

Securities and Exchange Commission  
Washington, DC 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, 2000

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

20 Soundview Marketplace  
Port Washington, NY 11050 (516)767-8830  
(Address of principal executive offices) (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 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.

The aggregate market value of the voting common equity stock held by non-affiliates of the Registrant was approximately \$176.5 million based on the closing price on the New York Stock Exchange for such stock on March 21, 2001 (the Company has no non-voting common equity).

The number of shares of the Registrant's Common Shares of Beneficial Interest outstanding was 28,015,672 on March 21, 2001.

DOCUMENTS INCORPORATED BY REFERENCE

Part III - Definitive proxy statement for the Annual Meeting of Shareholders presently scheduled to be held May 31, 2001, 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 constitute "forward-looking statements" within the meaning of the Private Securities Litigation Reform Act of 1995. Such forward-looking statements involve known and unknown risks, uncertainties and other factors which may cause the actual results, performance or achievements of the Company to be materially different from any future results performance or achievements expressed or implied by such forward-looking statements. Such factors include, among others, the following: general economic and business conditions, which will, among other things, affect demand for rental space, the availability and creditworthiness of prospective tenants, lease rents and the availability of financing; adverse changes in the Company's real estate markets, including, among other things, competition with other companies; risks of real estate development and acquisition; governmental actions and initiatives; and environmental/safety requirements.

## PART I

### ITEM 1. BUSINESS

#### GENERAL

Acadia Realty Trust (the "Company"), formerly Mark Centers Trust, was formed on March 4, 1993 as a Maryland Real Estate Investment Trust ("REIT"). The Company is a fully integrated, self-managed and self-administered equity REIT focused primarily on the ownership, acquisition, redevelopment and management of neighborhood and community shopping centers. The Company operates fifty-seven properties, which it owns or has an ownership interest in, consisting of forty-seven neighborhood and community shopping centers, four redevelopment retail properties, one enclosed mall and five multi-family properties, all of which are located in the Eastern and Midwestern regions of the United States.

All of the Company's assets are held by, and all of its operations are conducted through, Acadia Realty Limited Partnership, a Delaware limited partnership (the "Operating Partnership") and its majority owned subsidiaries. As of December 31, 2000, the Company controlled 81% of the Operating Partnership as the sole general partner.

On August 12, 1998, the Company completed a major reorganization ("RDC Transaction") in which it acquired twelve shopping centers, five multi-family properties and a 49% interest in one shopping center along with certain third party management contracts and promissory notes from real estate investment partnerships ("RDC Funds") managed by affiliates of RD Capital, Inc. In exchange for these and a cash investment of \$100 million, the Company issued 11.1 million Operating Partnership Units ("OP Units") and 15.3 million common shares of beneficial interest ("Common Shares") to the RDC Funds. After giving effect to the conversion of OP Units, which are generally exchangeable for Common Shares on a one-for-one basis, the RDC Funds beneficially owned 72% of the Common Shares as of the closing of the RDC Transaction. The Company is also obligated to issue OP Units valued at \$2.8 million upon the commencement of rental payments from a designated tenant at one of the acquired properties. Concurrent with the RDC Transaction, the Company appointed former RD Capital, Inc. executives Ross Dworman as Chairman and Chief Executive Officer, and Kenneth F. Bernstein as President. In January 2001, the Board of Trustees appointed Mr. Bernstein as Chief Executive Officer with Mr. Dworman remaining as Chairman.

In March 2000, the RDC Funds, in accordance with their respective partnership agreements (the "RDC Fund Partnership Agreements"), distributed to their respective limited partners the Common Shares which had been issued to the RDC Funds in connection with the RDC Transaction. Pursuant to a registration and lock-up agreement, dated as of the date of the RDC Transaction (the "Registration Agreement"), in March 2000, the Company filed a registration statement with the Securities and Exchange Commission to permit the resale of such Common Shares, which registration statement was declared effective in March 2000. Pursuant to the RDC Fund Partnership Agreements and the Registration Agreement, such limited partners had agreed to certain restrictions on the sale of such Common Shares by such limited partners (the "Original Lock-Up Provisions") which expired December 28, 2000.

#### RECENT DEVELOPMENTS

The Company believes that its current stock price does not reflect the underlying value of its assets. As such, on January 4, 2001, the Company announced that it had engaged Credit Suisse First Boston to undertake a review of a broad range of strategic alternatives available to the Company in light of current and prospective market conditions facing the Company and the REIT industry. Consistent with their commitment to maximize shareholder value, the Board of Trustees and management will examine all means to enhance the opportunity for liquidity for all shareholders at a fair price to the Company's net asset value. This includes a possible merger, recapitalization or assets sales, among other alternatives. Discussion regarding the Company's business objectives and operating strategy, liquidity and capital resources and other future plans throughout this Annual Report should be read giving appropriate consideration to this pending evaluation.

## BUSINESS OBJECTIVES AND OPERATING STRATEGY

The Company's primary business objective is to acquire and manage commercial retail properties that will provide cash for distributions to shareholders while also creating potential for capital appreciation to enhance investor returns. The Company's acquisition program focuses on acquiring sub-performing neighborhood and community shopping centers that are well-located and creating significant value through retensing, timely capital improvements and property redevelopment. In considering acquisitions, the Company focuses on quality shopping centers located in the Northeast, Mid-Atlantic and Midwest regions. The Company considers both single assets and portfolios in its acquisition program. In conjunction with evaluating potential portfolio acquisitions, the Company also regularly engages in discussions with public and private entities regarding business combinations as well. Furthermore, the Company may, from time to time, consider engaging in joint ventures related to property acquisition and development.

Operating functions such as leasing, property management, construction, finance and legal (collectively the "Operating Departments") are provided by Company personnel, providing for fully integrated property management and development. The Operating Departments' involvement in acquisitions is an essential component to the acquisition program. 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 an asset's strategic plan.

The Company typically holds its properties for long-term investment. As such, it continuously reviews the existing portfolio and implements 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. The Company also periodically identifies certain properties for disposition and redeploys the capital to existing centers or acquisitions with greater potential for capital appreciation. Upon conducting a comprehensive review of the portfolio during 2000, the Company identified 30 of the current portfolio of 57 properties as core assets. These core retail properties are neighborhood and community shopping centers and consist of 26 stabilized shopping centers and four redevelopment properties. The core properties are typically dominant centers in high barrier-to-entry markets. The anchors at these centers typically pay below-market rents and have low rent-to-sales ratios which are, on average, approximately 4%. Furthermore, 22 of the 30 core properties are anchored by supermarkets. These attributes enable the properties to better withstand a weakening economy while also creating opportunities to increase rental income.

The non-core properties consist of 22 retail and five multi-family properties. In addition to these properties, the Company sold another mixed-use center during 2000 as discussed under "Disposition of Properties" below. The Company intends on disposing of all the non-core assets as market conditions permit. Two of the multi-family and one retail property are currently being actively marketed for sale. 17 of the non-core retail properties secure debt originally issued by Morgan Stanley Mortgage Capital and are cross-collateralized.

## PROPERTY REDEVELOPMENT

The Company's redevelopment program focuses on selecting well-located neighborhood and community shopping centers and creating significant value through retenanting and property redevelopment. The Company currently has four properties under redevelopment as follows:

Abington Towne Center - The Company has completed the first phase of redevelopment of this previously enclosed multi-level mall located in the Philadelphia suburb of Abington, Pennsylvania. In December 2000, the Company sold approximately 160,000 square feet representing the top two floors and the rear portion of the ground level and the related parking area to the Target Corporation ("Target") for \$11.5 million. Target is currently building out the space and is expected to open prior to the end of 2001. The Company has "de-malled" the balance of the center consisting of approximately 46,000 square feet of the main building and 14,000 square feet of store space in outparcel buildings which it will continue to own and operate. An existing anchor, T.J. Maxx, was relocated to a 27,000 square foot space in the Company's portion of the main building and reopened for business during November 2000. As of December 31, 2000, costs incurred on this project totaled \$3.6 million. Remaining costs projected to complete the redevelopment of this property are approximately \$370,000.

Elmwood Park Shopping Center - During 2000, the Company commenced with the sitework on the redevelopment of this center located in Elmwood Park, New Jersey, approximately ten miles west of New York City. The redevelopment consists of reanchoring, renovating and expanding the existing 125,000 square foot shopping center by 30,000 square feet. The new anchor, a 48,000 square foot free-standing A&P supermarket, will replace an undersized (28,000 square feet) in-line Grand Union supermarket when completed. The project also includes the expansion of an existing Walgreens drug store. As of December 31, 2000, costs incurred on this project totaled \$563,000. The Company expects remaining redevelopment costs of approximately \$8.7 million to complete this project in 2002. In conjunction with the A&P supermarket rent commencement, the Operating Partnership is also obligated to issue OP Units equal to \$2.75 million in connection with the RDC Transaction.

Methuen Shopping Center - This center, located in Methuen, Massachusetts (part of the Boston metropolitan statistical area) was formerly anchored by a Caldor department store. The Company acquired this lease out of bankruptcy and is currently in final lease negotiations with a national discount retailer for an 89,000 square foot department store, although there can be no assurances that these negotiations will ultimately result in an executed lease. Projected costs to complete this project are approximately \$400,000.

Gateway Shopping Center - The redevelopment of the Gateway Shopping Center, a partially enclosed mall located in Burlington, Vermont, includes the recapture of a 32,000 square foot former Grand Union store, demolition of 70% of the property and the construction of a new anchor tenant. Following the bankruptcy of Grand Union, the lease was assigned to Shaw's which has resulted in a temporary delay of the planned de-malling and redevelopment. The Company is reviewing a broad range of possible redevelopment scenarios and related costs as a result of the lease assignment to Shaw's.

## REANCHORING AND LEASING ACTIVITY

During 2000, the Company replaced several weak or formerly vacated anchor tenants with stronger retailers at various centers in connection with management's goal of repositioning and reanchoring of the portfolio. Anchor replacements included the following:

- Homegoods, Inc. (a TJX company) took occupancy and commenced paying rent during 2000 for 37,000 square feet, replacing a majority of the 43,000 square feet formerly occupied by Burlington Coat at the Bloomfield Town Square in Bloomfield, Michigan.
- The Company reanchored the New Loudon Shopping Center, located in Latham, New York with a 76,000 square foot Ames which took occupancy and commenced paying rent during 2000.
- During 2000, the Company installed Stein Mart in 36,000 square feet at the Northside Mall, located in Dothan Alabama, replacing a Montgomery Wards lease which was purchased out of bankruptcy by the Company. This tenant, which co-anchors the center with a Wal\*Mart, commenced paying rent in 2000.
- A lease was executed with Giant Food Stores (an Ahold subsidiary) for 61,000 square feet, replacing a former BiLo supermarket at the Greenridge Shopping Center in Scranton, Pennsylvania. Rent is anticipated to commence during the third quarter of 2001.
- In connection with the addition of an anchor at the Union Plaza located in New Castle, Pennsylvania, on August 25, 2000, the Company sold 13 acres to Lowes Home Center, Inc., which is constructing a 130,000 square foot store at the location. Proceeds from this sale totaled \$1.9 million.

## PROPERTY ACQUISITIONS

The requirements that acquisitions be accretive based on the Company's long-term cost of capital, as well as increase overall portfolio quality and value, are core to the Company's acquisition program. When the blended cost of equity and debt increase, it is important to reduce acquisition activity to align the level of investment activity with capital flows. The Company evaluated several potential property acquisitions during 2000, including a portfolio of properties totaling \$150 million, but due to a difficult capital market environment experienced throughout the REIT industry during 2000, the Company made the strategic decision to forego these contemplated acquisitions. As a result of what the Company considers this common sense approach, it believes it will be better positioned to take advantage of favorable acquisition opportunities in the event the capital markets improve.

## DISPOSITION OF PROPERTIES

In addition to the sales discussed under "Property Redevelopment" and "Reanchoring and Leasing Activity", during 2000, the Company sold a non-core asset in connection with its ongoing program of evaluating and optimizing the property portfolio with respect to property locations, tenant profiles, cash flows and future capital appreciation. On December 14, 2000, the Company sold the Northwood Centre, a mixed-use center consisting of retail and governmental offices located in Tallahassee, Florida, for \$31.5 million. The buyer assumed the mortgage balance of \$22.1 million and acquired various mortgage-related escrows for \$1.8 million that, following additional net closing adjustments and costs resulted in net proceeds of \$11.0 million to the Company.

## FINANCING STRATEGY

The Company intends to continue to finance 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. In 2000, the Company established the specific goal of enhancing the flexibility within its mortgage debt structure to better position itself to take advantage of favorable opportunities for portfolio and strategic transactions. This enhanced flexibility is currently being accomplished primarily through the use of variable rate debt and fixed rate debt with no or low prepayment penalties. Management believes it was largely successful in the pursuit of this goal while at the same time maintaining a debt service coverage ratio (including interest expense and principal amortization) of 1.90x for 2000. See Item 7A for a discussion on the Company's market risk exposure related to its mortgage debt.

