claimant whatsoever.

SECTION 10.19 WAIVER OF COUNTERCLAIM. Borrower hereby waives the right to assert a counterclaim, other than a compulsory counterclaim, in any action or proceeding brought against it by Lender or its agents.

SECTION 10.20 CONFLICT; CONSTRUCTION OF DOCUMENTS; RELIANCE.

In the event of any conflict between the provisions of this Agreement and any of the other Loan Documents, the provisions of this Agreement shall control. The parties hereto acknowledge that they were represented by competent counsel in connection with the negotiation, drafting and execution of the Loan Documents and that such Loan Documents shall not be subject to the principle of construing their meaning against the party which drafted same. Borrower acknowledges that, with respect to the Loan, Borrower shall rely solely on its own judgment and advisors in entering into the Loan without relying in any manner on any statements, representations or recommendations of Lender or any parent, subsidiary or Affiliate of Lender. Lender shall not be subject to any limitation whatsoever in the exercise of any rights or remedies available to it under any of the Loan Documents or any other agreements or instruments which govern the Loan by virtue of the ownership by it or any parent, subsidiary or Affiliate of Lender of any equity interest any of them may acquire in Borrower, and Borrower hereby irrevocably waives the right to raise any defense or take any action on the basis of the foregoing with respect to Lender's exercise of any such rights or remedies. Borrower acknowledges that Lender engages in the business of real estate financings and other real estate transactions and investments which may be viewed as adverse to or competitive with the business of Borrower or its Affiliates.

SECTION 10.21 BROKERS AND FINANCIAL ADVISORS. Borrower hereby

represents that it has dealt with no financial advisors, brokers, underwriters, placement agents, agents or finders in connection with the transactions contemplated by this Agreement. Borrower hereby agrees to indemnify, defend and hold Lender harmless from and against any and all claims, liabilities, costs and expenses of any kind (including Lender's attorneys' fees and expenses) in any way relating to or arising from a claim by any Person that such Person acted on behalf of Borrower or Lender in connection with the transactions contemplated herein. The provisions of this Section 10.21 shall survive the expiration and termination of this Agreement and the payment of the Debt.

SECTION 10.22 PRIOR AGREEMENTS. This Agreement and the other

Loan Documents contain the entire agreement of the parties hereto and thereto in respect of the transactions contemplated hereby and thereby, and all prior agreements among or between such parties, whether oral or written, including, without limitation, the Application Letter dated October 28, 2005 (as amended) between Borrower and Lender are superseded by the terms of this Agreement and the other Loan Documents.

SECTION 10.23 JOINT AND SEVERAL LIABILITY. If Borrower

consists of more than one (1) Person the obligations and liabilities of each Person shall be joint and several.

SECTION 10.24 CERTAIN ADDITIONAL RIGHTS OF LENDER (VCOC).

Notwithstanding anything to the contrary contained in this Agreement, Lender shall have:

(a) the right to routinely consult with and advise Borrower's management regarding the significant business activities and business and financial developments of Borrower; provided, however, that such consultations shall not include discussions of environmental compliance programs or disposal of hazardous substances. Consultation meetings should occur on a regular basis (no less frequently than quarterly) with Lender having the right to call special meetings at any reasonable times and upon reasonable advance notice;

(b) the right, in accordance with the terms of this Agreement, to examine the books and records of Borrower at any reasonable times upon reasonable notice;

(c) the right, in accordance with the terms of this Agreement, including, without limitation, Section 5.1.11 hereof, to receive monthly, quarterly and year end financial reports, including balance sheets, statements of income, shareholder's equity and cash flow, a management report and schedules of outstanding indebtedness; and

(d) the right, without restricting any other rights of Lender under this Agreement (including any similar right), to approve any acquisition by Borrower of any other significant property (other than personal property required for the day to day operation of the Property).

The rights described above in this Section 10.24 may be exercised by any entity which owns and controls, directly or indirectly, substantially all of the interests in Lender.

SECTION 10.25 MERS. Mortgage Electronic Registration Systems, Inc., a Delaware corporation ("MERS"), serves as mortgagee of record and secured party solely as nominee, in an administrative capacity, for Lender and only holds legal title to the interests granted, assigned, and transferred in the Security Instruments and the Assignments of Leases. MERS shall at all times comply with the instructions of Lender. If necessary to comply with law or custom, MERS (for the benefit of Lender) may be directed by Lender to exercise any or all of those interests, including without limitation, the right to foreclose and sell the Property, and take any action required of Lender, including without limitation, a release, discharge or reconveyance of the Mortgage. Subject to the foregoing, all references in the Loan Documents to "Mortgagee" shall include Lender and its successors and assigns. The relationship of Mortgagor and Lender under the Mortgage and the other Loan Documents is, and shall at all times remain, solely that of borrower and lender (the role of MERS thereunder being solely that of nominee as set forth above and not that of a lender); and Mortgagee neither undertakes nor assumes any responsibility or duty to Borrower or to any other Person with respect to the Property.

[NO FURTHER TEXT ON THIS PAGE]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed by their duly authorized representatives, all as of the day and year first above written.

RD ELMWOOD ASSOCIATES, L.P.,
a Delaware limited partnership

BY: Acadia Elmwood Park LLC,
Its general partner

By: _____
Name: Robert Masters
Title: Senior Vice President

BEAR STEARNS COMMERCIAL MORTGAGE, INC.,
a New York corporation

By: _____
Name:
Title:

JOINDER

By executing this Joinder (the "Joinder"), the undersigned ("Joinder Parties") hereby covenant, warrant and agree to comply with all of the terms and conditions set forth in Section 9.2 hereof.

1. WAIVERS. With respect to the obligations of the Joinder Parties pursuant to Section 9.2 hereof, to the fullest extent permitted by applicable law, each Joinder Party waives all rights and defenses of sureties, guarantors, accommodation parties and/or co-makers and agrees that its obligations under this Joinder shall be primary, absolute and unconditional, and that its obligations under this Joinder shall be unaffected by any of such rights or defenses, including:

(a) the unenforceability of any Loan Document against Borrower and/or any guarantor or other Joinder Party;

(b) any release or other action or inaction taken by Lender with respect to the collateral, the Loan, Borrower, any guarantor and/or other Joinder Party, whether or not the same may impair or destroy any subrogation rights of any Joinder Party, or constitute a legal or equitable discharge of any surety or indemnitor;

(c) the existence of any collateral or other security for the Loan, and any requirement that Lender pursue any of such collateral or other security, or pursue any remedies it may have against Borrower, any guarantor and/or any other Joinder Party;

(d) any requirement that Lender provide notice to or obtain a Joinder Party's consent to any modification, increase, extension or other amendment of the Loan, including the guaranteed obligations;

(e) any right of subrogation (until payment in full of the Loan, including the guaranteed obligations, and the expiration of any applicable preference period and statute of limitations for fraudulent conveyance claims);

(f) any defense based on any statute of limitations;

(g) any payment by Borrower to Lender if such payment is held to be a preference or fraudulent conveyance under bankruptcy laws or Lender is otherwise required to refund such payment to Borrower or any other party; and

(h) any voluntary or involuntary bankruptcy, receivership, insolvency, reorganization or similar proceeding affecting Borrower or any of its assets.

2. AGREEMENTS. With respect to the obligations of the Joinder Parties pursuant to Section 9.2 hereof, each Joinder Party further represents, warrants and agrees that:

(a) The obligations under this Joinder are enforceable against each such party and are not subject to any defenses, offsets or counterclaims;

(b) The provisions of this Joinder are for the benefit of Lender and its successors and assigns;

(c) Lender shall have the right to (i) renew, modify, extend or accelerate the Loan, (ii) pursue some or all of its remedies against Borrower, any guarantor or any Joinder Party, (iii) add, release or substitute any collateral for the Loan or party obligated thereunder, and (iv) release Borrower, any guarantor or any Joinder Party from liability, all without notice to or consent of any Joinder Party (or other Joinder Party) and without affecting the obligations of any Joinder Party (or other Joinder Party) hereunder;

(d) To the maximum extent permitted by law, each Joinder Party hereby knowingly, voluntarily and intentionally waives the right to a trial by jury in respect of any litigation based hereon. This waiver is a material inducement to Lender to enter into this Agreement.

This Joinder shall be governed by the laws of the State of New York.

Executed as of December ____, 2005.

ACADIA REALTY LIMITED PARTNERSHIP
a Delaware limited partnership

By: Acadia Realty Trust,
its general partner

By: _____
Name:
Title:

SCHEDULE I
(RENT ROLL)

SCH I-1

SCHEDULE III
(ORGANIZATIONAL CHART OF BORROWER)

RD ELMWOOD ASSOCIATES, L.P.
a Delaware limited partnership

General Partner
(1%)

Limited Partner
(99%)

ACADIA ELMWOOD PARK LLC
a Delaware limited liability company

ACADIA REALTY LIMITED PARTNERSHIP
a Delaware limited partnership

Sole Member

General Partner
(98%)

Limited Partners
(2%)

ACADIA REALTY LIMITED
PARTNERSHIP

ACADIA REALTY TRUST
a Maryland real estate
investment trust

INDIVIDUAL INVESTORS

General Partner
(98%)

Limited Partners
(2%)

ACADIA REALTY
TRUST

INDIVIDUAL
INVESTORS

SCHEDULE 5.1.11(E)
(BORROWER'S 2006 ANNUAL BUDGET)

MORTGAGE AND SECURITY AGREEMENT

THIS SECURITY INSTRUMENT AND SECURITY AGREEMENT (this "Security Instrument") is made as of this P. day of December, 2005, by RD ELMWOOD ASSOCIATES, L.P., a Delaware limited partnership, having its principal place of business at c/o Acadia Realty Trust, 1311 Mamaroneck Avenue - Suite 260, White Plains, New York 10605, as mortgagor ("Borrower") for the benefit of MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC., A DELAWARE CORPORATION, HAVING AN ADDRESS AT 1595 SPRING HILL ROAD, SUITE 310 VIENNA, VIRGINIA 22182 ("MERS"), AS NOMINEE OF BEAR STEARNS COMMERCIAL MORTGAGE, INC., a New York corporation, having an address at 383 Madison Avenue, New York, New York 10179, as mortgagee ("Lender").

WITNESSETH:

WHEREAS, this Security Instrument is given to secure a loan (the "Loan") in the principal sum of Thirty-Four Million Six Hundred Thousand and No/100 Dollars (\$34,600,000.00) advanced pursuant to that certain Loan Agreement, dated as of the date hereof, between Borrower and Lender (as the same may hereafter be amended, restated, replaced, supplemented, renewed, extended or otherwise modified from time to time, the "Loan Agreement") and evidenced by that certain Promissory Note, dated the date hereof, made by Borrower in favor of Lender (as the same may hereafter be amended, restated, replaced, supplemented, renewed, extended or otherwise modified from time to time, the "Note");

WHEREAS, Borrower desires to secure the payment of the Debt (as defined in the Loan Agreement) and the performance of all of its obligations under the Note, the Loan Agreement and the other Loan Documents (as herein defined); and

WHEREAS, this Security Instrument is given pursuant to the Loan Agreement, and payment, fulfillment, and performance by Borrower of its obligations thereunder and under the other Loan Documents are secured hereby, and each and every term and provision of the Loan Agreement, the Note, and that certain Assignment of Leases and Rents of even date herewith made by Borrower in favor of MFRS, as nominee of Lender delivered in connection with this Security Agreement (as the same may be amended, restated, replaced, supplemented, renewed, extended or otherwise modified from time to time, the "Assignment of Leases"), including the rights, remedies, obligations, covenants, conditions, agreements, indemnities, representations and warranties of the parties therein, are hereby incorporated by reference herein as though set forth in full and shall be considered a part of this Security Instrument (the Loan Agreement, the Note, this Security Instrument, the Assignment of Leases and Rents and all other documents evidencing or securing the Debt (including all additional mortgages, deeds to secure debt and assignments of leases and rents) or executed or delivered in connection therewith, are hereinafter referred to collectively as the "Loan Documents").