## FINANCIAL INFORMATION ABOUT MARKET SEGMENTS

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 notes to the consolidated financial statements appearing in Item 8 of this Annual Report on Form 10-K. The Company evaluates 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. The Company does 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

The Company's executive offices are located at 20 Soundview Marketplace, Port Washington, New York 11050, and its telephone number is (516) 767-8830. The Company has an internet Web address at [www.acadiarealty.com](http://www.acadiarealty.com). The Company has 172 employees of which 51 are located at the executive offices, 6 at the New York City corporate office, 13 at the Pennsylvania regional office and the remaining property management personnel are located on-site at the Company's properties.

## COMPETITION

There are numerous shopping facilities that compete with the Company's properties in attracting retailers to lease space. In addition, there are numerous commercial developers and real estate companies that compete with the Company in seeking land for development, properties for acquisition and tenants for their properties. Also, retailers at the Company's properties face increasing competition from outlet malls, discount shopping clubs, internet commerce, direct mail and telemarketing.

## COMPLIANCE WITH GOVERNMENTAL REGULATIONS - ENVIRONMENTAL MATTERS

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. 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.

Upon conducting environmental site inspections in connection with obtaining the Morgan Stanley Mortgage Capital ("Morgan Stanley") financing during October 1996, certain environmental contamination was identified at the Troy Plaza in Troy, New York. The Company entered into a voluntary remedial agreement with the State of New York for the remediation of the property. During 2000 the Company satisfied all conditions to this voluntary remedial agreement and received final approval from the State of New York. All amounts held in escrow by Morgan Stanley pertaining to environmental remediation were released to the Company in October 2000. Management is not aware of any other 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.



## RETAIL ENVIRONMENT

### Seasonality

The retail environment is seasonal in nature, particularly in the fourth calendar quarter when retail sales are typically at their highest levels. As such, contingent rents based on tenants achieving certain sales targets are generally higher in the fourth quarter when such targets are typically met.

### Tenant Bankruptcies

Since January of 2000, certain tenants experienced financial difficulties and several have filed for bankruptcy protection under Chapter 11 of the United States Bankruptcy laws ("Chapter 11"). Following are the significant bankruptcies to have occurred since then:

On March 10, 2000, Eagle Supermarkets filed for protection under Chapter 11. This grocer is a tenant at one location in the Company's portfolio comprising approximately 52,000 square feet. Rental revenues from this tenant were \$278,000 and \$291,000 for the years ended December 31, 2000 and 1999, respectively. This tenant subsequently emerged from bankruptcy during 2000 and assumed the lease at the Company's center.

On August 8, 2000, Carmike Cinemas filed for protection under Chapter 11. This theater operator was a tenant at one location in the Company's portfolio comprising approximately 25,000 square feet. Rental revenues from this tenant were \$125,000 and \$152,000 for the years ended December 31, 2000 and 1999, respectively. This tenant has rejected their lease and vacated from the Company's location. The Company is currently marketing this space in an effort to replace this tenant.

On October 3, 2000, Grand Union Co. ("Grand Union") filed for protection under Chapter 11. Grand Union was a tenant at four locations in the Company's portfolio comprising approximately 175,000 square feet. Rental revenues from Grand Union for the years ended December 31, 2000 and 1999 totaled \$2.1 million and \$1.5 million, respectively. Three of these leases were assigned to other supermarket operators. The fourth location, located at the Elmwood Park Shopping Center, has an original lease expiration date of April 30, 2001. The Company will be replacing this 28,000 in-line supermarket anchor with a 48,000 free-standing A&P supermarket as previously discussed under "Property Redevelopment".

On November 17, 2000, Bradlees filed for protection under Chapter 11. This retailer was a tenant at one location in the Company's portfolio comprising approximately 105,000 square feet. Rental revenues from this tenant were \$519,000 and \$439,000 for the years ended December 31, 2000 and 1999, respectively. The tenant is in the process of liquidating their business. The Company has received notification that the lease is to be assumed by a national home improvement retailer.

On March 22, 2001, Pergament filed for protection under Chapter 11. This tenant operates at two locations in the Company's portfolio comprising approximately 33,000 square feet. Rental revenues from this tenant were \$518,000 and \$486,000 for the years ended December 31, 2000 and 1999, respectively. This tenant also operates at a location occupying 25,000 square feet in which the Company holds a 49% ownership interest in the property. Rental revenues from the tenant at this location were \$355,000 and \$457,000 for the years ended December 31, 2000 and 1999, respectively. The tenant has neither accepted nor rejected its lease at any of these locations.

### TAX STATUS - QUALIFICATION AS REAL ESTATE INVESTMENT TRUST

The Company has and currently transacts its affairs so as to qualify as, and has elected to be treated as, a real estate investment trust under sections 856 through 860 of the Internal Revenue Code of 1986, as amended (the "Code"). Under the Code, a real estate investment trust that meets applicable requirements is not subject to Federal income tax to the extent that it distributes at least 95% of its REIT taxable income to its shareholders (90% commencing in 2001). If the Company fails to qualify as a REIT in any taxable year, it will be subject to Federal income tax on its taxable income.

## ITEM 2. PROPERTIES

### SHOPPING CENTER PROPERTIES

As of December 31, 2000, the Company owned and operated 52 shopping centers (including four properties which are under redevelopment and a shopping center in which the Company owns a 49% interest) totaling approximately 8.7 million square feet of gross leasable area ("GLA"). The Company's shopping centers, which are located in 16 states, are generally well-established, anchored community and neighborhood shopping centers. The shopping centers are diverse in size, ranging from approximately 31,000 to 515,000 square feet with an average size of 167,000 square feet. The Company's portfolio was approximately 90% occupied at December 31, 2000. The Company's shopping centers are typically anchored by a national or regional discount department store and/or a supermarket or drugstore.

The Company had 724 leases (including the joint venture property) as of December 31, 2000 of which a majority of the rental revenues received thereunder were from national or regional 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 91% of the Company's total revenues for the year ended December 31, 2000.

As of December 31, 2000, approximately 52% of the Company's 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 the Company of a certain percentage of a tenant's gross sales in excess of a stipulated annual amount. Percentage rents accounted for approximately 3% of the total 2000 revenues of the Company.

Six of the Company's shopping center properties are subject to long-term ground leases in which a third party owns and has leased the underlying land to the Company. The Company pays rent for the use of the land and is responsible for all costs and expenses associated with the building and improvements.

No individual property contributed in excess of 10% of the Company's total revenues for the years ended December 31, 2000, 1999 and 1998.

The following sets forth more specific information with respect to each of the Company's shopping centers, mixed-use and joint venture properties at December 31, 2000:

Shopping Center Property	Location	Year Constructed(C) Acquired(A)	Ownership Interest	GLA	Occupancy (1) % 12/31/00	Anchor Tenants (2) Current Lease Expiration Lease Option Expiration
NEW ENGLAND REGION						
Connecticut						
239 Greenwich Avenue	Greenwich	1998 (A)	Fee	16,834 (3)	100%	Restoration Hardware 2015/2025 Chico's Fashion 2010/2020
Town Line Plaza	Rocky Hill	1998 (A)	Fee	205,858 (4)	98%	Waldbaums 2017/2052
Massachusetts						
Methuen Shopping Center	Methuen	1998 (A)	Fee	129,494	34% (5)	DeMoulas Market 2005/2015
Crescent Plaza	Brockton	1984 (A)	Fee	216,095	99%	Bradlees 2009/2027 (6) Shaw's 2012/2042
Rhode Island						
Walnut Hill Plaza	Woonsocket	1998 (A)	Fee	278,146	95%	A.J. Wright(TJX Co.) 2004/2019 Sears 2003/2033 Shaw's 2013/2043
Vermont						
The Gateway Shopping Center	Burlington	1999 (A)	Fee	117,394 (7)	40%	Shaw's 2005/2010
NEW YORK REGION						
New Jersey						
Berlin Shopping Center	Berlin	1994 (A)	Fee	185,578	91%	Kmart 2004/2029 Acme 2005/2015
Elmwood Park Shopping Center	Elmwood Park	1998 (A)	Fee	124,232	93%	Grand Union 2001/none (8)
Ledgewood Mall	Ledgewood	1983 (A)	Fee	515,030	93%	The Sports' Authority 2007/2037 Stern's 2005/2010 Wal*Mart 2019/2049 Circuit City 2020/2040 Marshall's 2002/none Pharmhouse 2009/2019
Manahawkin Village Shopping Center	Manahawkin	1993 (A)	Fee	175,261	100%	Kmart 2019/2059 Hoyt's Cinema 2018/2038
Marketplace of Absecon	Absecon	1998 (A)	Fee	104,906	86%	Eckerd Drug 2020/2040 Acme 2015/2055
New York						
Branch Shopping Plaza	Smithtown	1998 (A)	LI (9)	125,840	95%	Pathmark 2013/2028 Pergaments 2004/2019 (10)
New Loudon Center	Latham	1982 (A)	Fee	251,743	81%	Price Chopper 2015/2035 Marshalls 2004/2009 Ames 2020/2035
Troy Plaza	Troy	1982 (A)	Fee	128,479	100%	Ames 2006/2011 Price Chopper 2004/2014
Village Commons Shopping Center	Smithtown	1998 (A)	Fee	87,155	92%	Daffy's 2008/2028 Walgreens 2021/none
Soundview Marketplace	Port Washington	1998 (A)	LI/Fee (9)	180,620	95%	King Kullen 2007/2022 Clearview Cinema 2010/2030
Pacesetter Park Shopping Center	Pomona	1999 (A)	Fee	95,559	83%	Stop & Shop 2020/2040

Shopping Center Property	Location	Year Constructed(C) Acquired(A)	Ownership Interest	GLA	Occupancy (1) % 12/31/00	Anchor Tenants (2) Current Lease Expiration Lease Option Expiration
MID-ATLANTIC REGION						
Pennsylvania						
25th Street Shopping Center	Easton	1993 (A)	Fee	131,477	97%	CVS 2005/2010 Petco 2009/2019
Ames Plaza	Shamokin	1966 (C)	Fee	96,154	92%	Ames 2003/2013 Buy-Rite Liquidators 2010/2015
Abington Towne Center	Abington	1998 (A)	Fee	220,000 (11)	95%	TJ Maxx 2010/2020
Birney Shopping Center	Moosic	1968 (C)	Fee	193,899	99%	Kmart 2004/2049 Big Lots 2003/2008
Blackman Plaza	Wilkes-Barre	1968 (C)	Fee	119,206	98%	Kmart 2004/2049
Bradford Towne Centre	Towanda	1993 (C)	Fee	256,719	90%	Kmart 2019/2069 P&C Foods 2014/2024
Circle Plaza	Shamokin Dam	1978 (C)	Fee	92,171	100%	Kmart 2004/2049
Dunmore Plaza	Dunmore	1975 (A)	Fee (12)	45,380	100%	Price Chopper 2005/2020 Eckerd Drug 2004/2019
East End Centre	Wilkes-Barre	1986 (C)	Fee	308,427	98%	Ames 2007/2037 Phar-Mor 2003/2018 Price Chopper 2008/2028
Green Ridge Plaza	Scranton	1986 (C)	Fee	197,622	61% (13)	Ames 2007/2037
Kingston Plaza	Kingston	1982 (C)	Fee	64,824	100%	Price Chopper 2006/2026 Dollar General 2001/2007
Luzerne Street Shopping Center	Scranton	1983 (A)	Fee	57,715	100%	Price Chopper 2004/2024 (14) Eckerd Drug 2004/2019
Mark Plaza	Edwardsville	1968 (C)	LI (9)	213,821	91%	Kmart 2004/2054 Redner's Markets 2018/2028
Monroe Plaza	Stroudsburg	1964 (C)	Fee	130,569	100%	Ames 2009/2024 Shop-Rite 2005/2023 Eckerd Drug 2002/2012
Mountainville Shopping Center	Allentown	1983 (A)	Fee	114,247	99%	Acme 2004/none (14) Eckerd Drug 2004/2024
Pittston Plaza	Pittston	1994 (C)	Fee	79,568	100%	Redner's Markets 2018/2028 Eckerd Drug 2006/2016
Plaza 15	Lewisburg	1995 (A)	Fee	113,530	98%	Weis Markets 2001/2021 Ames 2006/2021
Plaza 422	Lebanon	1972 (C)	Fee	154,791	87%	Ames 2001/2021 Giant Food 2004/2029 (15)
Route 6 Mall	Honesdale	1994 (C)	Fee	175,482	95%	Kmart 2020/2070
Shillington Plaza	Reading	1994 (A)	Fee	150,742	100%	Kmart 2004/2049 Weis Markets 2001/2016
Tioga West	Tunkhannock	1965 (C)	Fee	122,338	100%	BiLo 2014/2023 Ames 2005/2015 Eckerd Drug 2005/2015
Union Plaza	New Castle	1996 (C)	Fee	217,992	100%	Sears 2011/2031 Ames 2017/2027 Pebbles 2018/2027
Valmont Plaza	West Hazleton	1985 (A)	Fee	200,164	77%	Ames 2007/2022 (14)
Virginia						
Kings Fairgrounds	Danville	1992 (A)	LI (9)	118,535	100%	Schewel Furniture 2006/2011 Tractor Supply Co. 2008/2023 CVS 2002/2012