NOW THEREFORE, in consideration of the making of the Loan by Lender and the covenants, agreements, representations and warranties set forth in this Security Instrument:

ARTICLE 1 - GRANTS OF SECURITY

SECTION 1.1 PROPERTY MORTGAGED. Borrower does hereby irrevocably mortgage, grant, bargain, sell, pledge, assign, warrant, transfer and convey to MERS, as nominee of Lender and its successors and assigns the following property, rights, interests and estates now owned, or hereafter acquired by Borrower (collectively, the "Property"):

(a) Land. The real property described in Exhibit A attached hereto and made a part hereof (the "Land");

(b) Additional Land. All additional lands, estates and development rights hereafter acquired by Borrower for use in connection with the Land and the development of the Land and all additional lands and estates therein which may, from time to time, by supplemental mortgage or otherwise be expressly made subject to the lien of this Security Instrument;

(c) Improvements. The buildings, structures, fixtures, additions, enlargements, extensions, modifications, repairs, replacements and improvements now or hereafter erected or located on the Land (collectively, the "Improvements");

(d) Easements. All easements, rights-of-way or use, rights, strips and gores of land, streets, ways, alleys, passages, sewer rights, water, water courses, water rights and powers, air rights and development rights, and all estates, rights, titles, interests, privileges, liberties, servitudes, tenements, hereditaments and appurtenances of any nature whatsoever, in any way now or hereafter belonging, relating or pertaining to the Land and the Improvements and the reversions and remainders, and all land lying in the bed of any street, road or avenue, opened or proposed, in front of or adjoining the Land, to the center line thereof and all the estates, rights, titles, interests, rights of dower, rights of curtesy, property, possession, claim and demand whatsoever, both at law and in equity, of Borrower of, in and to the Land and the Improvements and every part and parcel thereof, with the appurtenances thereto;

(e) Equipment. All "equipment," as such term is defined in Article 9 of the Uniform Commercial Code (as hereinafter defined), now owned or hereafter acquired by Borrower, which is used at or in connection with the Improvements or the Land or is located thereon or therein (including, but not limited to, all machinery, equipment, furnishings, and electronic data-processing and other office equipment now owned or hereafter acquired by Borrower and any and all additions, substitutions and replacements of any of the foregoing), together with all attachments, components, parts, equipment and accessories installed thereon or affixed thereto (collectively, the "Equipment"). Notwithstanding the foregoing, Equipment shall not include any property belonging to tenants under leases except to the extent that Borrower shall have any right or interest therein;

(f) Fixtures. All Equipment now owned, or the ownership of which is hereafter acquired, by Borrower which is so related to the Land and Improvements forming part of the Property that it is deemed fixtures or real property under the law of the particular state in which the Equipment is located, including, without limitation, all building or construction materials intended for construction, reconstruction, alteration or repair or installation on the Property, construction equipment, appliances, machinery, plant equipment, fittings, apparatuses, fixtures and other items now or hereafter attached to, installed in or used in connection with (temporarily or permanently) any of the Improvements or the Land, including, but not limited to, engines, devices for the operation of pumps, pipes, plumbing, call and sprinkler systems, fire extinguishing apparatuses and equipment, heating, ventilating, incinerating, electrical, air conditioning and air cooling equipment and systems, gas and electric machinery, appurtenances and equipment, pollution control equipment, security systems, disposals, dishwashers, refrigerators and ranges, recreational equipment and facilities of all kinds, and water, gas, electrical, storm and sanitary sewer facilities, utility lines and equipment (whether owned individually or jointly with others, and, if owned jointly, to the extent of Borrower's interest therein) and all other utilities whether or not situated in easements, all water tanks, water supply, water power sites, fuel stations, fuel tanks, fuel supply, and all other structures, together with all accessions, appurtenances, additions, replacements, betterments and substitutions for any of the foregoing and the proceeds thereof (collectively, the "Fixtures"). Notwithstanding the foregoing, "Fixtures" shall not include any property which tenants are entitled to remove pursuant to leases except to the extent that Borrower shall have any right or interest therein;

(g) Personal Property. All furniture, furnishings, objects of art, machinery, goods, tools, supplies, appliances, general intangibles, contract rights, accounts, accounts receivable, franchises, licenses, certificates and permits, and all other personal property of any kind or character whatsoever as defined in and subject to the provisions of the Uniform Commercial Code, whether tangible or intangible, other than Fixtures, which are now or hereafter owned by Borrower and which are located within or about the Land and the Improvements, together with all accessories, replacements and substitutions thereto or therefor and the proceeds thereof (collectively, the "Personal Property"), and the right, title and interest of Borrower in and to any of the Personal Property which may be subject to any security interests, as defined in the Uniform Commercial Code, as adopted and enacted by the state or states where any of the Property is located (the "Uniform Commercial Code"), superior in lien to the lien of this Security Instrument and all proceeds and products of the above;

(h) Leases and Rents. All leases, subleases or subsubleases, lettings, licenses, concessions or other agreements (whether written or oral) pursuant to which any Person is granted a possessory interest in, or right to use or occupy all or any portion of the Land and the Improvements, and every modification, amendment or other agreement relating to such leases, subleases, subsubleases, or other agreements entered into in connection with such leases, subleases, subsubleases, or other agreements and every guarantee of the performance and observance of the covenants, conditions and agreements to be performed and observed by the other party thereto, heretofore or hereafter entered into (collectively, the "Leases"), whether before or after the filing by or against Borrower of any petition for relief under the Bankruptcy Code and all right, title and interest of Borrower, its successors and assigns therein and thereunder, including, without limitation, cash or securities deposited thereunder to secure the performance by the lessees of their obligations thereunder and all rents, additional rents, revenues, issues and profits (including all oil and gas or other mineral royalties and bonuses) from the Land and the Improvements whether paid or accruing before or after the filing by or against Borrower of any petition for relief under the Bankruptcy Code (collectively, the "Rents") and all proceeds from the sale or other disposition of the Leases and the right to receive and apply the Rents to the payment of the Debt;

(i) Condemnation Awards. All awards or payments, including interest thereon, which may heretofore and hereafter be made with respect to the Property, whether from the exercise of the right of eminent domain (including, but not limited to, any transfer made in lieu of or in anticipation of the exercise of the right), or for a change of grade, or for any other injury to or decrease in the value of the Property;

(j) Insurance Proceeds. All proceeds in respect of the Property under any insurance policies covering the Property, including, without limitation, the right to receive and apply the proceeds of any insurance, judgments, or settlements made in lieu thereof, for damage to the Property;

(k) Tax Certiorari. All refunds, rebates or credits in connection with reduction in real estate taxes and assessments charged against the Property as a result of tax certiorari or any applications or proceedings for reduction;

(l) Conversion. All proceeds of the conversion, voluntary or involuntary, of any of the foregoing including, without limitation, proceeds of insurance and condemnation awards, into cash or liquidation claims;

(m) Rights. The right, in the name and on behalf of Borrower, to appear in and defend any action or proceeding brought with respect to the Property and to commence any action or proceeding to protect the interest of Lender in the Property;

(n) Agreements. All agreements, contracts, certificates, instruments, franchises, permits, licenses, plans, specifications and other documents, now or hereafter entered into, and all rights therein and thereto, respecting or pertaining to the use, occupation, construction, management or operation of the Land and any part thereof and any Improvements or any business or activity conducted on the Land and any part thereof and all right, title and interest of Borrower therein and thereunder, including, without limitation, the right, upon the happening of any default hereunder, to receive and collect any sums payable to Borrower thereunder;

(o) Trademarks. All tradenames, trademarks, servicemarks, logos, copyrights, goodwill, books and records and all other general intangibles relating to or used in connection with the operation of the Property;

(p) Accounts. All reserves, escrows and deposit accounts maintained by Borrower with respect to the Property, including, without limitation (i) all accounts established pursuant to the Cash Management Agreement, including, without limitation, that and (ii) all accounts t, including, without limitation, that certain Account Number [_____] at-{};_____ together with all deposits or wire transfers made to the Lockbox Account or Cash Management Account and all cash, checks, drafts, certificates, securities, investment property, financial assets, instruments and other property held therein from time to time and all proceeds, products, distributions or dividends or substitutions thereon and thereof; and

(q) Other Rights. Any and all other rights of Borrower in and to the items set forth in Subsections (a) through (p) above.

AND without limiting any of the other provisions of this Security Instrument, to the extent permitted by applicable law, Borrower expressly grants to MERS, as nominee of Lender, as secured party, a security interest in the portion of the Property which is or may be subject to the provisions of the Uniform Commercial Code which are applicable to secured transactions; it being understood and agreed that the Improvements and Fixtures are part and parcel of the Land (the Land, the Improvements and the Fixtures collectively referred to as the "Real Property") appropriated to the use thereof and, whether affixed or annexed to the Real Property or not, shall for the purposes of this Security Instrument be deemed conclusively to be real estate and mortgaged hereby.

SECTION 1.2 ASSIGNMENT OF RENTS. Borrower hereby absolutely and unconditionally assigns to MERS, as nominee of Lender all of Borrower's right, title and interest in and to all current and future Leases and Rents; it being intended by Borrower that this assignment constitutes a present, absolute assignment and not an assignment for additional security only. Nevertheless, subject to the terms of the Assignment of Leases, the Cash Management Agreement and Section 7.1(h) of this Security Instrument, Lender grants to Borrower a revocable license to collect, receive, use and enjoy the Rents and Borrower shall hold the Rents, or a portion thereof sufficient to discharge all current sums due on the Debt, for use in the payment of such sums.

SECTION 1.3 SECURITY AGREEMENT. This Security Instrument is both a real property mortgage and a "security agreement" within the meaning of the Uniform Commercial Code. The Property includes both real and personal property and all other rights and interests, whether tangible or intangible in nature, of Borrower in the Property. By executing and delivering this Security Instrument, Borrower hereby grants to MERS, as nominee of Lender, as security for the Obligations (hereinafter defined), a security interest in the Fixtures, the Equipment and the Personal Property to the full extent that the Fixtures, the Equipment and the Personal Property may be subject to the Uniform Commercial Code (said portion of the Property so subject to the Uniform Commercial Code being called the "Collateral"). If an Event of Default shall occur and be continuing, Lender, in addition to any other rights and remedies which it may have, shall have and may exercise immediately and without demand, any and all rights and remedies granted to a secured party upon default under the Uniform Commercial Code, including, without limiting the generality of the foregoing, the right to take possession of the Collateral or any part thereof, and to take such other measures as Lender may deem necessary for the care, protection and preservation of the Collateral. Upon request or demand of Lender after the occurrence and during the continuance of an Event of Default, Borrower shall, at its expense, assemble the Collateral and make it available to Lender at a convenient place (at the Land if tangible property) reasonably acceptable to Lender. Borrower shall pay to Lender on demand any and all expenses, including reasonable legal expenses and attorneys' fees, incurred or paid by Lender in protecting its interest in the Collateral and in enforcing its rights hereunder with respect to the Collateral after the occurrence and during the continuance of an Event of Default. Any notice of sale, disposition or other intended action by Lender with respect to the Collateral sent to Borrower in accordance with the provisions hereof at least ten (10) business days prior to such action, shall, except as otherwise provided by applicable law, constitute reasonable notice to Borrower. The proceeds of any disposition of the Collateral, or any part thereof, may, except as otherwise required by applicable law, be applied by Lender to the payment of the Debt in such priority and proportions as Lender in its discretion shall deem proper. Borrower's (debtor's) principal place of business is as set forth on page one hereof and the address of Lender (secured party) is as set forth on page one hereof.

SECTION 1.4 FIXTURE FILING. Certain of the Property is or will become "fixtures" (as that term is defined in the Uniform Commercial Code) on the Land, and this Security Instrument, upon being filed for record in the real estate records of the city or county wherein such fixtures are situated, shall operate also as a financing statement filed as a fixture filing in accordance with the applicable provisions of said Uniform Commercial Code upon such of the Property that is or may become fixtures.

SECTION 1.5 PLEDGES OF MONIES HELD. Borrower hereby pledges to Lender any and all monies now or hereafter held by Lender or on behalf of Lender, including, without limitation, any sums deposited in the Lockbox Account or Cash Management Account, the Reserve Funds and Net Proceeds, as additional security for the obligations until expended or applied as provided in this Security Instrument.

SECTION 1.6 Grants to MERS. This Security Instrument and the grants, assignments and transfers made to MERS in this Article 1 shall inure to MERS solely in its capacity as Lender's nominee.

CONDITIONS TO GRANT

TO HAVE AND TO HOLD the above granted and described Property unto and to the use and benefit of Lender and its successors and assigns, forever;

PROVIDED, HOWEVER, these presents are upon the express condition that, if Borrower shall well and truly pay to Lender the Debt at the time and in the manner provided in the Note, the Loan Agreement and this Security Instrument, shall well and truly perform the Other Obligations as set forth in this Security Instrument and shall well and truly abide by and comply with each and every covenant and condition set forth herein and in the Note, the Loan Agreement and the other Loan Documents, these presents and the estate hereby granted shall cease, terminate and be void; provided, however, that Borrower's obligation to indemnify and hold harmless Lender pursuant to the provisions hereof shall survive any such payment or release.

ARTICLE 2 - DEBT AND OBLIGATIONS SECURED

SECTION 2.1 DEBT. This Security Instrument and the grants, assignments and transfers made in Article I are given for the purpose of securing the Debt.