Shopping Center Property	Location	Year Constructed(C) Acquired(A)	Ownership Interest	GLA	Occupancy (1) % 12/31/00	Anchor Tenants (2) Current Lease Expiration Lease Option Expiration
SOUTHEAST REGION						
Alabama						
Midway Plaza	Opelika	1984 (A)	Fee	207,538	77%	Office Depot 2007/2022 Beall's Outlet 2001/none
Northside Mall	Dothan	1986 (A)	LI/Fee (9)	382,299	65%	Wal*Mart 2004/2034
Florida						
New Smyrna Beach Shopping Center	New Smyrna Beach	1983 (A)	Fee	101,321	100%	Beacon Theater 2005/2025
Georgia						
Cloud Springs Plaza	Fort Oglethorpe	1985 (A)	Fee	113,367	93%	Food Lion 2011/2031 Consolidated Stores 2005/none Badcock Furniture 2005/2010
South Carolina						
Martintown Plaza	North Augusta	1985 (A)	LI (9)	133,892	76%	Belk's Store 2004/2024 Office Depot 2008/2018
Wesmark Plaza	Sumter	1986 (A)	Fee	204,783	92%	Staples 2005/2020 Beacon Theater 2009/2019 Goody's 2005/2015
MIDWEST REGION						
Illinois						
Hobson West Plaza	Naperville	1998 (A)	Fee	99,950	94%	Eagle Foods 2007/2032
Indiana						
Merrillville Plaza	Hobart	1998 (A)	Fee	235,420	100%	JC Penney 2008/2018 Office Max 2008/2028 TJ Maxx 2004/2009
Michigan						
Bloomfield Town Square	Bloomfield Hills	1998 (A)	Fee	213,903	71%	TJ Maxx 2003/2013 Office Max 2010/2025 Home Goods 2010/2025
Ohio						
Mad River Station	Dayton	1999 (A)	Fee	153,968	90%	Office Depot 2005/2010 Babies -R- Us 2005/2020
PROPERTY HELD IN JOINT VENTURE (16)						
New York						
Crossroads Shopping Center	White Plains	1998	JV	310,919	98%	Kmart 2012/2037 Waldbaum's 2007/2032 B. Dalton 2012/2022 Modell's 2002/none Pergament 2009/2019
				-----	----	
Total				8,670,957	90%	
				=====	=====	

Notes:

- (1) Does not include space leased but not yet occupied by the tenant
- (2) Generally, Anchors GLA comprises at least 10% of the GLA of the center
- (3) In addition to the 16,834 square feet of retail GLA, this property also has 21 apartments comprising 14,434 square feet
- (4) Includes a 92,500 square foot Wal\*Mart which is not owned by the Company
- (5) The Company recaptured the former lease with Caldors for 85,800 square feet in October 1999 and is currently negotiating with a national discount retailer for this space
- (6) Bradlees declared Chapter 11 bankruptcy on November 17, 2000. This lease has been neither rejected nor affirmed to date. The Company has received notification that the lease is to be assumed by a national home improvement retailer
- (7) The planned redevelopment of this property, which included the recapture of the former Grand Union space, has been temporarily delayed following the assignment of this lease to Shaw's supermarket
- (8) Grand Union declared Chapter 11 bankruptcy on October 3, 2000. This lease has been neither rejected nor affirmed to date. The Company has executed a lease with A&P to construct a new store upon the expiration of the Grand Union lease in April 2001
- (9) The Company is a ground lessee under a long-term ground lease
- (10) Pergaments filed Chapter 11 Bankruptcy on March 22, 2001. The lease has been neither rejected nor affirmed to date
- (11) Includes a 160,000 square foot Target Store currently under construction which is not owned by the Company
- (12) The Company holds a fee interest in a portion of the Dunmore Plaza and an equitable interest in the land on the remaining portion. An industrial development authority holds the fee for this remaining portion and the equitable interest in the building on such remaining portion is held by an unrelated entity. The Company receives and accounts for most of its income from this property as percentage rent
- (13) Does not include 61,406 square feet leased, but not yet occupied, by Giant Food
- (14) This tenant has ceased operating in their space but continues to pay rent pursuant to the lease
- (15) This space is currently being sub-leased to a non-grocery store tenant
- (16) The Company has a 49% investment in this property

MAJOR TENANTS

No individual retail tenant accounted for more than 6.7% of minimum rents for the year ended December 31, 2000 or 11.1% of total leased GLA as of December 31, 2000. The following table sets forth certain information for the 25 largest retail tenants based upon minimum rents in place as of December 31, 2000. The table does not include leases related to the Company's joint venture property (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)
Kmart	9	924,282	\$ 3,431,692	11.1%	6.7%
Ames (3)	11	815,171	2,479,383	9.8%	4.8%
Price Chopper (4)	6	267,197	1,596,727	3.2%	3.1%
Eckerd Drug (5)	14	169,563	1,354,990	2.0%	2.6%
T.J. Maxx	7	207,543	1,288,861	2.5%	2.5%
Shaw's	3	134,217	1,141,084	1.6%	2.2%
Walmart	2	232,540	1,116,575	2.8%	2.2%
Acme (Albertson's) (6)	3	109,064	1,004,080	1.3%	2.0%
Fashion Bug (7)	11	120,294	876,391	1.4%	1.7%
Pathmark	1	63,000	837,270	0.8%	1.6%
Redner's Supermarket	2	111,739	837,112	1.3%	1.6%
Restoration Hardware	1	12,292	830,000	0.1%	1.6%
PharMor	2	90,471	820,346	1.1%	1.6%
A&P (Waldbaum's)	1	64,665	730,000	0.8%	1.4%
Sears	2	159,640	703,230	1.9%	1.4%
Blockbuster Video	5	28,266	668,957	0.3%	1.3%
Penn Traffic	2	85,896	635,811	1.0%	1.2%
Stern's (Federated) (8)	1	73,349	610,745	0.9%	1.2%
CVS	6	62,610	625,855	0.7%	1.2%
Clearview Cinemas (9)	1	25,400	596,250	0.3%	1.2%
Kay Bee Toys	5	41,025	559,050	0.5%	1.1%
Payless Shoe Source	12	41,209	553,470	0.5%	1.1%
JC Penney	2	72,580	546,747	0.9%	1.1%
Office Depot	3	83,821	499,817	1.0%	1.0%
Circuit City	1	33,294	449,469	0.4%	0.9%
<b>Total</b>	<b>113</b>	<b>4,029,128</b>	<b>\$24,793,912</b>	<b>48.2%</b>	<b>48.2%</b>

- (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, 2000
- (2) Represents total GLA and annualized base rent for the Company's retail properties excluding mixed-use and joint venture properties
- (3) The tenant is currently not operating the store at the Valmont Plaza. They are obligated, and continue, to pay annual minimum rent of \$220,000 until the lease expires in January 31, 2007.
- (4) The tenant is currently not operating the store at the Luzerne Street Shopping Center. They are obligated, and continue, to pay annual minimum rent of \$177,650 until the lease expires in April 30, 2004.
- (5) Subsidiary of JC Penney. The store at the Route 6 Mall has ceased operating but continues to pay annual rent of \$106,560 through January 31, 2011 pursuant to the lease
- (6) The tenant is currently not operating the store at the Mountainville Shopping Center. They are obligated, and continue, to pay annual minimum rent of \$85,416 until the lease expires in June 30, 2004.
- (7) This tenant pays percentage rent only (no minimum rent) at 8 of these locations. Included in the above rent is \$659,763 of percentage rent paid for calendar 2000
- (8) The Company has been notified that this store will be converted to a Macy's
- (9) Subsidiary of Cablevision

LEASE EXPIRATIONS

The following table shows scheduled lease expirations for retail tenants in place as of December 31, 2000, assuming that none of the tenants exercise renewal options. The table does not include leases related to the Company's joint venture property (GLA and rent in thousands):

December 31,	Number of Leases Expiring	GLA of Expiring Leases	Annualized Base Rent(1)	Percentage of Total Represented by Expiring Leases	
				Leased GLA	Annualized Base Rent
2001	145	779	\$ 5,100	10%	10%
2002	87	380	3,524	5%	7%
2003	90	533	4,270	7%	8%
2004	80	1,337	6,330	18%	12%
2005	81	815	6,058	11%	12%
2006	26	356	1,944	5%	4%
2007	20	522	3,056	7%	6%
2008	28	332	3,085	5%	6%
2009	29	466	2,435	6%	5%
2010	19	235	2,438	3%	5%
Thereafter	34	1,558	13,226	23%	25%
Total	639	7,313	\$51,466	100%	100%

(1) Base rents do not include percentage rents, additional rents for property expense reimbursements, nor contractual rent escalations due after December 31, 2000.

GEOGRAPHIC CONCENTRATIONS

The following table summarizes the Company's retail properties (including joint venture property) by region as of December 31, 2000 (GLA and rent in thousands):

Region	GLA	Occupied %	Annualized Base Rent(1)	Annualized Base Rent per Leased Square Foot	Percentage of Total Represented by Region	
					GLA	Annualized Base Rent
New England	717	97%	\$ 5,711	\$ 8.21	8%	10%
New York Region	1,850	92%	17,127	10.04	21%	30%
Mid-Atlantic	3,356	93%	15,192	4.85	39%	27%
Southeast	1,143	79%	3,979	4.39	13%	7%
Midwest	703	88%	6,457	10.43	8%	12%
	7,769	91%	48,466	6.87	89%	86%
Redevelopment Properties (2)	591	70%	3,000	11.73	7%	5%
Joint Venture Property (3)	311	98%	4,993	16.45	4%	9%
Total	8,671	90%	\$ 56,459	\$ 7.36	100%	100%

(1) Base rents do not include percentage rents, additional rents for property expense reimbursements, nor contractual rent escalations due after December 31, 2000.

(2) The Company currently has four redevelopment projects

(3) The Company has a 49% investment in this property



MULTI-FAMILY PROPERTIES

The Company owns five multi-family properties located in the Mid-Atlantic and Midwest regions. The properties average 455 units and as of December 31, 2000, had an average occupancy rate of 92%. The following sets forth more specific information with respect to each of the Company's multi-family properties at December 31, 2000:

Multi-family Property	Location	Year Acquired	Ownership Interest	Units	% Occupied
-----					
Maryland					
Glen Oaks Apartments (1)	Greenbelt	1998	Fee	463	100%
Marley Run Apartments (1)	Pasadena	1998	Fee	336	96%
Missouri					
Gate House, Holiday House, Tiger Village	Columbia	1998	Fee	592	96%
Colony Apartments	Columbia	1998	Fee	282	96%
North Carolina					
Village Apartments	Winston Salem	1998	Fee	600	79%
		Totals		2,273	92%
				=====	===

(1) These properties were held for sale as of December 31, 2000

ITEM 3. LEGAL PROCEEDINGS

As further discussed in the notes to the consolidated financial statements appearing in Item 8 of this Annual Report on Form 10-K, on December 31, 1998, the Company and Jack Wertheimer, a former President of the Company, settled certain litigation filed by Mr. Wertheimer in connection with his termination of employment and entered into an agreement whereby the Company paid Mr. Wertheimer \$1.0 million on December 31, 1998 and \$900,000 on April 1, 1999 and agreed to pay him five annual payments of \$200,000 commencing January 10, 2000, the first of which was paid on such date. Pursuant to this agreement, the Company has obtained a standby letter of credit to collateralize these future payments.

The Company is involved in other 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.

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 2000.

## PART II

## ITEM 5. MARKET FOR THE REGISTRANT'S COMMON EQUITY AND RELATED SHAREHOLDER MATTERS

## (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 (the "NYSE"), and cash dividends paid during the two years ended December 31, 2000 and 1999.

Quarter Ended -----	High ----	Low ---	Dividend Per Share -----
2000			
March 31, 2000	5 7/16	4 13/16	\$ 0.12
June 30, 2000	6	5 3/16	0.12
September 30, 2000	6 3/16	5 3/4	0.12
December 31, 2000	6 1/8	5 5/8	0.12
1999			
March 31, 1999	5 1/2	5	\$ 0.12
June 30, 1999	5 3/4	4 15/16	0.12
September 30, 1999	5 5/8	5	0.12
December 31, 1999	5 3/16	4 1/2	0.12

At March 21, 2001, there were 223 holders of record of the Company's Common Shares.

## (b) Dividends

The Company has determined that 100% of the total dividends distributed to shareholders in 2000 represented ordinary income. The Company's cash flow is affected by a number of factors, including the revenues received from rental properties, the operating expenses of the Company, the interest expense on its borrowings, the ability of lessees to meet their obligations to the Company and unanticipated capital expenditures. Future dividends paid by the Company will be at the discretion of the Trustees and will depend on the actual cash flows of the Company, its financial condition, capital requirements, the annual distribution requirements under the REIT provisions of the Code and such other factors as the Trustees deem relevant.