SECTION 2.2 OTHER OBLIGATIONS. This Security Instrument and the grants, assignments and transfers made in Article I are also given for the purpose of securing the following (the "Other Obligations"):

(a) the performance of all other obligations of Borrower contained herein;

(b) the performance of each obligation of Borrower contained in the Loan Agreement and any other Loan Document; and

(c) the performance of each obligation of Borrower contained in any renewal, extension, amendment, modification, consolidation, change of, or substitution or replacement for, all or any part of the Note, the Loan Agreement or any other Loan Document.

SECTION 2.3 DEBT AND OTHER OBLIGATIONS. Borrower's obligations for the payment of the Debt and the performance of the Other Obligations shall be referred to collectively herein as the "Obligations."

ARTICLE 3 - BORROWER

COVENANTS Borrower covenants and agrees

that:

SECTION 3.1 PAYMENT OF DEBT. Borrower will pay the Debt at the time and in the manner provided in the Loan Agreement, the Note and this Security Instrument.

SECTION 3.2 INCORPORATION BY REFERENCE. All the covenants, conditions and agreements contained in (a) the Loan Agreement, (b) the Note and (c) all and any of the other Loan Documents, are hereby made a part of this Security Instrument to the same extent and with the same force as if fully set forth herein.

SECTION 3.3 INSURANCE. Borrower shall obtain and maintain, or cause to be maintained, in full force and effect at all times insurance with respect to Borrower and the Property as required pursuant to the Loan Agreement.

SECTION 3.4 MAINTENANCE OF PROPERTY. Borrower shall cause the Property to be maintained in a good and safe condition and repair. The Improvements, the Fixtures, the Equipment and the Personal Property shall not be removed, demolished or materially altered (except for noinal replacement of the Fixtures, the Equipment or the Personal Property, tenant finish and refurbishment of the Improvements) without the consent of Lender. Borrower shall promptly repair, replace or rebuild any part of the Property which may be destroyed by any Casualty or become damaged, worn or dilapidated or which may be affected by any Condemnation, and shall complete and pay for any structure at any time in the process of construction or repair on the Land.

SECTION 3.5 WASTE. Borrower shall not commit or suffer any waste of the Property or make any change in the use of the Property which will in any way materially increase the risk of fire or other hazard arising out of the operation of the Property, or take any action that might invalidate or allow the cancellation of any Policy, or do or permit to be done thereon anything that may in any way materially impair the value of the Property or the security of this Security Instrument. Borrower will not, without the prior written consent of Lender, permit any drilling or exploration for or extraction, removal, or production of any minerals from the surface or the subsurface of the Land, regardless of the depth thereof or the method of mining or extraction thereof.

SECTION 3.6 PAYMENT FOR LABOR AND MATERIALS.

(a) Borrower will promptly pay when due all bills and costs for labor, materials, and specifically fabricated materials ("Labor and Material Costs") incurred in connection with the Property and never permit to exist beyond the due date thereof in respect of the Property or any part thereof any lien or security interest, even though inferior to the liens and the security interests hereof, and in any event never permit to be created or exist in respect of the Property or any part thereof any other or additional lien or security interest other than the liens or security interests hereof except for the Permitted Encumbrances.

(b) After prior written notice to Lender, Borrower, at its own expense, may contest by appropriate legal proceeding, promptly initiated and conducted in good faith and with due diligence, the amount or validity or application in whole or in part of any of the Labor and Material Costs, provided that (i) no Event of Default has occurred and is continuing under the Loan Agreement, the Note, this Security Instrument or any of the other Loan Documents, (ii) Borrower is permitted to do so under the provisions of any other mortgage, deed of trust or deed to secure debt affecting the Property, (iii) such proceeding shall suspend the collection of the Labor and Material Costs from Borrower and from the Property or Borrower shall have paid all of the Labor and Material Costs under protest, (iv) such proceeding shall be permitted under and be conducted in accordance with the provisions of any other instrument to which Borrower is subject and shall not constitute a default thereunder, (v) neither the Property nor any part thereof or interest therein will be in danger of being sold, forfeited, terminated, canceled or lost, and (vi) Borrower shall have furnished the security as may be required in the proceeding, or as may be reasonably requested by Lender to insure the payment of any contested Labor and Material Costs, together with all interest and penalties thereon.

SECTION 3.7 PERFORMANCE OF OTHER AGREEMENTS. Borrower shall observe and perform each and every term, covenant and provision to be observed or performed by Borrower pursuant to the Loan Agreement, any other Loan Document and any other agreement or recorded instrument affecting or pertaining to the Property and any amendments, modifications or changes thereto.

SECTION 3.8 CHANGE OF NAME, IDENTITY OR STRUCTURE. Borrower shall not change Borrower's name, identity (including its trade name or names) or, if not an individual, Borrower's corporate, partnership or other structure without notifying Lender of such change in writing at least thirty (30) days prior to the effective date of such change and, in the case of a change in Borrower's structure, without first obtaining the prior written consent of Lender. Borrower shall execute and deliver to Lender, prior to or contemporaneously with the effective date of any such change, any financing statement or financing statement change required by Lender to establish or maintain the validity, perfection and priority of the security interest granted herein. At the request of Lender, Borrower shall execute a certificate in form satisfactory to Lender listing the trade names under which Borrower intends to operate the Property, and representing and warranting that Borrower does business under no other trade name with respect to the Property.

SECTION 3.9 TITLE. Borrower has good, marketable and insurable fee simple title to the real property comprising part of the Property and good title to the balance of such Property, free and clear all Liens (as defined in the Loan Agreement) whatsoever except the Permitted Encumbrances (as defined in the Loan Agreement), such other Liens as are permitted pursuant to the Loan Documents and the Liens created by the Loan Documents. The Permitted Encumbrances in the aggregate do not materially and adversely affect the value, operation or use of the Property or Borrower's ability to repay the Loan. This Security Instrument, when property recorded in the appropriate records, together with any Uniform Commercial Code financing statements required to be filed in connection therewith, will create (a) a valid, perfected first priority lien on the Property, subject only to Permitted Encumbrances and the Liens created by the Loan Documents and (b) perfected security interests in and to, and perfected collateral assignments of, all personalty (including the Leases), all in accordance with the terms thereof, in each case subject only to any applicable Permitted Encumbrances, such other Liens as are permitted pursuant to the Loan Documents and the Liens created by the Loan Documents. There are no claims for payment for work, labor or materials affecting the Property which are past due and are or may become a lien prior to, or of equal priority with, the Liens created by the Loan Documents unless such claims for payments are being contested in accordance with the terms and conditions of this Security Instrument.

ARTICLE 4 - OBLIGATIONS AND RELIANCES

SECTION 4.1 RELATIONSHIP OF BORROWER AND LENDER. The relationship between Borrower and Lender is solely that of debtor and creditor, and Lender has no fiduciary or other special relationship with Borrower, and no term or condition of any of the Loan Agreement, the Note, this Security Instrument and the other Loan Documents shall be construed so as to deem the relationship between Borrower and Lender to be other than that of debtor and creditor.

SECTION 4.2 NO RELIANCE ON LENDER. The general partners, members, principals and (if Borrower is a trust) beneficial owners of Borrower are experienced in the ownership and operation of properties similar to the Property, and Borrower and Lender are relying solely upon such expertise and business plan in connection with the ownership and operation of the Property. Borrower is not relying on Lender's expertise, business acumen or advice in connection with the Property.

SECTION 4.3 NO LENDER OBLIGATIONS.

(a) Notwithstanding the provisions of Subsections 1.1(h) and (n) or Section 1.2, Lender is not undertaking the performance of (i) any obligations under the Leases; or (ii) any obligations with respect to such agreements, contracts, certificates, instruments, franchises, permits, trademarks, licenses and other documents.

(b) By accepting or approving anything required to be observed, performed or fulfilled or to be given to Lender pursuant to this Security Instrument, the Loan Agreement, the Note or the other Loan Documents, including, without limitation, any officer's certificate, balance sheet, statement of profit and loss or other financial statement, survey, appraisal, or insurance policy, Lender shall not be deemed to have warranted, consented to, or affirmed the sufficiency, the legality or effectiveness of same, and such acceptance or approval thereof shall not constitute any warranty or affirmation with respect thereto by Lender.

SECTION 4.4 RELIANCE. Borrower recognizes and acknowledges that in accepting the Loan Agreement, the Note, this Security Instrument and the other Loan Documents, Lender is expressly and primarily relying on the truth and accuracy of the warranties and representations set forth in Section 4.1 of the Loan Agreement without any obligation to investigate the Property and notwithstanding any investigation of the Property by Lender; that such reliance existed on the part of Lender prior to the date hereof, that the warranties and representations are a material inducement to Lender in making the Loan; and that Lender would not be willing to make the Loan and accept this Security Instrument in the absence of the warranties and representations as set forth in Section 4.1 of the Loan Agreement.

ARTICLE 5 - FURTHER ASSURANCES

SECTION 5.1 RECORDING OF MORTGAGE, ETC. Borrower forthwith upon the execution and delivery of this Security Instrument and thereafter, from time to time, will cause this Security Instrument and any of the other Loan Documents creating a lien or security interest or evidencing the lien hereof upon the Property and each instrument of further assurance to be filed, registered or recorded in such manner and in such places as may be required by any present or future law in order to publish notice of and fully to protect and perfect the lien or security interest hereof upon, and the interest of Lender in, the Property. Borrower will pay all taxes, filing, registration or recording fees, and all expenses incident to the preparation, execution, acknowledgment and/or recording of the Note, this Security Instrument, the other Loan Documents, any note, deed of trust or mortgage supplemental hereto, any security instrument with respect to the Property and any instrument of further assurance, and any modification or amendment of the foregoing documents, and all federal, state, county and municipal taxes, duties, imposts, assessments and charges arising out of or in connection with the execution and delivery of this Security Instrument, any deed of trust or mortgage supplemental hereto, any security instrument with respect to the Property or any instrument of further assurance, and any modification or amendment of the foregoing documents, except where prohibited by law so to do.

SECTION 5.2 FURTHER ACTS, ETC. Borrower will, at the cost of Borrower, and without expense to Lender, do, execute, acknowledge and deliver all and every further acts, deeds, conveyances, deeds of trust, mortgages, assignments, notices of assignments, transfers and assurances as Lender shall, from time to time, reasonably require, for the better assuring, conveying, assigning, transferring, and confirming unto Lender the property and rights hereby mortgaged, deeded, granted, bargained, sold, conveyed, confirmed, pledged, assigned, warranted and transferred or intended now or hereafter so to be, or which Borrower may be or may hereafter become bound to convey or assign to Lender, or for carrying out the intention or facilitating the performance of the terms of this Security Instrument or for filing, registering or recording this Security Instrument, or for complying with all Legal Requirements. Borrower, on demand, will execute and deliver, and in the event it shall fail to so execute and deliver, hereby authorizes Lender to execute in the name of Borrower or without the signature of Borrower to the extent Lender may lawfully do so, one or more financing statements to evidence more effectively the security interest of Lender in the Property. Borrower grants to Lender an irrevocable power of attorney coupled with an interest for the purpose of exercising and perfecting any and all rights and remedies available to Lender at law and in equity, including without limitation, such rights and remedies available to Lender pursuant to this Section 5.2.

SECTION 5.3 CHANGES IN TAX, DEBT, CREDIT AND DOCUMENTARY STAMP LAWS.

(a) If any law is enacted or adopted or amended after the date of this Security Instrument which deducts the Debt from the value of the Property for the purpose of taxation or which imposes a tax, either directly or indirectly, on the Debt or Lender's interest in the Property, Borrower will pay the tax, with interest and penalties thereon, if any. If Lender is advised by counsel chosen by it that the payment of tax by Borrower would be unlawful or taxable to Lender or unenforceable or provide the basis for a defense of usury then Lender shall have the option by written notice of not less than one hundred twenty (120) days to declare the Debt immediately due and payable.

(b) Borrower will not claim or demand or be entitled to any credit or credits on account of the Debt for any part of the Taxes or Other Charges assessed against the Property, or any part thereof, and no deduction shall otherwise be made or claimed from the assessed value of the Property, or any part thereof, for real estate tax purposes by reason of this Security Instrument or the Debt. If such claim, credit or deduction shall be required by law, Lender shall have the option, by written notice of not less than one hundred twenty (120) days, to declare the Debt immediately due and payable.

(c) If at any time the United States of America, any State thereof or any subdivision of any such State shall require revenue or other stamps to be affixed to the Note, this Security Instrument, or any of the other Loan Documents or impose any other tax or charge on the same, Borrower will pay for the same, with interest and penalties thereon, if any.

SECTION 5.4 SEVERING OF MORTGAGE. This Security Instrument and the Note shall, at any time until the same shall be fully paid and satisfied, at the sole election of Lender, be severed into two or more notes and two or more security instruments in such denominations as Lender shall determine in its sole discretion, each of which shall cover all or a portion of the Property to be more particularly described therein. To that end, Borrower, upon written request of Lender, shall execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered by the then owner of the Property, to Lender and/or its designee or designees substitute notes and security instruments in such principal amounts, aggregating not more than the then unpaid principal amount of this Security Instrument, and containing teiiiis, provisions and clauses similar to those contained herein and in the Note, and such other documents and instruments as may be required by Lender.

SECTION 5.5 REPLACEMENT DOCUMENTS. Upon receipt of an affidavit of an officer of Lender as to the loss, theft, destruction or mutilation of the Note or any other Loan Document which is not of public record, and, in the case of any such mutilation, upon surrender and cancellation of such Note or other Loan Document, Borrower will issue, in lieu thereof, a replacement Note or other Loan Document, dated the date of such lost, stolen, destroyed or mutilated Note or other Loan Document in the same principal amount thereof and otherwise of like tenor.

ARTICLE 6 - DUE ON SALE/ENCUMBRANCE

SECTION 6.1 LENDER RELIANCE. Borrower acknowledges that Lender has examined and relied on the experience of Borrower and its general partners, members, principals and (if Borrower is a trust) beneficial owners in owning and operating properties such as 'the Property in agreeing to make the Loan, and will continue to rely on Borrower's ownership of the Property as a means of maintaining the value of the Property as security for repayment of the Debt and the performance of the Other Obligations. Borrower acknowledges that Lender has a valid interest in maintaining the value of the Property so as to ensure that, should Borrower default in the repayment of the Debt or the performance of the Other Obligations, Lender can recover the Debt by a sale of the Property.

SECTION 6.2 NO SALE/ENCUMBRANCE. Neither Borrower nor any Restricted Party shall Transfer the Property or any part thereof or any interest therein or permit or suffer the Property or any part thereof or any interest therein to be Transferred other than as expressly permitted pursuant to the terms of the Loan Agreement.

ARTICLE 7 - RIGHTS AND REMEDIES UPON DEFAULT

SECTION 7.1, REMEDIES. Upon the occurrence and during the continuance of any Event of Default, Borrower agrees that Lender may take such action, without notice or demand, as it deems advisable to protect and enforce its rights against Borrower and in and to the Property, including, but not limited to, the following actions, each of which may be pursued concurrently or otherwise, at such time and in such order as Lender may determine, in its sole discretion, without impairing or otherwise affecting the other rights and remedies of Lender:

(a) declare the entire unpaid Debt to be immediately due and payable;

(b) institute proceedings, judicial or otherwise, for the complete foreclosure of this Security Instrument under any applicable provision of law, in which case the Property or any interest therein may be sold for cash or upon credit in one or more parcels or in several interests or portions and in any order or manner;

(c) with or without entry, to the extent permitted and pursuant to the procedures provided by applicable law, institute proceedings for the partial foreclosure of this Security Instrument for the portion of the Debt then due and payable, subject to the continuing lien and security interest of this Security Instrument for the balance of the Debt not then due, unimpaired and without loss of priority;

(d) sell for cash or upon credit the Property or any part thereof and all estate, claim, demand, right, title and interest of Borrower therein and rights of redemption thereof, pursuant to power of sale or otherwise, at one or more sales, as an entirety or in parcels, at such time and place, upon such terms and after such notice thereof as may be required or permitted by law;

(e) institute an action, suit or proceeding in equity for the specific performance of any covenant, condition or agreement contained herein, in the Note, the Loan Agreement or in the other Loan Documents;

(f) recover judgment on the Note either before, during or after any proceedings for the enforcement of this Security Instrument or the other Loan Documents;

(g) apply for the appointment of a receiver, trustee, liquidator or conservator of the Property, without notice and without regard for the adequacy of the security for the Debt and without regard for the solvency of Borrower, any Guarantor, Indemnifying Person with respect to the Loan or of any Person liable for the payment of the Debt;

(h) the license granted to Borrower under Section 1.2 hereof shall automatically be revoked and Lender may enter into or upon the Property, either personally or by its agents, nominees or attorneys and dispossess Borrower and its agents and servants therefrom, without liability for trespass, damages or otherwise and exclude Borrower and its agents or servants wholly therefrom, and take possession of all books, records and accounts relating thereto and Borrower agrees to surrender possession of the Property and of such books, records and accounts to Lender upon demand, and thereupon Lender may (i) use, operate, manage, control, insure, maintain, repair, restore and otherwise deal with all and every part of the Property and conduct the business thereat; (ii) complete any construction on the Property in such manner and form as Lender deems advisable; (iii) make alterations, additions, renewals, replacements and improvements to or on the Property; (iv) exercise all rights and powers of Borrower with respect to the Property, whether in the name of Borrower or otherwise, including, without limitation, the right to make, cancel, enforce or modify Leases, obtain and evict tenants, and demand, sue for, collect and receive all Rents of the Property and every part thereof; (v) require Borrower to pay monthly in advance to Lender, or any receiver appointed to collect the Rents, the fair and reasonable rental value for the use and occupation of such part of the Property as may be occupied by Borrower; (vi) require Borrower to vacate and surrender possession of the Property to Lender or to such receiver and, in default thereof, Borrower may be evicted by summary proceedings or otherwise; and (vii) apply the receipts from the Property to the payment of the Debt, in such order, priority and proportions as Lender shall deem appropriate in its sole discretion after deducting therefrom all expenses (including reasonable attorneys' fees) incurred in connection with the aforesaid operations and all amounts necessary to pay the Taxes, Other Charges, insurance and other expenses in connection with the Property, as well as just and reasonable compensation for the services of Lender, its counsel, agents and employees;

(i) exercise any and all rights and remedies granted to a secured party upon default under the Uniform Commercial Code, including, without limiting the generality of the foregoing: (i) the right to take possession of the Fixtures, the Equipment, the Personal Property or any part thereof, and to take such other measures as Lender may deem necessary for the care, protection and preservation of the Fixtures, the Equipment, the Personal Property, and (ii) request Borrower at its expense to assemble the Fixtures, the Equipment, the Personal Property and make it available to Lender at a convenient place acceptable to Lender. Any notice of sale, disposition or other intended action by Lender with respect to the Fixtures, the Equipment, the Personal Property sent to Borrower in accordance with the provisions hereof at least five (5) days prior to such action, shall constitute commercially reasonable notice to Borrower;

(j) apply any sums then deposited or held in escrow or otherwise by or on behalf of Lender in accordance with the teiiiis of the Loan Agreement, this Security Instrument or any other Loan Document to the payment of the following items in any order in its uncontrolled discretion:

(i) Taxes and Other Charges;

(ii) Insurance Premiums;

(iii) Interest on the unpaid principal balance of the Note;

(iv) Amortization of the unpaid principal balance of the Note;

(v) All other sums payable pursuant to the Note, the Loan Agreement, this Security Instrument and the other Loan Documents, including without limitation advances made by Lender pursuant to the terms of this Security Instrument;

(k) pursue such other remedies as Lender may have under applicable law; or

(l) apply the undisbursed balance of any Net Proceeds Deficiency deposit, together with interest thereon, to the payment of the Debt in such order, priority and proportions as Lender shall deem to be appropriate in its discretion.

In the event of a sale, by foreclosure, power of sale or otherwise, of less than all of Property, this Security Instrument shall continue as a lien and security interest on the remaining portion of the Property unimpaired and without loss of priority.

SECTION 7.2 APPLICATION OF PROCEEDS. The purchase money, proceeds and avails of any disposition of the Property, and or any part thereof, or any other sums collected by Lender pursuant to the Note, this Security Instrument or the other Loan Documents, may be applied by Lender to the payment of the Debt in such priority and proportions as Lender in its discretion shall deem proper.

SECTION 7.3 RIGHT TO CURE DEFAULTS. Upon the occurrence and during the continuance of any Event of Default, Lender may, but without any obligation to do so and without notice to or demand on Borrower and without releasing Borrower from any obligation hereunder, make any payment or do any act required of Borrower hereunder in such manner and to such extent as Lender may deem necessary to protect the security hereof. Lender is authorized to enter upon the Property for such purposes, or appear in, defend, or bring any action or proceeding to protect its interest in the Property or to foreclose this Security Instrument or collect the Debt, and the cost and expense thereof (including reasonable attorneys' fees to the extent permitted by law), with interest as provided in this Section 7.3, shall constitute a portion of the Debt and shall be due and payable to Lender upon demand. All such costs and expenses incurred by Lender in remedying such Event of Default or such failed payment or act or in appearing in, defending, or bringing any such action or proceeding shall bear interest at the Default Rate, for the period after notice from Lender that such cost or expense was incurred to the date of payment to Lender. All such costs and expenses incurred by Lender together with interest thereon calculated at the Default Rate shall be deemed to constitute a portion of the Debt and be secured by this Security Instrument and the other Loan Documents and shall be immediately due and payable upon demand by Lender therefor.

SECTION 7.4 ACTIONS AND PROCEEDINGS. Lender has the right to appear in and defend any action or proceeding brought with respect to the Property and to bring any action or proceeding, in the name and on behalf of Borrower, which Lender, in its discretion, decides should be brought to protect its interest in the Property.

SECTION 7.5 RECOVERY OF SUMS REQUIRED TO BE PAID. Lender shall have the right from time to time to take action to recover any sum or sums which constitute a part of the Debt as the same become due, without regard to whether or not the balance of the Debt shall be due, and without prejudice to the right of Lender thereafter to bring an action of foreclosure, or any other action, for a default or defaults by Borrower existing at the time such earlier action was commenced.

SECTION 7.6 EXAMINATION OF BOOKS AND RECORDS. At reasonable times and upon reasonable notice, Lender, its agents, accountants and attorneys shall have the right to examine the records, books, management and other papers of Borrower which reflect upon their financial condition, at the Property or at any office regularly maintained by Borrower where the books and records are located. Lender and its agents shall have the right to make copies and extracts from the foregoing records and other papers. In addition, at reasonable times and upon reasonable notice, Lender, its agents, accountants and attorneys shall have the right to examine and audit the books and records of Borrower pertaining to the income, expenses and operation of the Property during reasonable business hours at any office of Borrower where the books and records are located. This Section 7.6 shall apply throughout the term of the Note and without regard to whether an Event of Default has occurred or is continuing.

SECTION 7.7 OTHER RIGHTS, ETC. (a) The failure of Lender to insist upon strict performance of any term hereof shall not be deemed to be a waiver of any term of this Security Instrument. Borrower shall not be relieved of Borrower's obligations hereunder by reason of (i) the failure of Lender to comply with any request of Borrower or any Guarantor or Indemnifying Person with respect to the Loan to take any action to foreclose this Security Instrument or otherwise enforce any of the provisions hereof or of the Note or the other Loan Documents, (ii) the release, regardless of consideration, of the whole or any part of the Property, or of any person liable for the Debt or any portion thereof, or (iii) any agreement or stipulation by Lender extending the time of payment or otherwise modifying or supplementing the terms of the Note, this Security Instrument or the other Loan Documents.

(a) It is agreed that the risk of loss or damage to the Property is on Borrower, and Lender shall have no liability whatsoever for decline in value of the Property, for failure to maintain the Policies, or for failure to determine whether insurance in force is adequate as to the amount of risks insured. Possession by Lender shall not be deemed an election of judicial relief if any such possession is requested or obtained with respect to any Property or collateral not in Lender's possession.

(b) Lender may resort for the payment of the Debt to any other security held by Lender in such order and manner as Lender, in its discretion, may elect. Lender may take action to recover the Debt, or any portion thereof, or to enforce any covenant hereof without prejudice to the right of Lender thereafter to foreclose this Security Instrument. The rights of Lender under this Security Instrument shall be separate, distinct and cumulative and none shall be given effect to the exclusion of the others. No act of Lender shall be construed as an election to proceed under any one provision herein to the exclusion of any other provision. Lender shall not be limited exclusively to the rights and remedies herein stated but shall be entitled to every right and remedy now or hereafter afforded at law or in equity.

SECTION 7.8 RIGHT TO RELEASE ANY PORTION OF THE PROPERTY. Lender may release any portion of the Property for such consideration as Lender may require without, as to the remainder of the Property, in any way impairing or affecting the lien or priority of this Security Instrument, or improving the position of any subordinate lienholder with respect thereto, except to the extent that the obligations hereunder shall have been reduced by the actual monetary consideration, if any, received by Lender for such release, and may accept by assignment, pledge or otherwise any other property in place thereof as Lender may require without being accountable for so doing to any other lienholder. This Security Instrument shall continue as a lien and security interest in the remaining portion of the Property.

SECTION 7.9 VIOLATION OF LAWS. If the Property is not in material compliance with Legal Requirements, Lender may impose additional requirements upon Borrower in connection herewith including, without limitation, monetary reserves or financial equivalents.