ITEM 6. SELECTED FINANCIAL DATA

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

	Year ended December 31,				
	2000	1999	1998(1)	1997	1996
<b>OPERATING DATA:</b>					
Revenues	\$ 96,758	\$ 92,709	\$ 59,771	\$ 44,498	\$ 43,796
Operating expenses	39,723	38,483	28,485	17,055	17,868
Interest and other financing expense	25,163	23,314	18,302	15,444	12,733
Depreciation and amortization	20,460	19,887	15,795	13,768	13,398
Total	85,346	81,684	62,582	46,267	43,999
	11,412	11,025	(2,811)	(1,769)	(203)
Non-recurring charges (2)	-	-	(2,249)	-	-
Equity in earnings of unconsolidated partnerships	645	584	256	-	-
Adjustment of carrying value of property held for sale	-	-	(11,560)	-	(392)
Income (loss) before gain (loss) on sale, extraordinary items and minority interest	12,057	11,609	(16,364)	(1,769)	(595)
Gain (loss) on sale of properties	13,742	(1,284)	(175)	(12)	21
Extraordinary item - loss on early extinguishment of debt	-	-	(707)	-	(190)
Minority interest	(5,892)	(3,130)	3,348	217	40
Net income (loss)	\$ 19,907	\$ 7,195	\$ (13,898)	\$ (1,564)	\$ (724)
Net income (loss) per Common Share - basic and diluted	\$ 0.75	\$ 0.28	\$ (0.91)	\$ (0.18)	\$ (0.08)
Weighted average number of Common Shares outstanding					
- basic	26,437,265	25,708,787	15,205,962	8,551,930	8,546,553
- diluted (3)	26,437,265	25,708,787	15,205,962	8,551,930	8,546,553
Funds from Operations (4)	\$ 31,789	\$ 31,160	\$ 15,073	\$ 11,003	\$ 12,536
Funds from Operations per share (5)	\$ 0.89	\$ 0.85	\$ 0.74	\$ 1.08	\$ 1.23
<b>BALANCE SHEET DATA:</b>					
Real estate before accumulated depreciation	\$ 514,139	\$ 569,521	\$ 551,249	\$ 311,688	\$ 307,411
Total assets	523,611	570,803	528,512	254,500	258,517
Total mortgage indebtedness	277,112	326,651	277,561	183,943	172,823
Minority interest - Operating Partnership	48,959	74,462	79,344	9,244	10,752
Total equity	179,317	152,487	154,591	48,800	56,806

Notes:

- (1) Activity for the year ended December 31, 1998 includes the operations of the properties acquired in the RDC Transaction from August 12, 1998 through December 31, 1998.
- (2) Non-recurring charges represent expenses incurred in 1998 related to the RDC Transaction including payments made to certain officers and key employees pursuant to change in control provisions of employment contracts, severance paid to Mr. Slomowitz, retention bonuses for certain employees and transaction-related consulting and professional fees.
- (3) For 2000 through 1996, the weighted average number of shares outstanding on a diluted basis is not presented as the inclusion of additional shares is anti-dilutive.
- (4) The Company, along with most industry analysts, consider funds from operations ("FFO") as defined by the National Association of Real Estate Investment Trusts ("NAREIT") as an appropriate supplemental measure of operating performance. However, FFO does not represent cash generated from operations as defined by generally accepted accounting principles and is not indicative of cash available to fund cash needs. 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. Generally, NAREIT defines FFO as net income (loss) before gains (losses) on sales of property, non-recurring charges and extraordinary items, adjusted for depreciation of real estate and amortization of capitalized leasing costs. FFO for 1998 through 1996 has been restated to include straight-line rent.
- (5) Includes weighted average OP Units as follows: 2000 - 9,168,230; 1999 - 10,883,184; 1998 - 5,252,815; 1997 and 1996 - 1,623,000.

## ITEM 7. MANagements DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS

The following discussion should be read in conjunction with the consolidated financial statements of the Company (including the related notes thereto) appearing elsewhere in this Annual Report. Certain statements contained in this report constitute "forward-looking statements" within the meaning of the Private Securities Litigation Reform Act of 1995. Such forward-looking statements involve known and unknown risks, uncertainties, and other factors which may cause the actual results, performance or achievements of the Company to be materially different from any future results, performance or achievements expressed or implied by such forward-looking statements. Such factors include, among others, the following: general economic and business conditions, which will, among other things, affect demand for rental space, the availability and creditworthiness of prospective tenants, lease rents and the availability of financing; adverse changes in the Company's real estate markets, including, among other things, competition with other companies; risks of real estate development and acquisition; governmental actions and initiatives; and environmental/safety requirements.

### RESULTS OF OPERATIONS

Comparison of the year ended December 31, 2000 ("2000") to the year ended December 31, 1999 ("1999")

Total revenues increased \$4.1 million, or 4%, to \$96.8 million for 2000 compared to \$92.7 million for 1999.

Minimum rents increased \$1.2 million, or 2%, to \$74.2 million for 2000 compared to \$73.0 million for 1999. Of this increase, \$2.0 million was attributable to the redevelopment of 239 Greenwich Avenue and re-anchoring of the Ledgewood Mall (the "1999 Redevelopments"). Additionally, the full year effect in 2000 of the acquisition of the Mad River Shopping Center in February 1999, the Gateway Shopping Center in May 1999 and the Pacesetter Park Shopping Center in November 1999 (the "1999 Acquisitions") resulted in an increase of \$1.3 million. These increases were partially offset by \$1.4 million of non-recurring income received in 1999 related to two settlements with former tenants and a \$1.0 million decrease in rents resulting from the planned termination of various tenant leases at the Abington Towne Center as part of the redevelopment and partial sale of the center.

Expense reimbursements increased \$444,000, or 3%, from \$13.8 million for 1999 to \$14.2 million for 2000. An increase in real estate tax reimbursements of \$601,000 was primarily the result of the 1999 Acquisitions and 1999 Redevelopments. This was partially offset by a \$157,000 decrease in common area maintenance ("CAM") expense reimbursements. This net decrease in CAM reimbursements was primarily a result of a \$379,000 decrease in reimbursements following the termination of tenant leases in connection with the redevelopment of the Abington Towne Center, partially offset against an increase in reimbursements related to the 1999 Acquisitions.

Other income increased \$2.4 million, or 83%, from \$2.9 million in 1999 to \$5.3 million in 2000. \$2.0 million of this increase was attributable to lease termination income received from former tenants at the Abington Towne Center.

Total operating expenses increased \$1.8 million, or 3%, to \$60.2 million for 2000, from \$58.4 million for 1999.

Property operating expenses increased \$1.6 million, or 7%, to \$23.2 million for 2000 compared to \$21.6 million for 1999. This increase was primarily attributable to higher payroll costs and CAM expenses throughout the portfolio as well as a \$557,000 increase due to the 1999 Acquisitions. These increases were partially offset against a decrease in bad debt expense in 2000.

Real estate taxes increased \$928,000, or 9%, from \$10.5 million for 1999 to \$11.4 million for 2000. Of this increase, \$759,000 was a result of a higher assessment at the Ledgewood Mall following the re-anchoring of Wal\*Mart and Circuit City and the 1999 Acquisitions. The balance of this increase was experienced throughout the portfolio.

Depreciation and amortization increased \$573,000, or 3%, from \$19.9 million for 1999 to \$20.5 million for 2000. This increase was attributable to a \$633,000 increase in depreciation expense, which was primarily related to the redevelopment of 239 Greenwich Avenue and the 1999 Acquisitions.

General and administrative expense decreased \$1.3 million, or 21%, from \$6.3 million for 1999 to \$5.0 million for 2000. This variance was primarily the result of a \$766,000 decrease in third party professional fees in 2000 and a \$189,000 decrease in office rent expense following the relocation of the Pennsylvania regional office.

RESULTS OF OPERATIONS, continued

Interest expense of \$25.2 million for 2000 increased \$1.9 million, or 8%, from \$23.3 million for 1999. Of the increase, \$532,000 was a result of higher average outstanding borrowings related to property redevelopments, \$418,000 was due to a higher weighted average interest rate on the portfolio and \$899,000 was attributable to less capitalized interest in 2000.

Comparison of the year ended December 31, 1999 ("1999") to the year ended December 31, 1998 ("1998")

The following comparison references the effect of the properties acquired on August 12, 1998 as a result of the RDC Transaction (the "RDC Properties").

Total revenues increased \$32.9 million, or 55%, to \$92.7 million for 1999 compared to \$59.8 million for 1998.

Minimum rents increased \$26.1 million, or 56%, to \$73.0 million for 1999 compared to \$46.9 million for 1998. \$21.4 million, or 82%, of the increase was attributable to the RDC Properties. \$1.4 million, or 5%, of the increase was attributable to amounts received as a result of two settlements. The first settlement was related to the liability of a tenant-assignor of a lease to a former tenant who had filed for bankruptcy protection under Chapter 11 of the United States Bankruptcy laws ("Chapter 11") and the second was with respect to certain claims related to the Chapter 11 proceedings for the Penn Traffic Company. The remaining increase was primarily due to two property acquisitions, a redevelopment project placed in service subsequent to 1998, and anchor replacements at the Ledgewood Mall.

Percentage rents increased \$343,000, or 13%, to \$3.0 million for 1999 compared to \$2.7 million for 1998. This increase was primarily attributable to the RDC Properties and the impact from the Company's adopting the Emerging Issue Task Force ("EITF") Issue No. 98-9 "Accounting for Contingent Rent in Interim Financial Periods" as of April 1, 1998 (subsequently codified with Staff Accounting Bulletin No. 101 "Revenue Recognition").

Expense reimbursements increased \$5.1 million, or 59%, for 1999, of which \$3.8 million resulted from the RDC Properties. The remaining increase was primarily attributable to anchor replacements at the Ledgewood Mall and an increase in expense recoveries resulting from increased contract services, primarily snow removal, as a result of the comparatively mild winter season in 1998.

Other income increased \$1.4 million, of which \$625,000 resulted from the RDC Properties and \$442,000 was due to management fees which were earned under four contracts acquired in the RDC Transaction. The remaining increase was attributable to additional interest income resulting from a higher balance of interest earning assets in 1999.

Total operating expenses increased \$11.9 million, or 26%, to \$58.4 million for 1999, from \$46.5 million for 1998.

Property operating expenses increased \$7.4 million, or 52%, to \$21.6 million for 1999 compared to \$14.2 million for 1998. \$6.4 million, or 86% of the increase, was attributable to the RDC Properties. The remaining increase was due to additional staffing in the leasing and property management departments following the RDC Transaction and an increase in contract services, primarily snow removal, as a result of the comparatively mild winter season in 1998. This increase was partially offset against a decrease in estimated claims related to the Company's property-related liability insurance policies.

Real estate taxes increased \$3.0 million, or 40%, from \$7.5 million for 1998 to \$10.5 million for 1999. This increase was primarily attributable to the RDC Properties.

Depreciation and amortization increased \$4.1 million, or 26%, for 1999 primarily attributable to the RDC Properties. This increase was partially offset by the effect from the sale of two properties during the first quarter of 1999 and the sale of a property in December 1998.

General and administrative expense increased \$1.9 million, or 44%, from \$4.4 million for 1998 to \$6.3 million for 1999, which was primarily attributable to additional staffing and administration costs following the RDC Transaction.

Non-recurring charges of \$2.2 million in 1998 were related primarily to payments made to certain officers and key employees pursuant to change in control provisions of employment contracts, severance paid to the Former Principal Shareholder, retention bonuses for certain employees and RDC Transaction related consulting and professional fees.

RESULTS OF OPERATIONS, continued

Settlement of litigation of \$2.4 million in 1998 resulted from the agreement between the Company and its former President whereby the Company paid \$1.0 million in 1998 and recorded a liability of \$1.4 million based on future contractual payments to be made commencing April 1999 through January 2004.

The adjustment of carrying value of properties held for sale represents a 1998 non-cash charge of \$11.6 million to write-down three properties to their estimated net realizable value pursuant to a disposition plan. One of these properties was sold in 1998 and the remaining two were sold in 1999.

Interest expense of \$23.3 million for 1999 increased \$5.0 million, or 27%, from \$18.3 million for 1998. This increase was primarily attributable to the mortgage debt associated with the RDC Properties partially offset by the paydown of certain existing debt with the proceeds from the RDC Transaction. Contributing further to this increase was an additional \$49.1 million of outstanding debt as of December 31, 1999 as a result of new borrowings made subsequent to 1998.

The \$707,000 extraordinary loss in 1998 was a result of the write-off of deferred financing fees as a result of the repayment of the related debt.

Funds from Operations

The Company, along with most industry analysts, consider funds from operations ("FFO") as defined by the National Association of Real Estate Investment Trusts ("NAREIT") as an appropriate supplemental measure of operating performance. However, FFO does not represent cash generated from operations as defined by generally accepted accounting principles and is not indicative of cash available to fund cash needs. 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.

Generally, NAREIT defines FFO as net income (loss) before gains (losses) on sales of property, non-recurring charges and extraordinary items, adjusted for depreciation of real estate and amortization of capitalized leasing costs. The reconciliation of net income to FFO for the years ended December 31, 2000, 1999 and 1998 is as follows:

Reconciliation of Net Income (Loss) to Funds from Operations

	For the Year Ended December 31,		
	2000	1999	1998 (a)
	-----	-----	-----
Net income (loss)	\$19,907	\$ 7,195	\$(13,898)
Depreciation of real estate and amortization of leasing costs:			
Wholly owned and consolidated partnerships	19,325	18,949	14,925
Unconsolidated partnerships	625	626	231
Non-recurring RDC transaction charges (b)	--	--	2,249
Settlement of Litigation	--	--	2,358
Income (loss) attributable to minority interest (c)	5,674	3,106	(3,348)
(Gain) loss on sale of properties	(13,742)	1,284	175
Adjustment of carrying value of properties held for sale	--	--	11,560
Other adjustments	--	--	114
Extraordinary item - loss on extinguishment of debt	--	--	707
	-----	-----	-----
Funds from operations	\$31,789	\$31,160	\$15,073
	=====	=====	=====
Funds from operations per share (d)	\$ 0. 89	\$ 0.85	\$ 0.74
	=====	=====	=====

RESULTS OF OPERATIONS, continued

Notes:

- (a) FFO for the year ended December 31, 1998 has been restated to include straight-line rents (net of write-offs) of \$353.
- (b) The Company acquired substantially all of the interests of RD Capital on August 12, 1998.
- (c) Does not include distributions paid to Preferred OP Unitholders.
- (d) FFO per share is computed based on the weighted average number of Common Shares outstanding for the years ended December 31, 2000, 1999 and 1998 of 26,437,265, 25,708,787 and 15,205,962, respectively. It also assumes full conversion of a weighted average 9,168,230, 10,833,184 and 5,252,815 OP Units into Common Shares for the years ended December 31, 2000, 1999 and 1998.



## LIQUIDITY AND CAPITAL RESOURCES

### Uses of Liquidity

The Company's principal uses of its liquidity are expected to be for distributions to its shareholders and OP unitholders, debt service and loan repayments, and property investment which includes acquisition, redevelopment, expansion and retreating activities. In order to qualify as a REIT for Federal income tax purposes, the Company must currently distribute at least 95% of its taxable income to its shareholders. Effective 2001, the requirement will be reduced to 90% pursuant to the REIT Modernization Act passed in 1999. On December 13, 2000, the Board of Trustees of the Company approved and declared a cash quarterly dividend for the quarter ended December 31, 2000 of \$0.12 per Common Share and Common OP Unit. The dividend was paid on January 15, 2001 to the shareholders of record as of December 29, 2000. The Board of Trustees also approved a distribution of \$22.50 per Preferred OP Unit which was paid on January 15, 2001.

### Property Redevelopment and Expansion

The Company's redevelopment program focuses on selecting well-located neighborhood and community shopping centers and creating significant value through retreating and property redevelopment. The Company currently has four properties under redevelopment as follows:

**Abington Towne Center** - The Company has completed the first phase of redevelopment of this previously enclosed multi-level mall located in the Philadelphia suburb of Abington, Pennsylvania. In December 2000, the Company sold approximately 160,000 square feet representing the top two floors and the rear portion of the ground level and the related parking area to the Target Corp. ("Target") for \$11.5 million. Target is currently building out the space and is expected to open prior to the end of 2001. The Company has "de-malled" the balance of the center consisting of approximately 46,000 square feet of the main building and 14,000 square feet of store space in outparcel buildings which it will continue to own and operate. An existing anchor, T.J. Maxx, was relocated to a 27,000 square foot space in the Company's portion of the main building and reopened for business during November 2000. As of December 31, 2000, costs incurred on this project totaled \$3.6 million. Remaining costs projected to complete the redevelopment of this property are approximately \$370,000.

**Elmwood Park Shopping Center** - During 2000, the Company commenced with the sitework on the redevelopment of this center located in Elmwood Park, New Jersey, approximately ten miles west of New York City. The redevelopment consists of reanchoring, renovating and expanding the existing 125,000 square foot shopping center by 30,000 square feet. The new anchor, a 48,000 square foot free-standing A&P supermarket, will replace an undersized (28,000 square feet) in-line Grand Union supermarket when completed. The project also includes the expansion of an existing Walgreens drug store. As of December 31, 2000, costs incurred on this project totaled \$563,000. The Company expects remaining redevelopment costs of approximately \$8.7 million to complete this project in 2002. In conjunction with the A&P supermarket rent commencement, the Operating Partnership is also obligated to issue OP Units equal to \$2.75 million as discussed in Item 8, Note 2 to the Consolidated Financial Statements.

**Methuen Shopping Center** - This center, located in Methuen, Massachusetts (part of the Boston metropolitan statistical area) was formally anchored by a Caldor department store. The Company acquired this lease out of bankruptcy and is currently in final lease negotiations with a national discount retailer for an 89,000 square foot department store. Projected costs to complete this project are approximately \$400,000.

**Gateway Shopping Center** - The redevelopment of the Gateway Shopping Center, a partially enclosed mall located in Burlington, Vermont, includes the recapture of a 32,000 square foot former Grand Union store, demolition of 70% of the property and the construction of a new anchor tenant. Following the bankruptcy of Grand Union, the lease was assigned to Shaw's supermarket which has resulted in a temporary delay of the planned de-malling and redevelopment.

Additionally, the Company currently estimates that for the remaining portfolio, capital outlays of approximately \$3.0 million will be required for tenant improvements, related renovations and other property improvements related to executed leases.

#### Share Repurchase Plan

The Company's repurchase of its Common Shares is an additional use of liquidity. In January 2001, the Board of Trustees approved a continuation and expansion of the Company's existing stock repurchase program. Management is authorized, at its discretion, to repurchase up to an additional \$10.0 million of the Company's outstanding Common Shares. Through March 9, 2001, the Company had repurchased 1,781,742 (net of 86,063 shares reissued) at a total cost of \$10.5 million under the expanded share repurchase program which allows for the repurchase of up to \$20.0 million of the Company's outstanding Common Shares. The program may be discontinued or extended at any time and there is no assurance that the Company will purchase the full amount authorized.

#### Sources of Liquidity

Sources of capital for funding property acquisition, redevelopment, expansion and retenanting, as well as repurchase of Common Shares are expected to be obtained primarily from cash on hand, additional debt financings and sales of existing properties. As of December 31, 2000, the Company has a total of \$27.9 million of additional capacity with three lenders, of which \$23.0 million is available under a financing line with a bank which must be drawn by April 2001. The Company also has thirteen properties that are currently unencumbered and therefore available as potential collateral for future borrowings. The Company anticipates that cash flow from operating activities will continue to provide adequate capital for all debt service payments, recurring capital expenditures and REIT distribution requirements.

#### Financing and Debt

At December 31, 2000, mortgage notes payable aggregated \$277.1 million and were collateralized by 45 properties and related tenant leases. Interest on the Company's mortgage indebtedness ranged from 7.5% to 9.6% with maturities that ranged from January 2001 to November 2021. Of the total outstanding debt, \$153.2 million, or 55%, was carried at fixed interest rates with a weighted average of 8.3% and \$123.9 million, or 45%, was carried at variable rates with a weighted average of 8.5%. Of the total outstanding debt, \$83.6 million will become due by 2002, with scheduled maturities of \$18.0 million at a weighted average interest rate of 7.8% in 2001 and \$65.6 million with a weighted average interest rate of 8.2% in 2002. As the Company does not anticipate having sufficient cash on hand to repay such indebtedness, it 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, 1999:

On January 8, 2001, the Company partially repaid \$10.1 million of fixed-rate mortgage debt, which was secured by two of the Company's properties, with a life insurance company. Following this repayment from working capital, the remaining balance of \$7.9 million was converted to a variable-rate facility which is secured by one of the Company's properties, requires the monthly payments of interest at LIBOR plus 200 basis points and principal amortized over 25 years, and matures January 10, 2002.

On December 22, 2000, the Company closed on two fixed-rate financings with a bank for \$11.1 million and \$5.6 million, each of which are secured by one of the Company's properties. The loans, which mature January 1, 2011, require monthly payments of interest at 7.55% and principal amortized over 30 years. Approximately \$13.2 million of the proceeds were used to retire existing debt, \$454,000 for various closing costs and funding of escrows, and the balance of \$3.0 million was available for working capital.

On December 11, 2000, the Company fully repaid \$10.1 million of outstanding debt with a life insurance company following the sale of a portion of the property which secured the debt.

LIQUIDITY AND CAPITAL RESOURCES, continued

On October 13, 2000, the Company refinanced \$36.0 million of maturing debt with a life insurance company, with two new loans from the same lender. The Company repaid \$5.0 million prior to refinancing the balance of the maturing debt. The first loan, which is a fixed-rate facility secured by two of the Company's properties, was for \$25.2 million and requires the monthly payment of interest at a rate of 8.13% and principal amortized over 25 years. The loan matures in November 2010. The second loan, which is a variable-rate facility secured by three of the Company's properties, was for \$10.8 million and requires the monthly payment of interest at LIBOR plus 200 basis points and matures in November 2003. Commencing 18 months after the closing, the loan also requires the monthly payment of principal amortized over 25 years. Both loans are cross-collateralized with all five properties. Furthermore, with respect to the variable-rate facility, the Company is required to deposit 50% of the monthly net cash flow after debt service, which will be used to fund future property and tenant improvements at the collateral properties.

On July 19, 2000, the Company closed on a facility with a bank, which provides for the borrowing of up to \$10.0 million. The variable-rate facility, which is secured by one of the Company's properties, matures in August 2003 and requires the monthly payment of interest at the rate of LIBOR plus 175 basis points and principal amortized over 25 years. At closing, the Company borrowed \$9.0 million under this facility, of which \$7.1 million of proceeds were used to retire existing debt with another lender, \$149,000 for various closing costs and the balance was available for working capital. The Company may draw the additional \$1.0 million subject to certain lender requirements including debt-service and collateral value.

On March 30, 2000, the Company closed on a \$59.0 million secured financing line with a bank (the "Line"). The Line is secured by five of the seven properties that collateralized a loan with a life insurance company which was retired using \$30.7 million of the proceeds from the initial \$36.0 million funding. The balance of the Line must be drawn by April 2001. The Line matures April 1, 2005 and requires the monthly payment of interest at a variable-rate of LIBOR plus 175 basis points and principal amortized over 30 years. After September 2001, the debt can be prepaid without prepayment or yield maintenance fees. As of December 31, 2000, \$35.8 million was outstanding under the Line.

On March 23, 2000, the Company fully repaid \$4.6 million of outstanding debt with a bank which was collateralized by one of the Company's properties.

On February 8, 2000, the Company closed on a revolving credit facility with a bank, which provides for the borrowing of up to \$7.4 million. The variable-rate facility, which is secured by one of the Company's properties, matures in March 2003 and requires the monthly payment of interest at the rate of LIBOR plus 150 basis points (the rate increases by an additional 25 basis points if the amount outstanding under the facility exceeds 50% of the value of the collateral). The monthly repayment of principal amortized over 25 years is required only if the Company draws the full amount available under the facility. As of December 31, 2000, the Company had \$3.5 million outstanding under this facility.

On January 31, 2000, the Company repaid \$23.1 million of outstanding debt with a life insurance company from working capital. The remaining outstanding debt of \$30.8 with this lender was fully repaid with the proceeds from the March 30, 2000 bank financing as described above.

Asset Sales

Asset sales are an additional source of liquidity for the Company. During 2000, the Company sold a non-core asset in connection with its ongoing program of evaluating and optimizing the property portfolio with respect to property locations, tenant profiles, cash flows and future capital appreciation. On December 14, 2000, the Company sold the Northwood Centre, located in Tallahassee, Florida, for \$31.5 million. The buyer assumed the mortgage balance of \$22.1 million and acquired various mortgage-related escrows for \$1.8 million that, following additional net closing adjustments and costs resulted in net proceeds of \$11.0 million to the Company. Additionally, there were two sales to anchor tenants as part of the Company's reanchoring and retenanting programs during 2000. On December 11, 2000, the Company sold approximately 160,000 square feet of the main building and related parking lot at the Abington Towne Center to the Target Corporation for \$11.5 million as previously discussed. Net proceeds from the sale were \$1.4 million following the repayment of the mortgage balance of \$10.1 million and additional net closing adjustments and costs. On August 25, 2000, the Company sold 13 acres at the Union Plaza, located in New Castle, Pennsylvania, to Lowes Home Center, Inc., which is constructing a 130,000 square foot store at the location. Proceeds from this sale totaled \$1.9 million.

HISTORICAL CASH FLOW

The following discussion of historical cash flow compares the Company's cash flow for the year ended December 31, 2000 ("2000") with the Company's cash flow for the year ended December 31, 1999 ("1999").

Net cash provided by operating activities increased from \$25.9 million for 1999 to \$32.6 million for 2000. This variance was primarily attributable to an increase in cash provided by changes in operating assets and liabilities, primarily accounts receivable and accounts payable, for 2000.

Net cash provided by investing activities of \$8.2 million for 2000 increased \$28.2 million compared to \$19.9 million used during 1999. This was the result of an increase in net sales proceeds of \$18.3 million received in 2000 versus 1999, a \$9.2 million decrease in expenditures for real estate acquisitions, development and tenant installations in 2000 and \$688,000 of additional distributions received from investments in unconsolidated partnerships in 2000.

Net cash used in financing activities of \$54.0 million for 2000 increased \$68.2 million compared to \$14.2 million provided in 1999. The increased use of cash resulted primarily from \$116.2 million of additional cash used in 2000 for the repayment of debt, partially offset by an increase of \$58.2 million of cash provided by additional borrowings in 2000. Additionally, dividends and distributions used an additional \$4.1 million in 2000 and \$5.7 million of additional cash was used in 2000 for the repurchase of Common Shares.