SECTION 7.10 RECOURSE AND CHOICE OF REMEDIES. Notwithstanding any other provision of this Security Instrument or the Loan Agreement, including, without limitation, Section 9.4 of the Loan Agreement, Lender and other Indemnified Parties (as hereinafter defined) are entitled to enforce the obligations of Borrower, any Guarantor and Indemnifying Person contained in Sections 9.2 and 9.3 herein without first resorting to or exhausting any security or collateral and without first having recourse to the Note or any of the Property, through foreclosure or acceptance of a deed in lieu of foreclosure or otherwise, and in the event Lender commences a foreclosure action against the Property, Lender is entitled to pursue a deficiency judgment with respect to such obligations against Borrower and any Guarantor or Indemnifying Person with respect to the Loan. The provisions of Sections 9.2 and 9.3 herein are exceptions to any nonrecourse or exculpation provisions in the Loan Agreement, the Note, this Security Instrument or the other Loan Documents, and Borrower and any Guarantor or Indemnifying Person with respect to the Loan are fully and personally liable for the obligations pursuant to Sections 9.2 and 9.3 herein. The liability of Borrower and any guarantor or indemnitor with respect to the Loan pursuant to Sections 9.2 and 9.3 herein is not limited to the original principal amount of the Note. Notwithstanding the foregoing, nothing herein shall inhibit or prevent Lender from foreclosing or exercising any other rights and remedies pursuant to the Loan Agreement, the Note, this Security Instrument and the other Loan Documents, whether simultaneously with foreclosure proceedings or in any other sequence. A separate action or actions may be brought and prosecuted against Borrower pursuant to Sections 9.2 and 9.3 herein whether or not action is brought against any other Person or whether or not any other Person is joined in the action or actions. In addition, Lender shall have the right but not the obligation to join and participate in, as a party if it so elects, any administrative or judicial proceedings or actions initiated in connection with any matter addressed in Article 8 or Section 9.4 herein.

SECTION 7.11 RIGHT OF ENTRY. Upon reasonable notice to Borrower, Lender and its agents shall have the right to enter and inspect the Property at all reasonable times.

SECTION 7.12 REFERENCES TO LENDER. Notwithstanding anything to the contrary contained herein or in any of the other Loan Documents, all references herein to "Lender" shall be deemed to collectively or individually (as the context requires) refer to Lender or to MERS, acting on behalf of and at the sole direction of Lender in its capacity as Lender's nominee, as each of their interests may appear; provided, that, unless Lender, in its sole discretion, shall determine otherwise, only Lender (and not MERS) shall be deemed to be "Lender" with respect to (a) any consent or similar approval right granted to Lender hereunder or under any of the other Loan Documents (including, without limitation, any consent or similar approval right that is deemed granted if not approved or denied within a specified time period), (b) any items, documents or other information required to be delivered to Lender hereunder or under any of the other Loan Documents (other than notices expressly required to be sent to MERS) or (c) any future funding or other obligations of Lender to Borrower or any affiliate of Borrower hereunder or under any of the other Loan Documents, if any.

SECTION 7.13 FAILURE TO ACT. Notwithstanding anything to the contrary contained herein or in any of the other Loan Documents, the failure of MERS to take any action hereunder or under any of the other Loan Documents shall not (a) be deemed to be a waiver of any term or condition of this Security Instrument or any of the other Loan Documents, or (b) adversely affect any rights of Lender hereunder or under any of the other Loan Documents.

ARTICLE 8 - ENVIRONMENTAL HAZARDS

SECTION 8.1 ENVIRONMENTAL REPRESENTATIONS AND WARRANTIES. Except as otherwise disclosed by that certain Phase I environmental report (or Phase II environmental report, if required) delivered to Lender by Borrower in connection with the origination of the Loan (such report is referred to below as the "Environmental Report"), (a) there are no Hazardous Substances (defined below) or underground storage tanks in, on, or under the Property, except those that are (i) in compliance with Environmental Laws (defined below) and with permits issued pursuant thereto (to the extent such permits are required under Environmental Law), (ii) de-minimis amounts necessary to operate the Property for the purposes set forth in the Loan Agreement which will not result in an environmental condition in, on or under the Property and which are otherwise permitted under and used in compliance with Environmental Law and (iii) fully disclosed to Lender in writing pursuant the Environmental Report; (b) there are no past, present or threatened Releases (defined below) of Hazardous Substances in, on, under or from the Property which has not been fully remediated in accordance with Environmental Law; (c) there is no threat of any Release of Hazardous Substances migrating to the Property; (d) there is no past or present non-compliance with Environmental Laws, or with permits issued pursuant thereto, in connection with the Property which has not been fully remediated in accordance with Environmental Law; (e) Borrower does not know of, and has not received, any written or oral notice or other communication from any Person (including but not limited to a Governmental Authority) relating to Hazardous Substances or Remediation (defined below) thereof, of possible liability of any Person pursuant to any Environmental Law, other environmental conditions in connection with the Property, or any actual or potential administrative or judicial proceedings in connection with any of the foregoing; and (f) Borrower has truthfully and fully disclosed provided to Lender, in writing, any and all information relating to environmental conditions in, on, under or from the Property that is known to Borrower and has provided to Lender all information that is contained in Borrower's files and records, including, but not limited to, any reports relating to Hazardous Substances in, on, under or from the Property and/or to the environmental condition of the Property.

"ENVIRONMENTAL LAW" means any present and future federal, state and local laws, statutes, ordinances, rules, regulations and the like, as well as common law, relating to protection of human health or the environment, relating to Hazardous Substances, relating to liability for or costs of Remediation or prevention of Releases of Hazardous Substances or relating to liability for or costs of other actual or threatened danger to human health or the environment. Environmental Law includes, but is not limited to, the following statutes, as amended, any successor thereto, and any regulations promulgated pursuant thereto, and any state or local statutes, ordinances, rules, regulations and the like addressing similar issues: the Comprehensive Environmental Response, Compensation and Liability Act; the Emergency Planning and Community Right-to-Know Act; the Hazardous Substances Transportation Act; the Resource Conservation and Recovery Act (including but not limited to Subtitle I relating to underground storage tanks); the Solid Waste Disposal Act; the Clean Water Act; the Clean Air Act; the Toxic Substances Control Act; the Safe Drinking Water Act; the Occupational Safety and Health Act; the Federal Water Pollution Control Act; the Federal Insecticide, Fungicide and Rodenticide Act; the Endangered Species Act; the National Environmental Policy Act; and the River and Harbors Appropriation Act. Environmental Law also includes, but is not limited to, any present and future federal, state and local laws, statutes, ordinances, rules, regulations and the like, as well as common law: conditioning transfer of property upon a negative declaration or other approval of a governmental authority of the environmental condition of the Property; requiring notification or disclosure of Releases of Hazardous Substances or other environmental condition of the Property to any governmental authority or other Person, whether or not in connection with transfer of title to or interest in property; imposing conditions or requirements in connection with permits or other authorization for lawful activity; relating to nuisance, trespass or other causes of action related to the Property; or relating to wrongful death, personal injury, or property or other damage in connection with any physical condition or use of the Property.

"HAZARDOUS SUBSTANCES" include but are not limited to any and all substances (whether solid, liquid or gas) defined, listed, or otherwise classified as pollutants, hazardous wastes, hazardous substances, hazardous materials, extremely hazardous wastes, or words of similar meaning or regulatory effect under any present or future Environmental Laws or that may have a negative impact on human health or the environment, including but not limited to petroleum and petroleum products, asbestos and asbestos-containing materials, polychlorinated biphenyls, lead, radon, radioactive materials, flammables and explosives, but excluding substances of kinds and in amounts ordinarily and customarily used or stored in similar properties for the purpose of cleaning or other maintenance or operations and otherwise in compliance with all Environmental Laws.

"RELEASE" of any Hazardous Substance includes but is not limited to any release, deposit, discharge, emission, leaking, spilling, seeping, migrating, injecting, pumping, pouring, emptying, escaping, dumping, disposing or other movement of Hazardous Substances.

"REMEDIATION" includes but is not limited to any response, remedial, removal, or corrective action, any activity to cleanup, detoxify, decontaminate, contain or otherwise remediate any Hazardous Substance, any actions to prevent, cure or mitigate any Release of any Hazardous Substance, any action to comply with any Environmental Laws or with any permits issued pursuant thereto, any inspection, investigation, study, monitoring, assessment, audit, sampling and testing, laboratory or other analysis, or evaluation relating to any Hazardous Substances or to anything referred to in Article 8.

SECTION 8.2 ENVIRONMENTAL COVENANTS. Borrower covenants and agrees that: (a) all uses and operations on or of the Property, whether by Borrower or any other Person, shall be in compliance with all Environmental Laws and permits issued pursuant thereto; (b) there shall be no Releases of Hazardous Substances in, on, under or from the Property; (c) there shall be no Hazardous Substances in, on, or under the Property, except those that are (i) in compliance with all Environmental Laws and with permits issued pursuant thereto (to the extent such permits are required by Environmental Law), (ii) de-minimis amounts necessary to operate the Property for the purposes set forth in the Loan Agreement which will not result in an environmental condition in, on or under the Property and which are otherwise permitted under and used in compliance with Environmental Law and (iii) fully disclosed to Lender in writing; (d) Borrower shall keep the Property free and clear of all liens and other encumbrances imposed pursuant to any Environmental Law, whether due to any act or omission of Borrower or any other Person (the "Environmental Liens"); (e) Borrower shall, at its sole cost and expense, fully and expeditiously cooperate in all activities pursuant to Section 8.3 below, including but not limited to providing all relevant information and making knowledgeable persons available for interviews; (f) Borrower shall, at its sole cost and expense, perform any environmental site assessment or other investigation of environmental conditions in connection with the Property, pursuant to any reasonable written request of Lender made in the event that Lender has reason to believe that an environmental hazard exists on the Property (including but not limited to sampling, testing and analysis of soil, water, air, building materials and other materials and substances whether solid, liquid or gas), and share with Lender the reports and other results thereof, and Lender and other Indemnified Parties shall be entitled to rely on such reports and other results thereof; (g) Borrower shall, at its sole cost and expense, comply with all reasonable written requests of Lender made in the event that Lender has reason to believe that an environmental hazard exists on the Property (i) reasonably effectuate Remediation of any condition (including but not limited to a Release of a Hazardous Substance) in, on, under or from the Property; (ii) comply with any Environmental Law; (iii) comply with any directive from any Governmental Authority; and (iv) take any other reasonable action necessary or appropriate for protection of human health or the environment; (h) Borrower shall not do or allow any tenant or other user of the Property to do any act that materially increases the dangers to human health or the environment, poses an unreasonable risk of harm to any Person (whether on or off the Property), impairs or may impair the value of the Property, is contrary to any requirement of any insurer, constitutes a public or private nuisance, constitutes waste, or violates any covenant, condition, agreement or easement applicable to the Property; and (i) Borrower shall immediately notify Lender in writing of (A) any presence or Releases or threatened Releases of Hazardous Substances in, on, under, from or migrating towards the Property; (B) any non-compliance with any Environmental Laws related in any way to the Property; (C) any actual or potential Environmental Lien; (D) any required or proposed Remediation of environmental conditions relating to the Property; and (E) any written or oral notice or other communication of which Borrower becomes aware from any source whatsoever (including but not limited to a governmental entity) relating in any way to Hazardous Substances or Remediation thereof, possible liability of any Person pursuant to any Environmental Law, other environmental conditions in connection with the Property, or any actual or potential administrative or judicial proceedings in connection with anything referred to in this Article 8.

SECTION 8.3 LENDER'S RIGHTS. In the event that Lender has reason to believe that an environmental hazard exists on the Property that does not, in Lender's sole discretion, endanger any tenants or other occupants of the Property or their guests or the general public or materially and adversely affect the value of the Property, upon reasonable notice from Lender, Borrower shall, at Borrower's expense, promptly cause an engineer or consultant satisfactory to Lender to conduct an environmental assessment or audit (the scope of which shall be determined in Lender's sole and absolute discretion) and take any samples of soil, groundwater or other water, air, or building materials or any other invasive testing requested by Lender and promptly deliver the results of any such assessment, audit, sampling or other testing; provided, however, if such results are not delivered to Lender within a reasonable period or if Lender has reason to believe that an environmental hazard exists on the Property that, in Lender's sole judgment, endangers any tenant or other occupant of the Property or their guests or the general public or may materially and adversely affect the value of the Property, upon reasonable notice to Borrower, Lender and any other Person designated by Lender, including but not limited to any receiver, any representative of a governmental entity, and any environmental consultant, shall have the right, but not the obligation, to enter upon the Property at all reasonable times to assess any and all aspects of the environmental condition of the Property and its use, including but not limited to conducting any environmental assessment or audit (the scope of which shall be determined in Lender's sole and absolute discretion) and taking samples of soil, groundwater or other water, air, or building materials, and reasonably conducting other invasive testing. Borrower shall cooperate with and provide Lender and any such Person designated by Lender with access to the Property.