INFLATION

The Company's long-term leases contain provisions designed to mitigate the adverse impact of inflation on the Company's net income. Such provisions include clauses enabling the Company 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 the Company's leases are for terms of less than ten years, which permits the Company to seek to increase rents upon re-rental at market rates if current rents are below the then existing market rates. Most of the Company's leases require the tenants to pay their share of operating expenses, including common area maintenance, real estate taxes, insurance and utilities, thereby reducing the Company's exposure to increases in costs and operating expenses resulting from inflation.

## RECENTLY ISSUED ACCOUNTING PRONOUNCEMENTS

In June 1998, the Financial Accounting Standards Board (the "FASB") issued Statement No. 133, "Accounting for Derivative Instruments and Hedging Activities" (the "Statement"). In June 1999, the FASB issued Statement No. 137, which deferred the effective date of Statement No. 133 requiring it to be adopted for all fiscal quarters of all fiscal years beginning after June 15, 2000. The Company will adopt the Statement effective January 1, 2001. The Statement will require the Company to recognize all derivatives on the balance sheet at fair value. Derivatives that are not hedges must be adjusted to fair value through income. If a derivative is a hedge, depending on the nature of the hedge, changes in the fair value of the derivative will either be offset against the change in fair value of the hedged asset, liability, or firm commitment through earnings, or recognized in other comprehensive income until the hedged item is recognized in earnings. The ineffective portion of a derivative's change in fair value will be immediately recognized in earnings. The Company does not anticipate that the adoption of this Statement will have a significant effect on its results of operations or financial position.

In December 1999, the Securities and Exchange Commission (the "SEC") released Staff Accounting Bulletin ("SAB") No. 101, "Revenue Recognition", to provide guidance on the recognition, presentation and disclosure of revenue in financial statements. Specifically, SAB No. 101 provides guidance on lessors' accounting for contingent rent. SAB No. 101 did not require the Company to change existing revenue recognition policies and therefore had no impact on the Company's financial position at or results of operations for the year ended December 31, 2000.

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

The Company's primary market risk exposure is to changes in interest rates related to the Company's mortgage debt. See the consolidated financial statements and notes thereto included in this Annual Report for certain quantitative details related to the Company's mortgage debt.

Currently, the Company manages its exposure to fluctuations in interest rates primarily through the use of fixed-rate debt, LIBOR rate caps and interest rate swap agreements. As of December 31, 2000, the Company had total mortgage debt of \$277.1 million of which \$153.2 million, or 55%, is fixed-rate and \$123.9 million, or 45%, is variable-rate based upon LIBOR plus certain spreads. \$23.6 million of notional variable-rate principal is hedged through the use of LIBOR rate caps as of December 31, 2000. Of the total outstanding debt, \$83.6 million will become due by 2002. As the Company intends on refinancing some or all of such debt at the then-existing market interest rates which may be greater than the current interest rate, the Company's interest expense would increase by approximately \$836,000 annually if the interest rate on the refinanced debt increased by 100 basis points. Furthermore, interest expense on the Company's variable debt as of December 31, 2000 would increase by \$1.0 million annually for a 100 basis point increase in interest rates. The Company may seek additional variable-rate financing if and when pricing and other commercial and financial terms warrant. As such, the Company 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 14(a)(1) and 14(a)(2) hereof are incorporated herein by reference.

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

None

PART III

ITEM 10. DIRECTORS AND EXECUTIVE OFFICERS OF THE COMPANY

This item is incorporated by reference from the definitive proxy statement for the Annual Meeting of Shareholders presently scheduled to be held on May 31, 2001, to be filed pursuant to Regulation 14A.

ITEM 11. EXECUTIVE COMPENSATION

This item is incorporated by reference from the definitive proxy statement for the Annual Meeting of Shareholders presently scheduled to be held on May 31, 2001, 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 Annual Meeting of Shareholders presently scheduled to be held on May 31, 2001, 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 Annual Meeting of Shareholders presently scheduled to be held on May 31, 2001, to be filed pursuant to Regulation 14A.

PART IV

ITEM 14. EXHIBITS, FINANCIAL STATEMENTS, SCHEDULES AND REPORTS ON FORM 8-K

- (a) 1. Financial Statements - Form 10-K  
The following consolidated financial Report Page  
information is included as a separate  
section of this annual report on  
Form 10-K

ACADIA REALTY TRUST

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2. Financial Statement Schedule Schedule III - Real Estate and Accumulated Depreciation	F-28

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.

3. Exhibits

Exhibit No.

3.1(a)	Declaration of Trust of the Company, as amended	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, 1994
3.1(b)	Fourth Amendment to Declaration of Trust	Incorporated by reference to the copy thereof filed as an Exhibit to Company's Form 10-Q filed for the quarter ended September 30, 1998
3.2	By-Laws of the Company	Incorporated by reference to the copy thereof filed as an exhibit to the Company's Form S-11 (File No.33-60008) ("Form S-11")
10.1(a)	Agreement of Limited Partnership of the Operating Partnership	Incorporated by reference to the copy thereof filed as an exhibit to Amendment No. 3 to the Company's Form S-11
10.1(b)	First, Second and Third Amendments the Agreement of Limited Partnership of the Operating Partnership	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, 1998
10.1(c)	Certificate of Designation of Series A Preferred Operating Partnership Units of Limited Partnership Interest of Acadia Realty Limited Partnership	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, 1999
*10.6(a)	1999 Share Option Plan	Incorporated by reference to the copy thereof filed as an exhibit to the Company's Form S-8 filed September 28, 1999
10.14	Form of Registration Rights Agreement	Incorporated by reference to the copy thereof filed as an exhibit to Amendment No. 4 to the Company's Form S-11



10.22(a)	Indenture of Mortgage, Deed of Trust, Security Agreement, Financing Statement, Fixture Filing and Assignment of Leases, Rents and Security Deposits between the Company and Morgan Stanley Mortgage Capital, Inc.	Incorporated by reference to the copy thereof filed as an exhibit to the Company's Form 10-Q filed for the quarter ended September 30, 1996
10.22(b)	Mortgage Note between the Company and Morgan Stanley Mortgage Capital, Inc.	Incorporated by reference to the copy thereof filed as an exhibit to the Company's Form 10-Q for the quarter ended September 30, 1996
10.22(c)	First Amendment to the Indenture of Mortgage, Deed of Trust, Security Agreement, Financing Statement, Fixture Filing and Assignment of Lease, Rents and Security Deposits Between the Company and GMAC Commercial Mortgage Corporation	Incorporated by reference to the copy thereof filed as an exhibit to the Company's Form 10-Q filed for the quarter ended September 30, 1998
10.24(a)	Open-End Mortgage, Security Agreement, Future Filing, Financing Statement and Assignment of Leases and Rents between the Company and Anchor National Life Insurance Company	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, 1996
10.24(b)	Promissory Note between the Company and Anchor National Life Insurance Company	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, 1996

10.30	Contribution and Share Purchase Agreement with RD Capital, Inc.	Incorporated by reference to the copy thereof filed as an exhibit to the Company's Form 8-K filed on April 20, 1998
10.31	Severance and Consulting Agreement For Marvin L. Slomowitz	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, 1998
10.32	Settlement agreement between the Company and Jack Wertheimer	Incorporated by reference to the copy thereof filed as an exhibit to the Company's Form 8-K filed on January 5, 1999
10.33	Employment agreement between the Company and Ross Dworman	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, 1998
10.34	Employment agreement between the Company and Kenneth F. Bernstein	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, 1998
10.36	Secured Promissory Note between RD Absecon Associates, L.P. and Fleet Bank, N.A. dated February 8, 2000	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, 1999
10.37	Mortgage Note between RD Branch Associates, L.P. and North Fork Bank dated November 22, 1999	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, 1999
10.38	Promissory Note between 239 Greenwich Associates, L.P. and First Union National Bank dated December 16, 1999	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, 1999
10.39	Note and Mortgage Assumption Agreement between Acadia Mad River Property LLC and Lasalle National Bank for the benefit of Certificateholders of American Southwest Financial Securities Corporation, Commercial Mortgage Pass-Through Certificates, Series 1195-C1 Dated February 24, 1999	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, 1999

10.40	Mortgage Note Modification Agreement Between Heathcote Associates and Huntoon Hastings Capital Corp. dated May 5, 1999	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, 1999
10.41	Promissory Note between Merrillville Realty, L.P. and Sun America Life Insurance Company dated July 7, 1999	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, 1999
10.42	Mortgage and Note Modification Agreement between Pacesetter/Ramapo Associates and M&T Real Estate, Inc.	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, 1999
10.43	Secured Promissory Note between Acadia Town Line, LLC and Fleet Bank, N.A. dated March 23, 1999	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, 1999
10.44	Promissory Note between RD Village Associates Limited Partnership and an Sun America Life Insurance Company Dated September 21, 1999	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, 1999
10.45	Sale-Purchase Agreement between Acadia Realty L.P. and Mark Northwood Associates L.P., seller, and UrbanAmerica, L.P., Buyer, dated June 14, 2000	Filed herewith
10.46	Purchase Agreement between RD Abington Associates L.P. and Target Corporation dated June 29, 2000	Filed herewith
10.47	Agreement to Sell and Purchase real estate between Mark Twelve Associates, L.P. and Lowes Home Centers, Inc. dated April 25, 2000	Filed herewith
10.48	Amended and Restated Mortgage Note between Port Bay Associates, LLC and Fleet Bank, N.A. dated July 19, 2000	Filed herewith
10.48.a	Mortgage and Security Agreement between Port Bay Associates, LLC and Fleet Bank, N.A. dated July 19, 2000	Filed herewith
10.49	Amended and Restated Promissory Note Between Acadia Realty L.P. and Metropolitan Life Insurance Company for \$25.2 million dated October 13, 2000	Filed herewith
10.50	Amended and Restated Promissory Note Between Acadia Realty L.P. and Metropolitan Life Insurance Company for \$10.8 million dated October 13, 2000	Filed herewith
10.50.a	Amended and Restated Mortgage, Security Agreement and Fixture Filing between Acadia Realty L.P. and Metropolitan Life Insurance Company dated October 13, 2000	Filed herewith

10.51	Term Loan Agreement between Acadia Realty L.P. and The Dime Savings Bank of New York, dated March 30, 2000	Filed herewith
10.51.a	Mortgage Agreement between Acadia Realty L.P. and The Dime Savings Bank of New York, dated March 30, 2000	Filed herewith
10.52	Promissory Note between RD Whitegate Associates, L.P. and Bank of America, N.A. Dated December 22, 2000	Filed herewith
10.53	Promissory Note between RD Columbia Associates, L.P. and Bank of America, N.A. Dated December 22, 2000	Filed herewith
21	List of Subsidiaries of Acadia Realty Trust	Filed herewith
23	Consent of Independent Auditors to Form S-3 and Form S-8	Filed herewith
*	Constitutes a compensatory plan or arrangement required to be filed as an exhibit to this Form.	

(b) Reports on Form 8-K filed during the quarter ended December 31, 2000 - The Company did not file any report on Form 8-K during the quarter ended December 31, 2000.

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  
Chief Executive Officer,  
President and Trustee

Dated: March 21, 2001

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 ----- (Kenneth F. Bernstein)	Chief Executive Officer, President and Trustee (Principal Executive Officer)	March 21, 2001
/s/Perry Kamerman ----- (Perry Kamerman)	Senior Vice President and Chief Financial Officer (Principal Financial and Accounting Officer)	March 21, 2001
/s/Ross Dworman ----- (Ross Dworman)	Chairman and Trustee	March 21, 2001
/s/Martin L. Edelman ----- (Martin L. Edelman, Esq.)	Trustee	March 21, 2001
/s/Marvin J. Levine ----- (Marvin J. Levine, Esq)	Trustee	March 21, 2001
/s/Lawrence J. Longua ----- (Lawrence J. Longua)	Trustee	March 21, 2001
/s/Gregory A. White ----- (Gregory A. white)	Trustee	March 21, 2001
/s/Lee S. Wielansky ----- (Lee S. Wielansky)	Trustee	March 21, 2001

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 Number -----	Description -----
10.45	Sale-Purchase Agreement between Acadia Realty L.P. and Mark Northwood Associates L.P., seller, and UrbanAmerica, L.P., Buyer, dated June 14, 2000
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ACADIA REALTY TRUST AND SUBSIDIARIES  
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REPORT OF INDEPENDENT AUDITORS

To the Shareholders and Trustees of  
Acadia Realty Trust

We have audited the accompanying consolidated balance sheets of Acadia Realty Trust (a Maryland Trust) and subsidiaries (the "Company") as of December 31, 2000 and 1999, and the related consolidated statements of operations, shareholders' equity and cash flows for each of the three years in the period ended December 31, 2000. Our audits also included the financial statement schedule listed in the Index at Item 14(a). These financial statements and the 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 audits in accordance with auditing standards generally accepted in the United States. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.

In our opinion, the financial statements referred to above present fairly, in all material respects, the consolidated financial position of Acadia Realty Trust and subsidiaries as of December 31, 2000 and 1999, and the consolidated results of their operations and their cash flows for each of the three years in the period ended December 31, 2000 in conformity with accounting principles generally accepted in the United States. Also, in our opinion, the related financial statement schedule, when considered in relation to the basic financial statements taken as a whole, presents fairly, in all material respects, the information set forth therein.

/s/ ERNST & YOUNG LLP

New York, New York  
March 2, 2001



Part I. Financial Information  
Item 1. Financial Statements

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

	2000	December 31,	1999
	----		----
ASSETS			
Real estate			
Land	\$ 69,206		\$ 81,956
Buildings and improvements	444,933		487,565
	-----		-----
	514,139		569,521
Less: accumulated depreciation	102,461		90,932
	-----		-----
Net real estate	411,678		478,589
Properties held for sale	49,445		13,227
Cash and cash equivalents	22,167		35,340
Cash in escrow	5,213		9,707
Investments in unconsolidated partnerships	6,784		7,463
Rents receivable, net	9,667		8,865
Prepaid expenses	2,905		2,952
Due from related parties	--		19
Deferred charges, net	13,026		12,374
Other assets	2,726		2,267
	-----		-----
	\$523,611		\$570,803
	=====		=====
LIABILITIES AND SHAREHOLDERS' EQUITY			
Mortgage notes payable	\$277,112		\$326,651
Accounts payable and accrued expenses	7,495		6,385
Due to related parties	111		--
Dividends and distributions payable	4,241		4,371
Other liabilities	4,179		4,224
	-----		-----
Total liabilities	293,138		341,631
	-----		-----
Minority interest in Operating Partnership	48,959		74,462
Minority interests in majority- owned partnerships	2,197		2,223
	-----		-----
Total minority interests	51,156		76,685
	-----		-----
Shareholders' equity:			
Common shares, \$.001 par value, authorized 100,000,000 shares, issued and outstanding 28,150,472 and 25,724,315 shares, respectively	28		26
Additional paid-in capital	188,392		168,641
Deficit	(9,103)		(16,180)
	-----		-----
Total shareholders' equity	179,317		152,487
	-----		-----
	\$523,611		\$570,803
	=====		=====

See accompanying notes

ACADIA REALTY TRUST AND SUBSIDIARIES  
CONSOLIDATED STATEMENTS OF OPERATIONS  
(In thousands, except per share amounts)

	Years ended December 31,		
	2000	1999	1998
	----	----	----
<b>Revenues</b>			
Minimum rents	\$ 74,161	\$ 73,021	\$ 46,940
Percentage rents	3,048	2,994	2,651
Expense reimbursements	14,230	13,786	8,655
Other	5,319	2,908	1,525
	-----	-----	-----
<b>Total revenues</b>	<b>96,758</b>	<b>92,709</b>	<b>59,771</b>
	-----	-----	-----
<b>Operating Expenses</b>			
Property operating	23,198	21,606	14,182
Real estate taxes	11,468	10,540	7,536
Depreciation and amortization	20,460	19,887	15,795
General and administrative	5,057	6,337	4,409
Non-recurring charges	--	--	2,249
Settlement of litigation	--	--	2,358
	-----	-----	-----
<b>Total operating expenses</b>	<b>60,183</b>	<b>58,370</b>	<b>46,529</b>
	-----	-----	-----
<b>Operating income</b>	<b>36,575</b>	<b>34,339</b>	<b>13,242</b>
Equity in earnings of unconsolidated partnerships	645	584	256
Gain (loss) on sale of properties	13,742	(1,284)	(175)
Adjustment of carrying value of properties held for sale	--	--	(11,560)
Interest expense	(25,163)	(23,314)	(18,302)
	-----	-----	-----
<b>Income (loss) before extraordinary item and minority interest</b>	<b>25,799</b>	<b>10,325</b>	<b>(16,539)</b>
Extraordinary item - loss on early extinguishment of debt	--	--	(707)
Minority interests	(5,892)	(3,130)	3,348
	-----	-----	-----
<b>Net income (loss)</b>	<b>\$ 19,907</b>	<b>\$ 7,195</b>	<b>\$(13,898)</b>
	=====	=====	=====
<b>Net income (loss) per Common Share:</b>			
Income (loss) before extraordinary item	\$ .75	\$ .28	\$ (.86)
Extraordinary item	--	--	(.05)
	-----	-----	-----
<b>Net income (loss) per Common Share</b>	<b>\$ .75</b>	<b>\$ .28</b>	<b>\$(.91)</b>
	=====	=====	=====

See accompanying notes

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

	Common Shares		Additional Paid-in Capital	Deficit	Total Shareholders' Equity
	Shares	Amount			
Balance, December 31, 1997	8,554,177	\$ 9	\$ 51,073	\$ (2,282)	\$ 48,800
Issuance of shares pursuant to the Company's restricted share plan	3,800	-	29	-	29
Conversion of 800,000 OP Units by limited partner of the Operating Partnership	800,000	1	4,367	-	4,368
Issuance of 13,333,333 Common Shares in connection with the RDC Transaction, net of issuance costs	13,333,333	13	95,909	-	95,922
Issuance of 1,989,048 Common Shares in connection with the RDC Transaction	1,989,048	1	13,965	-	13,966
Conversion of 738,857 OP Units by limited partners of the Operating Partnership in connection with the RDC Transaction	738,857	1	5,403	-	5,404
Loss before minority interest	-	-	-	(17,246)	(17,246)
Minority interest's equity	-	-	-	3,348	3,348
Balance, December 31, 1998	25,419,215	25	170,746	(16,180)	154,591
Conversion of 700,000 OP Units by limited partner of the Operating Partnership	700,000	1	5,012	-	5,013
Dividends declared (\$.48 per Common Share)	-	-	(5,133)	(7,195)	(12,328)
Repurchase of Common Shares (394,900)	(394,900)	-	(1,984)	-	(1,984)
Income before minority interest	-	-	-	10,325	10,325
Minority interest's equity	-	-	-	(3,130)	(3,130)
Balance, December 31, 1999	25,724,315	26	168,641	(16,180)	152,487
Conversion of 3,679,999 OP Units by limited partners of the Operating Partnership	3,679,999	3	26,999	-	27,002
Dividends declared (\$.48 per Common Share)	-	-	-	(12,830)	(12,830)
Repurchase of Common Shares (1,339,905)	(1,339,905)	(1)	(7,691)	-	(7,692)
Reissuance of Common Shares 86,063	86,063	-	443	-	443
Income before minority interest	-	-	-	25,799	25,799
Minority interest's equity	-	-	-	(5,892)	(5,892)
Balance, December 31, 2000	28,150,472	\$ 28	\$188,392	\$ (9,103)	\$179,317

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

	Years ended December 31,		
	2000	1999	1998
	----	----	----
<b>CASH FLOWS FROM OPERATING ACTIVITIES:</b>			
Net income (loss)	\$ 19,907	\$ 7,195	\$(13,898)
Adjustments to reconcile net income (loss) to net cash provided by operating activities:			
Depreciation and amortization	20,460	19,887	15,795
Extraordinary item - loss on early extinguishment of debt	--	--	707
Minority interests	5,892	3,130	(3,348)
Equity in earnings of unconsolidated partnerships	(645)	(584)	(256)
Provision for bad debts	453	1,404	1,275
(Gain) loss on sale of properties	(13,742)	1,284	175
Stock-based compensation	443	--	--
Adjustment to carrying value of properties held for sale	--	--	11,560
Other	--	--	29
<b>Changes in assets and liabilities:</b>			
Funding of escrows, net	1,250	2,943	(4,744)
Rents receivable	(1,255)	(4,263)	(2,495)
Prepaid expenses	47	(155)	(1,556)
Due to/from related parties	130	(195)	163
Other assets	(792)	(879)	(975)
Accounts payable and accrued expenses	470	(4,288)	3,120
Other liabilities	(45)	407	1,907
	-----	-----	-----
Net cash provided by operating activities	32,573	25,886	7,459
	-----	-----	-----
<b>CASH FLOWS FROM INVESTING ACTIVITIES:</b>			
Expenditures for real estate and improvements	(15,865)	(25,091)	(23,253)
Net proceeds from sale of properties	24,413	6,128	2,193
Investments in unconsolidated partnerships	--	--	(861)
Distributions from unconsolidated partnerships	1,324	637	--
Payment of deferred leasing costs	(1,623)	(1,604)	(2,901)
	-----	-----	-----
Net cash provided by (used in) investing activities	8,249	(19,930)	(24,822)
	-----	-----	-----
<b>CASH FLOWS FROM FINANCING ACTIVITIES:</b>			
Net proceeds from issuance of Common Shares	--	--	95,923
Principal payments on mortgage notes	(133,838)	(17,598)	(80,493)
Proceeds received on mortgage notes	106,350	48,168	19,877
Payment of note payable to shareholder	--	--	(3,050)
Payment of deferred financing and other costs	(1,435)	(1,091)	(967)
Dividends paid	(12,545)	(9,238)	--
Distributions to minority interests in Operating Partnership	(4,617)	(3,929)	(31)
Distributions on Preferred Operating Partnership Units	(173)	--	--
Distributions to minority interest in majority-owned partnership	(45)	(127)	--
Repurchase of Common Shares	(7,692)	(1,984)	--
	-----	-----	-----
Net cash (used in) provided by financing activities	(53,995)	14,201	31,259
	-----	-----	-----
(DECREASE) INCREASE IN CASH AND CASH EQUIVALENTS	(13,173)	20,157	13,896
CASH AND CASH EQUIVALENTS, BEGINNING OF YEAR	35,340	15,183	1,287
	-----	-----	-----
CASH AND CASH EQUIVALENTS, END OF YEAR	\$ 22,167	\$ 35,340	\$ 15,183
	=====	=====	=====

See accompanying notes

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

	2000 ----	Years ended December 31,	
		1999 ----	1998 ----
Supplemental Disclosures of Cash Flow Information:			
Cash paid during the year for interest, net of amounts capitalized of \$439, \$1,299, and \$857, respectively	\$ 25,035 =====	\$ 23,793 =====	\$ 17,650 =====
Supplemental Disclosures of Non-Cash Investing and Financing Activities:			
Disposition of real estate through assignment of debt	\$ 22,051 =====		
Acquisition of real estate by assumption of debt		\$ 18,521 =====	
Acquisition of real estate by issuance of Preferred Operating Partnership Units		\$ 2,212 =====	
The following activity was recorded in connection with the RDC Transaction (Note 2).			
Real estate and investment in partnerships acquired			\$(253,801)
Mortgage notes payable assumed			154,234
Operating partnership units issued			83,250
Common Shares issued			13,967
Minority interests in acquired properties			2,350
			-----
Net Cash			\$ -- =====

See accompanying notes

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

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

Acadia Realty Trust (the "Company"), formerly known as Mark Centers Trust, is a fully integrated and self-managed real estate investment trust ("REIT") focused primarily on the ownership, acquisition, redevelopment and management of neighborhood and community shopping centers.

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 subsidiaries. As of December 31, 2000, the Company controlled 81% of the Operating Partnership as the sole general partner.

As of December 31, 2000, the Company operated fifty-seven properties, which it owned or had an ownership interest in, consisting of forty-seven neighborhood and community shopping centers, four redevelopment retail properties, one enclosed shopping mall and five multi-family properties, all of which are located in the Eastern and Midwestern regions of the United States.

Principles of Consolidation

The consolidated financial statements include the consolidated accounts of the Company and its majority owned subsidiaries, including the Operating Partnership. Non-controlling investments in partnerships are accounted for under the equity method of accounting as the Company exercises significant influence.

Use of Estimates

The preparation of the financial statements in conformity with accounting principles generally accepted in the United States requires management to make estimates and assumptions that affect the amounts reported in the financial statements and accompanying notes. Actual results could differ from those estimates.

Properties

Real estate assets are stated at cost less accumulated depreciation. Such carrying amounts are adjusted, if necessary, to reflect any impairment in the value of the assets. 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. Depreciation is computed on the straight-line method 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. Property held for sale is reflected at the lower of the carrying amount or net realizable value. As of December 31, 2000, one shopping center and two multi-family properties were held for sale.

Deferred Costs

Fees and costs incurred 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.

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

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

Revenue Recognition

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, 2000 and 1999, unbilled rents receivable relating to straight-lining of rents were \$4,098 and \$3,057, respectively.

Percentage rents are recognized in the period when the tenant sales breakpoint is met.

Reimbursements from tenants for real estate taxes, insurance and other property operating expenses are recognized as revenue in the period the expenses are incurred.

An allowance for doubtful accounts has been provided against certain tenant accounts receivable which are estimated to be uncollectible. Rents receivable at December 31, 2000 and 1999 are shown net of an allowance for doubtful accounts of \$1,738 and \$1,588, respectively.

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 and cash equivalents.

Cash in Escrow

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.

Non-Recurring Charges

In connection with the RDC Transaction (note 2), the Company incurred non-recurring costs in 1998 of \$2,249 related primarily to payments made to certain officers and key employees pursuant to change in control provisions of employment contracts, severance paid to the Former Principal Shareholder (note 8), retention bonuses for certain employees and transaction-related consulting and professional fees.

Income Taxes

The Company has made an election to be taxed, and believes it qualifies as a real estate investment trust ("REIT") under Sections 856 through 860 of the Internal Revenue Code of 1986, as amended. A REIT will generally not be subject to federal income taxation on that portion of its income that qualifies as REIT taxable income to the extent that it distributes at least 95% (90% commencing in 2001) of its taxable income to its shareholders and complies with certain other requirements. Accordingly, no provision has been made for federal income taxes for the Company in the accompanying consolidated financial statements. The Company is subject to state income or franchise taxes in certain states in which some of its properties are located. These state taxes, which in total are not significant, are included in general and administrative expenses in the accompanying consolidated financial statements.