ARTICLE 9 - INDEMNIFICATION

SECTION 9.1 GENERAL INDEMNIFICATION. Borrower shall, at its sole cost and expense, protect, defend, indemnify, release and hold harmless the Indemnified Parties from and against any and all claims, suits, liabilities (including, without limitation, strict liabilities), actions, proceedings, obligations, debts, damages, losses, costs, expenses, diminutions in value, fines, penalties, charges, fees, expenses, judgments, awards, amounts paid in settlement, punitive damages, foreseeable and unforeseeable consequential damages, of whatever kind or nature (including but not limited to reasonable attorneys' fees and other costs of defense) (collectively, the "Losses") imposed upon or incurred by or asserted against any Indemnified Parties and directly or indirectly arising out of or in any way relating to any one or more of the following: (a) ownership of this Security Instrument, the Property or any interest therein or receipt of any Rents; (b) any amendment to, or restructuring of, the Debt, the Note, the Loan Agreement, this Security Instrument, or any other Loan Documents; (c) any and all lawful action that may be taken by Lender in connection with the enforcement of the provisions of this Security Instrument, the Loan Agreement, the Note or any of the other Loan Documents, whether or not suit is filed in connection with same, or in connection with Borrower, any Guarantor or Indemnifying Person and/or any partner, joint venturer or shareholder thereof becoming a party to a voluntary or involuntary federal or state bankruptcy, insolvency or similar proceeding; (d) any accident, injury to or death of persons or loss of or damage to property occurring in, on or about the Property or any part thereof or on the adjoining sidewalks, curbs, adjacent property or adjacent parking areas, streets or ways; (e) any use, nonuse or condition in, on or about the Property or any part thereof or on the adjoining sidewalks, curbs, adjacent property or adjacent parking areas, streets or ways; (f) any failure on the part of Borrower to perform or be in compliance with any of the terms of this Security Instrument, the Note, the Loan Agreement or any of the other Loan Documents; (g) performance of any labor or services or the furnishing of any materials or other property in respect of the Property or any part thereof; (h) the failure of any person to file timely with the Internal Revenue Service an accurate Form 1099-B, Statement for Recipients of Proceeds from Real Estate, Broker and Barter Exchange Transactions, which may be required in connection with this Security Instrument, or to supply a copy thereof in a timely fashion to the recipient of the proceeds of the transaction in connection with which this Security Instrument is made; (i) any failure of the Property to be in compliance with any Legal Requirements; (j) the enforcement by any Indemnified Party of the provisions of this Article 9; (k) any and all claims and demands whatsoever which may be asserted against Lender by reason of any alleged obligations or undertakings on its part to perform or discharge any of the terms, covenants, or agreements contained in any Lease; (l) the payment of any commission, charge or brokerage fee to anyone claiming through Borrower which may be payable in connection with the funding of the Loan; or (m) any misrepresentation made by Borrower in this Security Instrument or any other Loan Document. Any amounts payable to Lender by reason of the application of this Section 9.1 shall become immediately due and payable and shall bear interest at the Default Rate from the date loss or damage is sustained by Lender until paid.

For purposes of this Article 9, the term "Indemnified Parties" means Lender and any Person who is or will have been involved in the origination of the Loan, any Person who is or will have been involved in the servicing of the Loan secured hereby, any Person in whose name the encumbrance created by this Security Instrument is or will have been recorded, any Person who may hold or acquire or will have held a full or partial interest in the Loan secured hereby (including, but not limited to, investors or prospective investors in the Securities, as well as custodians, trustees and other fiduciaries who hold or have held a full or partial interest in the Loan secured hereby for the benefit of third parties) as well as the respective directors, officers, shareholders, partners, employees, agents, servants, representatives, contractors, subcontractors, affiliates, subsidiaries, participants, successors and assigns of any and all of the foregoing (including, but not limited to, any other Person who holds or acquires or will have held a participation or other full or partial interest in the Loan, whether during the term of the Loan or as a part of or following a foreclosure of the Loan and any successors by merger, consolidation or acquisition of all or a substantial portion of Lender's assets and business).

SECTION 9.2 MORTGAGE AND/OR INTANGIBLE TAX. Borrower shall, at its sole cost and expense, protect, defend, indemnify, release and hold harmless the Indemnified Parties from and against any and all Losses imposed upon or incurred by or asserted against any Indemnified Parties and directly or indirectly arising out of or in any way relating to any tax on the making and/or recording of this Security Instrument, the Note or any of the other Loan Documents, but excluding any income, franchise or other similar taxes.

SECTION 9.3 ERISA INDEMNIFICATION. Borrower shall, at its sole cost and expense, protect, defend, indemnify, release and hold harmless the Indemnified Parties from and against any and all Losses (including, without limitation, reasonable attorneys' fees and costs incurred in the investigation, defense, and settlement of Losses incurred in correcting any prohibited transaction or in the sale of a prohibited loan, and in obtaining any individual prohibited transaction exemption under ERISA that may be required, in Lender's sole discretion) that Lender may incur, directly or indirectly, as a result of a default under Sections 4.1.9 or 5.2.12 of the Loan Agreement.

SECTION 9.4 ENVIRONMENTAL INDEMNIFICATION. Borrower shall, at its sole cost and expense, protect, defend, indemnify, release and hold harmless the Indemnified Parties from and against any and all Losses and costs of Remediation (whether or not performed voluntarily), engineers' fees, environmental consultants' fees, and costs of investigation (including but not limited to sampling, testing, and analysis of soil, water, air, building materials and other materials and substances whether solid, liquid or gas) imposed upon or incurred by or asserted against any Indemnified Parties, and directly or indirectly arising out of or in any way relating to any one or more of the following: (a) any presence of any Hazardous Substances in, on, above, or under the Property; (b) any past, present or threatened Release of Hazardous Substances in, on, above, under or from the Property; (c) any activity by Borrower, any Person affiliated with Borrower or any tenant or other user of the Property in connection with any actual, proposed or threatened use, treatment, storage, holding, existence, disposition or other Release, generation, production, manufacturing, processing, refining, control, management, abatement, removal, handling, transfer or transportation to or from the Property of any Hazardous Substances at any time located in, under, on or above the Property; (d) any activity by Borrower, any Person affiliated with Borrower or any tenant or other user of the Property in connection with any actual or proposed Remediation of any Hazardous Substances at any time located in, under, on or above the Property, whether or not such Remediation is voluntary or pursuant to court or administrative order, including but not limited to any removal, remedial or corrective action; (e) any past or present non-compliance or violations of any Environmental Laws (or permits issued pursuant to any Environmental Law) in connection with the Property or operations thereon, including but not limited to any failure by Borrower, any Affiliate of Borrower or any tenant or other user of the Property to comply with any order of any Governmental Authority in connection with any Environmental Laws; (f) the imposition, recording or filing of any Environmental Lien encumbering the Property; (g) any administrative processes or proceedings or judicial proceedings in any way connected with any matter addressed in Article 8 and this Section 9.4; (h) any past, present or threatened injury to, destruction of or loss of natural resources in any way connected with the Property, including but not limited to costs to investigate and assess such injury, destruction or loss; (i) any acts of Borrower or other users of the Property in arranging for disposal or treatment, or arranging with a transporter for transport for disposal or treatment, of Hazardous Substances owned or possessed by such Borrower or other users, at any facility or incineration vessel owned or operated by another Person and containing such or any similar Hazardous Substance; (j) any acts of Borrower or other users of the Property, in accepting any Hazardous Substance for transport to disposal or treatment facilities,

incineration vessels or sites selected by Borrower or such other users, from which there is a Release, or a threatened Release of any Hazardous Substance which causes the incurrence of costs for Remediation; (k) any personal injury, wrongful death, or property damage arising under any statutory or common law or tort law theory, including but not limited to damages assessed for the maintenance of a private or public nuisance or for the conducting of an abnormally dangerous activity on or near the Property; and (1) any misrepresentation or inaccuracy in any representation or warranty or material breach or failure to perform any covenants or other obligations pursuant to Article 8. This indemnity shall survive any termination, satisfaction or foreclosure of this Security Instrument, subject to the provisions of Section 10.5. Notwithstanding the foregoing, Borrower shall have no liability for any Losses imposed upon or incurred by or asserted against any Indemnified Parties and described in this Section 9.4 to the extent that such Losses arose solely by actions, conditions or events relating to the Hazardous Substances placed in, on, above or under the Property after the date that Lender (or any purchaser at a foreclosure sale) actually acquired title to the Property and were not caused by the direct or indirect actions of Borrower or any officer or director of Borrower or any employee, agent, contractor or Affiliate of Borrower.

SECTION 9.5 DUTY TO DEFEND; ATTORNEYS' FEES AND OTHER FEES AND EXPENSES. Upon written request by any Indemnified Party, Borrower shall defend such Indemnified Party (if requested by any Indemnified Party, in the name of the Indemnified Party) by attorneys and other professionals approved by the Indemnified Parties. Notwithstanding the foregoing, if the defendants in any such claim or proceeding include both Borrower and any Indemnified Party and Borrower and such Indemnified Party shall have reasonably concluded that there are any legal defenses available to it and/or other Indemnified Parties that are different from or additional to those available to Borrower, such Indemnified Party shall have the right to select separate counsel to assert such legal defenses and to otherwise participate in the defense of such action on behalf of such Indemnified Party, provided that no compromise or settlement shall be entered without Borrower's consent, which consent shall not be unreasonably withheld. Upon demand, Borrower shall pay or, in the sole and absolute discretion of the Indemnified Parties, reimburse, the Indemnified Parties for the payment of reasonable fees and disbursements of attorneys, engineers, environmental consultants, laboratories and other professionals in connection therewith.

ARTICLE 10 - WAIVERS

SECTION 10.1 WAIVER OF COUNTERCLAIM. To the extent permitted by applicable law, Borrower hereby waives the right to assert a counterclaim, other than a mandatory or compulsory counterclaim, in any action or proceeding brought against it by Lender arising out of or in any way connected with this Security Instrument, the Loan Agreement, the Note, any of the other Loan Documents, or the Obligations.

SECTION 10.2 MARSHALLING AND OTHER MATTERS. To the extent permitted by applicable law, Borrower hereby waives the benefit of all appraisal, valuation, stay, extension, reinstatement and redemption laws now or hereafter in force and all rights of marshalling in the event of any sale hereunder of the Property or any part thereof or any interest therein. Further, Borrower hereby expressly waives any and all rights of redemption from sale under any order or decree of foreclosure of this Security Instrument on behalf of Borrower, and on behalf of each and every person acquiring any interest in or title to the Property subsequent to the date of this Security Instrument and on behalf of all persons to the extent permitted by applicable law.

SECTION 10.3 WAIVER OF NOTICE. To the extent permitted by applicable law, Borrower shall not be entitled to any notices of any nature whatsoever from Lender except with respect to matters for which this Security Instrument specifically and expressly provides for the giving of notice by Lender to Borrower and except with respect to matters for which Lender is required by applicable law to give notice, and Borrower hereby expressly waives the right to receive any notice from Lender with respect to any matter for which this Security Instrument does not specifically and expressly provide for the giving of notice by Lender to Borrower.

SECTION 10.4 WAIVER OF STATUTE OF LIMITATIONS. To the extent permitted by applicable law, Borrower hereby expressly waives and releases to the fullest extent permitted by law, the pleading of any statute of limitations as a defense to payment of the Debt or performance of its Other Obligations.

SECTION 10.5 SURVIVAL. The indemnifications made pursuant to Sections 9.3 and 9.4 herein and the representations and warranties, covenants, and other obligations arising under Article 8, shall continue indefinitely in full force and effect and shall survive and shall in no way be impaired by any of the following: any satisfaction or other termination of this Security Instrument, any assignment or other transfer of all or any portion of this Security Instrument or Lender's interest in the Property (but, in such case, shall benefit both Indemnified Parties and any assignee or transferee), any exercise of Lender's rights and remedies pursuant hereto including, but not limited to, foreclosure or acceptance of a deed in lieu of foreclosure, any exercise of any rights and remedies pursuant to the Loan Agreement, the Note or any of the other Loan Documents, any transfer of all or any portion of the Property (whether by Borrower or by Lender following foreclosure or acceptance of a deed in lieu of foreclosure or at any other time), any amendment to this Security Instrument, the Loan Agreement, the Note or the other Loan Documents, and any act or omission that might otherwise be construed as a release or discharge of Borrower from the obligations pursuant hereto.

ARTICLE 11 - EXCULPATION

The provisions of Section 9.3 of the Loan Agreement are hereby incorporated by reference into this Security Instrument to the same extent and with the same force as if fully set forth herein.

ARTICLE 12 - NOTICES

All notices or other written communications hereunder shall be delivered in accordance with Section 10.6 of the Loan Agreement.

Notices to Mortgagee hereunder and under any of the other Loan Documents shall include a copy thereof to Lender (to be addressed and delivered in accordance with this Section 10.6 of the Loan Agreement) and shall be sent as follows:

Mortgagee: MERS Commercial
P.O. Box 2300
Flint, Michigan 48501-2300

ARTICLE 13 - APPLICABLE LAW

SECTION 13.1 GOVERNING LAW. This Security Instrument shall be governed in accordance with the terms and provisions of Section 10.3 of the Loan Agreement.

SECTION 13.2 USURY LAWS. Notwithstanding anything to the contrary, (a) all agreements and communications between Borrower and Lender are hereby and shall automatically be limited so that, after taking into account all amounts deemed interest, the interest contracted for, charged or received by Lender shall never exceed the maximum lawful rate or amount, (b) in calculating whether any interest exceeds the lawful maximum, all such interest shall be amortized, prorated, allocated and spread over the full amount and term of all principal indebtedness of Borrower to Lender, and (c) if through any contingency or event, Lender receives or is deemed to receive interest in excess of the lawful maximum, any such excess shall be deemed to have been applied toward payment of the principal of any and all then outstanding indebtedness of Borrower to Lender, or if there is no such indebtedness, shall immediately be returned to Borrower.

SECTION 13.3. PROVISIONS SUBJECT TO APPLICABLE LAW. All rights, powers and remedies provided in this Security Instrument may be exercised only to the extent that the exercise thereof does not violate any applicable provisions of law and are intended to be limited to the extent necessary so that they will not render this Security Instrument invalid, unenforceable or not entitled to be recorded, registered or filed under the provisions of any applicable law. If any term of this Security Instrument or any application thereof shall be invalid or unenforceable, the remainder of this Security Instrument and any other application of the term shall not be affected thereby.

ARTICLE 14 - DEFINITIONS

All capitalized terms not defined herein shall have the respective meanings set forth in the Loan Agreement. Unless the context clearly indicates a contrary intent or unless otherwise specifically provided herein, words used in this Security Instrument may be used interchangeably in singular or plural form and the word "Borrower" shall mean "each Borrower and any subsequent owner or owners of the Property or any part thereof or any interest therein," the word "Lender" shall mean "Lender and any subsequent holder of the Note," the word "Note" shall mean "the Note and any other evidence of indebtedness secured by this Security Instrument," the word "Property" shall include any portion of the Property and any interest therein, and the phrases "attorneys' fees", "legal fees" and "counsel fees" shall include any and all attorneys', paralegal and law clerk fees and disbursements, including, but not limited to, fees and disbursements at the pre-trial, trial and appellate levels incurred or paid by Lender in protecting its interest in the Property, the Leases and the Rents and enforcing its rights hereunder.

ARTICLE 15 - MISCELLANEOUS PROVISIONS

SECTION 15.1 NO ORAL CHANGE. This Security Instrument, and any provisions hereof, may not be modified, amended, waived, extended, changed, discharged or terminated orally or by any act or failure to act on the part of Borrower or Lender, but only by an agreement in writing signed by the party against whom enforcement of any modification, amendment, waiver, extension, change, discharge or termination is sought.

SECTION 15.2 SUCCESSORS AND ASSIGNS. This Security Instrument shall be binding upon and inure to the benefit of Borrower and Lender and their respective successors and assigns forever.

SECTION 15.3 INAPPLICABLE PROVISIONS. If any term, covenant or condition of the Loan Agreement, the Note or this Security Instrument is held to be invalid, illegal or unenforceable in any respect, the Loan Agreement, the Note and this Security Instrument shall be construed without such provision.

SECTION 15.4 HEADINGS, ETC. The headings and captions of various Sections of this Security Instrument are for convenience of reference only and are not to be construed as defining or limiting, in any way, the scope or intent of the provisions hereof.

SECTION 15.5 NUMBER AND GENDER. Whenever the context may require, any pronouns used herein shall include the corresponding masculine, feminine or neuter focus, and the singular form of nouns and pronouns shall include the plural and vice versa.

SECTION 15.6 SUBROGATION. If any or all of the proceeds of the Note have been used to extinguish, extend or renew any indebtedness heretofore existing against the Property, then, to the extent of the funds so used, Lender shall be subrogated to all of the rights, claims, liens, titles, and interests existing against the Property heretofore held by, or in favor of, the holder of such indebtedness and such future rights, claims, liens, titles, and interests, if any, are not waived but rather are continued in full force and effect in favor of Lender and are merged with the lien and security interest created herein as cumulative security for the repayment of the Debt, the performance and discharge of Borrower's obligations hereunder, under the Loan Agreement, the Note and the other Loan Documents and the performance and discharge of the Other Obligations.

SECTION 15.7 ENTIRE AGREEMENT. The Note, the Loan Agreement, this Security Instrument and the other Loan Documents constitute the entire understanding and agreement between Borrower and Lender with respect to the transactions arising in connection with the Debt and supersede all prior written or oral understandings and agreements between Borrower and Lender with respect thereto. Borrower hereby acknowledges that, except as incorporated in writing in the Note, the Loan Agreement, this Security Instrument and the other Loan Documents, there are not, and were not, and no persons are or were authorized by Lender to make, any representations, understandings, stipulations, agreements or promises, oral or written, with respect to the transaction which is the subject of the Note, the Loan Agreement, this Security Instrument and the other Loan Documents.

SECTION 15.8 LIMITATION ON LENDER'S RESPONSIBILITY. No provision of this Security Instrument shall operate to place any obligation or liability for the control, care, management or repair of the Property upon Lender, nor shall it operate to make Lender responsible or liable for any waste committed on the Property by the tenants or any other Person, or for any dangerous or defective condition of the Property, or for any negligence in the management, upkeep, repair or control of the Property resulting in loss or injury or death to any tenant, licensee, employee or stranger. Nothing herein contained shall be construed as constituting Lender a "mortgagee in possession.

ARTICLE 16 - STATE-SPECIFIC PROVISIONS

SECTION 16.1 PRINCIPLES OF CONSTRUCTION. In the event of any inconsistencies between the terms and conditions of this Article 16 and the terms and conditions of this Security Instrument, the terms and conditions of this Article 16 shall control and be binding.

SECTION 16.2 HAZARDOUS SUBSTANCES. Borrower shall not conduct or cause or permit to be conducted on the Property any activity which constitutes an Industrial Establishment (as such term is defined in the New Jersey Industrial Site Recovery Act, as amended ("ISRA")) without the prior written consent of Lender, which consent shall not be unreasonably withheld. In the event that the provisions of ISRA become applicable to the Property subsequent to the date hereof, Borrower shall give prompt written notice thereof to Lender and shall take immediate requisite action to insure compliance with ISRA. Borrower shall deliver to Lender copies of all correspondence, notices and submissions that it sends to or receives from the New Jersey Department of Environmental Protection in connection with such ISRA compliance. Borrower's obligation to comply with ISRA shall, notwithstanding its general applicability, also specifically apply to sale, transfer, closure or termination of operations associated with any foreclosure action respecting the Property, including, without limitation, a foreclosure action brought with respect to this Security Instrument. Borrower hereby represents and warrants to Lender the Property is not located within a "freshwater wetlands" or a "transition area," each as defined by N.J.S.A. 13:9B-3, and is not subject to the terms of the New Jersey Freshwater Wetlands Protection Act, as amended, N.J.S.A. 13:9B-1 et. Ms or the rules and regulations promulgated thereunder.

SECTION 16.3 CONTINUING ENFORCEMENT OF SECURITY INSTRUMENT. If, after receipt of any payment of all or any part of the obligations under the Note, this Security Instrument, and the other Loan Documents, Lender is compelled or agrees, for settlement purposes, to surrender such payment to any Person for any reason (including, without limitation, a determination that such payment is void or voidable as a preference or fraudulent conveyance, an impeiuniissible setoff, or a diversion of trust funds), then this Security Instrument and the other Loan Documents shall continue in full force and effect, and Borrower shall be liable for, and shall indemnify, defend and hold harmless Lender with respect to the full amount so surrendered. The provisions of this Section shall survive the cancellation or discharge of this Security Instrument and shall remain effective notwithstanding the payment of the obligations, under the Note, this Security Instrument and the other Loan Documents, the cancellation of the Note, the release of any security interest, lien or encumbrance securing the obligations under the Note, this Security Instrument and the other Loan Documents, or any other action which Lender may have taken in reliance upon its receipt of such payment. Any cancellation, release or other such action by Lender shall be deemed to have been conditioned upon any payment of the obligations under the Note, this Security Instrument and the other Loan Documents, having become final and irrevocable.

SECTION 16.4 MODIFICATION OF SECURITY INSTRUMENT. This Security Instrument is subject to "modification" as such term is defined in P.L. 1985 c.353 (N.J.S.A. 46:9-8.1 et.see .) and shall be subject to the priority provisions thereof.

SECTION 16.5 NO CREDIT FOR TAXES PAID. Borrower waives any right it may have to a credit against interest due under the Debt secured by the Security Instrument pursuant to N.J.S.A. 54:4 - 33.

SECTION 16.6 RECEIPT OF COPY. Borrower hereby acknowledges receipt of a true copy of this Security Instrument without charge.

IN WITNESS WHEREOF, this Security Instrument has been executed by Borrower as of the day and year first above written.

RD ELMWOOD ASSOCIATES, L.P.,
a Delaware limited partnership

BY: Aca ood Park LLC, Its ge

By: -----
Name: Robert Masters Title:
Senior Vice President

STATE OF NEW YORK COUNTY OF

On the _____, day of -D 005, before me, the undersigned, a Notary Public in and for said State, personally appeared _____ known to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is/are subscribed to the within instrument and acknowledged that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

}
: ss.:
)

Iff.a.1

XXXXXXXXXX

ch0

Notary Public

B 5294P25-3,
EXHIBIT A
(LEGAL DESCRIPTION)

ALL that certain tract or parcel of land and premises, situate, lying and being in the Borough of Elmwood Park, in the County of Bergen, and State of New Jersey, more particularly described as .follows:

TRACT I (Lot 2, Block 301:

BEGINNING at a point in the westerly right-of-way line of Iozia Terrace (60 feet wide), said point being measured South 19 degrees and 45 minutes and 40 seconds East, a distance of 24.56 feet from the intersection of the said westerly right-of-way line of Iozia Terrace with the southerly right-of-way line of New Jersey State Highway Route 4, also known as Broadway (110 feet wide), and from said point proceeding; thence

Continuing along the said westerly right-of-way line of Iozia Terrace, South 19 degrees and 45 minutes and 40 seconds East, a distance of 275.92 feet to its intersection with the northerly line of Lot 3 in Block 301; thence

(2) Departing the westerly right-of-way line of Iozia Terrace along the northerly line of Lots 3 and I in Block 301, South 71 degrees and 11 minutes and 40 seconds West, a distance of 762.53 feet to the intersection of the said northerly line of Lot 1 in Block 301 with the easterly right-of-way line of Boulevard (70 feet wide) and a point of curvature; thence

Continuing along the said easterly right-of-way line of Boulevard and a curve to the right having a radius of 868.83 feet and a central angle of 00 degrees and 44 minutes and 50 seconds, and an arc length of 11.33 feet to a point; thence

(4) Continuing along the same, North 19 degrees and 11 minutes and 00 seconds West, a distance of 264.77 feet to a point; thence

(1)

(3)

(5)

Continuing along the same and a curve to the right having a radius of 25.00 feet and a central angle of 90 degrees and 26 minutes and 30 seconds, a distance along an arc of 39.46 feet to a point on the southerly right-of-way line of New Jersey State Highway Route No. 4, also known as Broadway; thence

(6) Along the said southerly right-of-way line of New Jersey State Highway Route No. 4, also known as Broadway, North 71 degrees and 15 minutes and 30 seconds East, a distance of 709.83 feet to a point of curvature; thence

(7)

Continuing along the same and a curve to the right having a radius of 25.00 feet and a central angle of 88 degrees and 58 minutes and 50 seconds, a distance along an arc of 38.83 feet to the point or place of BEGINNING.

EXH. A-i
NJ01 /KEENP/68031.1

1529 P - 4

The above description is in accordance with a survey drawn by Lapatka Associates, Inc. dated November 17, 2005.

TRACT II (Lots 3 and 4. Block 201):

BEGINNING at a point in the westerly right-of-way line of Boulevard (70 feet wide), said point being measured South 19 degrees and 11 minutes and 00 seconds East, a distant of 24.81 feet from the intersection of the said westerly right-of-way line of Boulevard with the southerly rightof-way line of New Jersey State Highway Route 4, also known as Broadway (110 feet wide), and from said point proceeding; thence,

(1)

Continuing along the said westerly right-of-way line of Boulevard, South 19 degrees and 11 minutes and 00 seconds East, a distance of 265.69 feet to a point of curvature; thence

(2) Continuing along the same and a curve to the left having a radius of 938.83 feet and a central angle of 00 degrees and 39 minutes and 52 seconds, a distance along an arc of 10.89 feet to its intersection with the northerly line of Lot 5 in Block 201; thence

(3)

Departing the westerly right-of-way line of Boulevard along the said northerly line of Lot 5 in Block 201, South 71 degrees and 11 minutes and 40 seconds West, a distance of 90.01 feet to an angle point; thence

(4) Continuing along the same, North 18 degrees and 48 minutes and 20 seconds West, a distance of 1.10 feet to an angle point; thence

Continuing along the same, South 70 degrees and 12 minutes and 00 seconds West a distance of 63.22 feet to an angle point; thence

(6) Continuing along the same, South 71 degrees and 11 minutes and 40 seconds West, a distance of 436.87 feet to its intersection with the easterly line of Lot 2 in Block 201; thence

Along the said easterly line of Lot 2 in Block 201, North 19 degrees and 16 minutes and 30 seconds West, a distance of 300.00 feet to its intersection with the southerly right-of-way line of New Jersey State Highway Route No. 4, also known as Broadway; thence

Along the said southerly right-of-way line of New Jersey State Highway Route No. 4, also known as Broadway, North 70 degrees and 43 minutes and 30 seconds East, a distance of 219.59 feet to an angle point in same; thence

Continuing along the same, North 71 degrees and 15 minutes and 30 seconds East, a distance of 346.10 feet to a point of curvature; thence

(10) Continuing along the same and a curve to the right having a radius of 25.00 feet and a central angle of 89 degrees and 33 minutes and 30 seconds, a distance along an arc of 39.08 feet to the point or place of BEGINNING.

EXH. A-2

(5)

(7) (8)

(9)

The above description is in accordance with a survey drawn by Lapatka Associates, Inc. dated November 17, 2005.

Being known as Lots 3 & 4 in Block 201, and Lot 2 in Block 301, on the Official Tax Map of the Borough of Elmwood Park in the County of Bergen and State of New Jersey. Being also known as 58, 80 and 100 Broadway.

EXH. A-3

RD ELMWOOD ASSOCIATES, L.P., as Borrower
(Borrower)
to

MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC., as nominee of Lender (Lender)

MORTGAGE AND
SECURITY AGREEMENT

Dated: As of December 9, 2005
Location: 100 Broadway, E lmwood Park Shopping Center, Elmwood, NJ
County: Bergen
MFRS MIN: 80001010000022938

PREPARED BY AND UPON RECORDATION RETURN TO:

LAND TITLE AGENCY, INC.
464 VALLEY BROOK AVENUE
LYNDHURST, NJ 07071
(201) 804.8844

LIST OF SUBSIDIARIES OF ACADIA REALTY TRUST

239 Greenwich Associates Limited Partnership
ABR Amboy Road LLC
Acadia 239 Greenwich Avenue, LLC
Acadia Amherst, LLC
Acadia Bartow Avenue, LLC
Acadia Berlin LLC
Acadia Boonton LLC
Acadia Brandywine Condominium, LLC
Acadia Brandywine Subsidiary, LLC
Acadia Brandywine Town Center, LLC
Acadia Clark-Diversey LLC
Acadia Crescent Plaza LLC
Acadia Crossroads, LLC
Acadia D.R. Management, Inc.
Acadia Elmwood Park LLC
Acadia Granville, LLC
Acadia Haygood, LLC
Acadia Heathcote, LLC
Acadia Hendon Hitchcock Plaza, LLC
Acadia K-H, LLC
Acadia Levitz, LLC
Acadia Liberty Self Storage LLC
Acadia Mad River Property LLC
Acadia Market Square, LLC
Acadia Merrillville Realty, Inc.
Acadia Merrillville Realty, L.P.
Acadia Mervyn I, LLC
Acadia Mervyn II, LLC
Acadia Mervyn Investors I, LLC
Acadia Mervyn Investors II, LLC
Acadia Mervyn Promote Member I, LLC
Acadia Mervyn Promote Member II, LLC
Acadia Naamans Road LLC
Acadia New Loudon, LLC
Acadia Pacesetter LLC
Acadia Property Holdings, LLC
Acadia Realty Acquisition I, LLC
Acadia Realty Acquisition II, LLC
Acadia Realty Limited Partnership
Acadia Realty Trust
Acadia Rockville, LLC
Acadia Sheffield Crossing, LLC
Acadia Sterling Heights, LLC
Acadia Strategic Opportunity Fund II, LLC
Acadia Strategic Opportunity Fund, LP
Acadia Tarrytown, LLC
Acadia Town Line, LLC
Acadia-Noddle Tarrytown Development Co., LLC
Acadia Oakbrook LLC
Acadia-P/A 161st Street LLC
Acadia-P/A Canarsie, LLC
Acadia-P/A Holding Company, LLC
Acadia-P/A Liberty LLC
Acadia-P/A Sherman Avenue, LLC

Acadia-PA East Fordham Acquisitions, LLC
ACRS, Inc.
AII BC LLC
AII BH LLC
AII BS LLC
AII BTC LLC
AII MS LLC
AmCap Acadia 8th Addition, LLC
AmCap Acadia 9th Addition, LLC
AmCap Acadia Agent, LLC
AmCap Acadia Atlanta LP
AmCap Acadia Batesville, LLC
AmCap Acadia Benton, LLC
AmCap Acadia Carthage LP
AmCap Acadia Cary, LLC
AmCap Acadia Cincinnati, LLC
AmCap Acadia Conroe LP
AmCap Acadia Great Bend, LLC
AmCap Acadia Hanrahan, LLC
AmCap Acadia Indianapolis, LLC
AmCap Acadia Irving LP
AmCap Acadia K-H Holding, LLC
AmCap Acadia K-H, LLC
AmCap Acadia Little Rock, LLC
AmCap Acadia Longview, LLC
AmCap Acadia Mustang, LLC
AmCap Acadia Pratt, LLC
AmCap Acadia Roanoke, LLC
AmCap Acadia Roswell, LLC
AmCap Acadia Ruidoso, LLC
AmCap Acadia San Ramon, LLC
AmCap Acadia Shreveport, LLC
AmCap Acadia Springerville, LLC
AmCap Acadia Tucson, LLC
AmCap Acadia Tulsa, LLC
APA 216st Street LLC
ARA BC LLC
ARA BH LLC
ARA BS LLC
ARA BTC LLC
ARA MS LLC
Blackman Fifty L.P.
Blackman Fifty Realty Corp.
Crossroads II
Crossroads II, LLC
Crossroads Joint Venture
Crossroads Joint Venture, LLC
Heathcote Associates, L.P.
Mark Plaza Fifty L.P.
Mark Plaza Fifty Realty Corp.
Mark Twelve Associates, L.P.
New Castle Fifty Realty Corp.
P/A-Acadia Pelham Manor, LLC
Pacesetter/Ramapo Associates
Port Bay Associates, LLC
RD Abington Associates Limited Partnership
RD Absecon Associates, L.P.

RD Absecon, Inc.
RD Bloomfield Associates Limited Partnership
RD Branch Associates L.P.
RD Columbia Associates, L.P.
RD Elmwood Associates, L.P.
RD Hobson Associates, L.P.
RD Methuen Associates Limited Partnership
RD Smithtown, LLC
RD Village Associates Limited Partnership
RD Whitegate Associates, L.P.
RD Woonsocket Associates Limited Partnership

CONSENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

We hereby consent to the incorporation by reference in the Registration Statements (Form S-8 Nos. 33-95966 and 333-87993) pertaining to the 1999 Share Incentive Plan of Acadia Realty Trust; in the Registration Statement (Form S-3 No. 33-31630) of Acadia Realty Trust; in the Registration Statement (Form S-3 No. 333-104727) of Acadia Realty Trust; and in the Registration Statement (Form S-8 No. 333-106758) pertaining to the 2003 Employee Share Incentive Plan of Acadia Realty Trust of our report dated March 8, 2006, related to the consolidated financial statements and schedule and the effectiveness of internal control over financial reporting of Acadia Realty Trust included in this Annual Report on Form 10-K for the year ended December 31, 2005.

/s/ BDO Seidman, LLP

New York, New York
March 8, 2006

CONSENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

We consent to the incorporation by reference in the Registration Statements (Form S-8 Nos. 33-95966 and 333-87993) pertaining to the 1999 Share Incentive Plan of Acadia Realty Trust; in the Registration Statement (Form S-3 No. 33-31630) of Acadia Realty Trust; in the Registration Statement (Form S-3 No. 333-104727) of Acadia Realty Trust; and in the Registration Statement (Form S-8 No. 333-106758) pertaining to the 2003 Employee Share Incentive Plan of Acadia Realty Trust of our report dated March 10, 2005, except as to Note 2B as to which the date is March 15, 2006, with respect to the consolidated balance sheet of Acadia Realty Trust and subsidiaries as of December 31, 2004, and the Related Consolidated Statements of Income, Shareholders' Equity and Cash Flows for the Period Ended December 31, 2004 included in this Annual Report on Form 10-K for the year ended December 31, 2005.

/s/ ERNST & YOUNG LLP

New York, New York
March 15, 2006

CERTIFICATION OF PRINCIPAL EXECUTIVE OFFICER PURSUANT TO RULE 13A - 14A
(SECTION 302 OF THE SARBANES-OXLEY ACT OF 2002)

I, Kenneth F. Bernstein, certify that:

1. I have reviewed this annual report on Form 10-K of Acadia Realty Trust;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal controls over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and we have:
 - (a) designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
 - (b) designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
 - (c) evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
 - (d) disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal year that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of registrant's board of directors (or persons performing the equivalent function):
 - (a) all significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
 - (b) any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

/s/ Kenneth F. Bernstein

Kenneth F. Bernstein
President and Chief Executive Officer
March 15, 2006

CERTIFICATION OF PRINCIPAL FINANCIAL OFFICER PURSUANT TO RULE 13A - 14A
(SECTION 302 OF THE SARBANES-OXLEY ACT OF 2002)

I, Michael Nelsen, certify that:

1. I have reviewed this annual report on Form 10-K of Acadia Realty Trust;

2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;

4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal controls over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and we have:

(a) designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

(b) designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

(c) evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

(d) disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal year that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of registrant's board of directors (or persons performing the equivalent function):

(a) all significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and

(b) any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

/s/ Michael Nelsen

Michael Nelsen
Senior Vice President and Chief Financial Officer
March 15, 2006

CERTIFICATION OF PRINCIPAL EXECUTIVE OFFICER PURSUANT TO 18 U.S.C. SECTION
1350, AS ADOPTED PURSUANT TO
(SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002)

In connection with the Annual Report of Acadia Realty Trust (the "Company") on Form 10-K for the year ended December 31, 2005, as filed with the Securities and Exchange Commission on the date hereof (the "Report"), I, Kenneth F. Bernstein, President and Chief Executive Officer of the Company, certify, pursuant to 18 U.S.C. ss. 1350, as adopted pursuant to ss. 906 of the Sarbanes-Oxley Act of 2002, that:

(1) The Report fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934; and

(2) The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

A signed original of this written statement required by Section 906 has been provided to the Company and will be retained by the Company and furnished to the Securities and Exchange Commission or its staff upon request.

/s/ Kenneth F. Bernstein

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Kenneth F. Bernstein
President and Chief Executive Officer
March 15, 2006

CERTIFICATION OF PRINCIPAL FINANCIAL OFFICER PURSUANT TO 18 U.S.C. SECTION 1350,
AS ADOPTED PURSUANT TO
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002

In connection with the Annual Report of Acadia Realty Trust (the "Company") on Form 10-K for the year ended December 31, 2005, as filed with the Securities and Exchange Commission on the date hereof (the "Report"), I, Michael Nelsen, Sr. Vice President and Chief Financial Officer of the Company, certify, pursuant to 18 U.S.C. ss. 1350, as adopted pursuant to ss. 906 of the Sarbanes-Oxley Act of 2002, that:

(1) The Report fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934; and

(2) The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

A signed original of this written statement required by Section 906 has been provided to the Company and will be retained by the Company and furnished to the Securities and Exchange Commission or its staff upon request.

/s/ Michael Nelsen

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Michael Nelsen
Senior Vice President and Chief Financial Officer
March 15, 2006