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

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

Earnings Per Common Share

Basic earnings per share was determined by dividing the net applicable income or loss to common shareholders for the year by the weighted average number of common shares of beneficial interest ("Common Shares") outstanding during each year consistent with the Financial Accounting Standards Board Statement No. 128. The weighted average number of shares outstanding for the years ended December 31, 2000, 1999, and 1998 were 26,437,265, 25,708,787 and 15,205,962, respectively.

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. For the years ended December 31, 2000, 1999, and 1998 no additional shares were reflected as the impact would be anti-dilutive in such years.

Share Repurchase Plan

As of December 31, 2000, the Company had repurchased 1,648,742 Common Shares (net of 86,063 Common Shares reissued) at a total cost of \$9,675 under a share repurchase program which allows for the repurchase of up to \$10,000 of the Company's outstanding Common Shares. The repurchased shares are reflected as a reduction of par value and additional paid-in capital. In January 2001, the Board of Trustees approved a continuation and expansion of the Company's existing stock repurchase program. Management is authorized, at its discretion, to repurchase up to an additional \$10,000 of the Company's outstanding Common Shares. The program may be discontinued or extended at any time and there is no assurance that the Company will purchase the full amount authorized.

Recent Accounting Pronouncements

In June 1998, the Financial Accounting Standards Board (the "FASB") issued Statement No. 133, "Accounting for Derivative Instruments and Hedging Activities" (the "Statement"). In June 1999, the FASB issued Statement No. 137, which deferred the effective date of Statement No. 133 requiring it to be adopted for all fiscal quarters of all fiscal years beginning after June 15, 2000. The Company will adopt the Statement effective January 1, 2001. The Statement will require the Company to recognize all derivatives on the balance sheet at fair value. Derivatives that are not hedges must be adjusted to fair value through income. If a derivative is a hedge, depending on the nature of the hedge, changes in the fair value of the derivative will either be offset against the change in fair value of the hedged asset, liability, or firm commitment through earnings, or recognized in other comprehensive income until the hedged item is recognized in earnings. The ineffective portion of a derivative's change in fair value will be immediately recognized in earnings. The Company does not anticipate that the adoption of this Statement will have a significant effect on its results of operations or financial position.

In December 1999, the Securities and Exchange Commission (the "SEC") released Staff Accounting Bulletin ("SAB") No. 101, "Revenue Recognition", to provide guidance on the recognition, presentation and disclosure of revenue in financial statements. Specifically, SAB No. 101 provides guidance on lessors' accounting for contingent rent. SAB No. 101 did not require the Company to change existing revenue recognition policies and therefore had no impact on the Company's financial position at or results of operations for the year ended December 31, 2000.

Reclassifications

Certain 1999 and 1998 amounts were reclassified to conform to the 2000 presentation.



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

2. Acquisition and Disposition of Properties and Related Transactions

2000 Dispositions

On December 14, 2000, the Company sold the Northwood Centre, located in Tallahassee, Florida, for \$31,500. The buyer assumed the mortgage balance of \$22,051 and acquired various mortgage-related escrows for \$1,784 which, following additional net closing adjustments and costs, resulted in net proceeds of \$11,026 to the Company.

On December 11, 2000, the Company sold approximately 160,000 square feet of the main building and related parking lot at the Abington Towne Center for \$11,500. The Company retained ownership of approximately 50,000 square feet of the main building, as well as the outparcels (14,000 square feet) and related parking areas. Total sales proceeds were \$1,366 following the repayment of the mortgage balance of \$10,137 and additional net closing adjustments and costs.

On August 25, 2000, the Company sold 13 acres at the Union Plaza, located in New Castle, Pennsylvania, for \$1,900. Proceeds from the sale totaled \$1,882 after net closing costs and adjustments.

The Company recognized a gain of \$13,742 for the year ended December 31, 2000 as a result of the above property sales.

1999 Acquisitions and Dispositions

On November 16, 1999, the Company acquired 100% of the partnership interests of the limited partnership which owns the Pacesetter Park Shopping Center, a 96,000 square foot community shopping center located in Rockland County, New York. The aggregate purchase price of \$7,400 consisted of the assumption of \$4,637 in first mortgage debt and the issuance of \$2,212 in preferred Operating Partnership units with the balance funded from working capital.

On May 5, 1999, the Company acquired the sole general partner's interest in the limited partnership owning the Gateway Shopping Center, a 122,000 square foot shopping center located in Burlington, Vermont, for \$6,547. The interest was acquired out of bankruptcy by restructuring and assuming the mortgage debt of \$6,222. The balance of the purchase was funded from working capital.

On February 24, 1999, the Company acquired the Mad River Station, a 154,000 square foot shopping center located in Dayton, Ohio for \$11,500. The Company assumed \$7,661 in mortgage debt and funded the remaining purchase from working capital.

Pursuant to its continuing plan to dispose of certain non-core properties, the Company sold two properties during 1999, the Searstown Mall on February 1, 1999 for a sale price of \$3,300 and the Auburn Plaza on March 29, 1999 for \$3,500.

RDC Transaction

On August 12, 1998 the Company completed the transactions contemplated by the Contribution and Share Purchase Agreement dated April 15, 1998 (the "RDC Transaction") involving affiliates of RD Capital, Inc. ("RDC"). In connection with the RDC Transaction, the Operating Partnership acquired (i) fee title to or all, or substantially all, of the ownership interests in twelve shopping centers, five multi-family properties and one redevelopment property, (ii) a 49% interest in one shopping center, (iii) certain third party management contracts, and (iv) certain promissory notes from real estate investment partnerships and related entities, which were not under common control, in which RDC served as general partner or in another similar management capacity, for approximately 11.1 million Operating Partnership units ("OP Units") and approximately 2.0 million Common Shares valued at \$97,217. In addition, the Company assumed mortgage debt aggregating \$154,234 and incurred other capitalized transaction costs of \$5,757 resulting in an aggregate purchase price of \$257,208. As part of the RDC Transaction, the Company also issued approximately 13.3 million Common Shares to three real estate investment limited partnerships (collectively "RDC Funds"), in which affiliates of RDC served as general partner, in exchange for \$100,000. These Common Shares were subsequently distributed to the limited partners of the RDC Funds in March 2000.

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

2. Acquisition and Disposition of Properties and Related Transactions, continued

RDC Transaction, continued

The Company accounted for the RDC Transaction as (i) a purchase of properties and other related assets in exchange for OP Units and Common Shares and the assumption of certain mortgage debt and other liabilities using the purchase method of accounting and (ii) an issuance of Common Shares for cash. Accordingly, the accompanying 1998 consolidated financial statements include the operations of the properties acquired in the RDC Transaction from August 12, 1998 through December 31, 1998 (note 20).

The Operating Partnership is also obligated to issue additional OP Units valued at \$2,750 upon the completion of certain improvements and the commencement of rental payments from a designated tenant at one of the properties acquired in the RDC Transaction.

Following the completion of the RDC Transaction, the Company changed its name from Mark Centers Trust to Acadia Realty Trust and the name of the Operating Partnership was changed from Mark Centers Limited Partnership to Acadia Realty Limited Partnership. Management also adopted a plan to dispose of three non-core properties following the RDC Transaction. As a result, the Company recorded a non-cash charge of \$11,560 to write-down these properties to their estimated net realizable value as the anticipated sales proceeds (net of selling costs) were expected to be insufficient to recover the associated carrying values. On December 30, 1998, the Company completed the sale of the Normandale Mall for \$2,350. The remaining two properties (the Searstown Mall and Auburn Plaza) were sold in 1999.

ACADIA REALTY TRUST AND SUBSIDIARIES  
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS  
(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. All the multi-family units were acquired in 1998 as part of the RDC Transaction. The following table sets forth certain segment information for the Company as of and for the years ended December 31, 2000, 1999, and 1998 (does not include unconsolidated partnerships):

	2000			
	Retail Properties	Multi-Family Properties	All Other	Total
	-----	-----	-----	-----
Revenues	\$ 79,229	\$ 15,396	\$ 2,133	\$ 96,758
Property operating expenses and real estate taxes	28,547	6,119	--	34,666
Net property income before depreciation, amortization and certain nonrecurring items	50,682	9,277	2,133	62,092
Depreciation and amortization	18,064	2,066	330	20,460
Interest expense	20,802	4,361	--	25,163
Real estate at cost	430,841	83,298	--	514,139
Total assets	435,287	81,540	6,784	523,611
Gross leasable area (multi-family - 2,273 units)	8,371	2,039	--	10,410
Expenditures for real estate and improvements	14,712	1,153	--	15,865
 Revenues				
Total revenues for reportable segments	\$ 97,710			
Elimination of intersegment management fee income	(952)			
	-----			
Total consolidated revenues	\$ 96,758			
	=====			
 Property operating expenses and real estate taxes				
Total property operating expenses and real estate taxes for reportable segments	\$ 35,618			
Elimination of intersegment management fee expense	(952)			
	-----			
Total consolidated expense	\$ 34,666			
	=====			
 Reconciliation to income before extraordinary item and minority interest				
Net property income before depreciation, amortization and certain nonrecurring items	\$ 62,092			
Depreciation and amortization	(20,460)			
General and administrative	(5,057)			
Equity in earnings of unconsolidated partnerships	645			
Gain on sale of properties	13,742			
Interest expense	(25,163)			
	-----			
Income before minority interest	\$ 25,799			
	=====			

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

3. Segment Reporting, continued

	Retail Properties	1999 ----- Multi-Family Properties	All Other	Total
	-----	-----	-----	-----
Revenues	\$ 75,823	\$ 14,915	\$ 1,971	\$ 92,709
Property operating expenses and real estate taxes	26,190	5,956	--	32,146
Net property income before depreciation, amortization and certain nonrecurring items	49,633	8,959	1,971	60,563
Depreciation and amortization	17,817	1,829	241	19,887
Interest expense	19,199	4,115		23,314
Real estate at cost	487,376	82,145	--	569,521
Total assets	481,175	82,165	7,463	570,803
Gross leasable area (multi-family - 2,273 units)	8,817	2,039	--	10,856
Expenditures for real estate and improvements	23,912	1,179	--	25,091
 Revenues				
Total revenues for reportable segments	\$ 93,766			
Elimination of intersegment management fee income	(1,057)			
	-----			
Total consolidated revenues	\$ 92,709			
	=====			
 Property operating expenses and real estate taxes				
Total property operating expenses and real estate taxes for reportable segments	\$ 33,203			
Elimination of intersegment management fee expense	(1,057)			
	-----			
Total consolidated expense	\$ 32,146			
	=====			
 Reconciliation to income before extraordinary item and minority interest				
Net property income before depreciation, amortization and certain nonrecurring items	\$ 60,563			
Depreciation and amortization	(19,887)			
General and administrative	(6,337)			
Equity in earnings of unconsolidated partnerships	584			
Loss on sale of properties	(1,284)			
Interest expense	(23,314)			
	-----			
Income before minority interest	\$ 10,325			
	=====			

ACADIA REALTY TRUST AND SUBSIDIARIES  
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS  
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3. Segment Reporting, continued

	1998			
	Retail Properties	Multi-Family Properties	All Other	Total
	-----	-----	-----	-----
Revenues	\$ 53,507	\$ 5,644	\$ 620	\$ 59,771
Property operating expenses and real estate taxes	19,573	2,145	--	21,718
Net property income before depreciation, amortization and certain nonrecurring items	33,934	3,499	620	38,053
Depreciation and amortization	14,963	629	203	15,795
Interest expense	16,685	1,606	11	18,302
Real estate at cost	470,438	80,811	--	551,249
Total assets	438,163	82,833	7,516	528,512
Gross leasable area (multi-family - 2,273 units)	8,931	2,039	--	10,970
Expenditures for real estate and improvements	22,844	409	--	23,253
 Revenues				
Total revenues for reportable segments	\$ 60,204			
Elimination of intersegment ground rent and management fee income	(433)			
	-----			
Total consolidated revenues	\$ 59,771			
	=====			
 Property operating expenses and real estate taxes				
Total property operating expenses and real estate taxes for reportable segments	\$ 22,151			
Elimination of intersegment ground rent and management fee expense	(433)			
	-----			
Total consolidated expense	\$ 21,718			
	=====			
 Reconciliation to loss before extraordinary item and minority interest				
Net property income before depreciation, amortization and certain nonrecurring items	\$ 38,053			
Depreciation and amortization	(15,795)			
General and administrative	(4,409)			
Non-recurring charges	(2,249)			
Settlement of litigation	(2,358)			
Equity in earnings of unconsolidated partnerships	256			
Loss on sale of property	(175)			
Adjustment of carrying value of property held for sale	(11,560)			
Interest expense	(18,302)			
	-----			
Loss before extraordinary item and minority interest	\$(16,539)			
	=====			

ACADIA REALTY TRUST AND SUBSIDIARIES  
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4. Investment in Partnerships

In connection with the RDC Transaction, the Company acquired a 49% interest in each of the Crossroads Joint Venture and Crossroads II Joint Venture (collectively "Crossroads") which collectively own a 311,000 square foot shopping center in Greenburgh, 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,	
	2000	1999
	----	----
Balance Sheet		
Assets:		
Rental property, net	\$ 8,446	\$ 8,801
Other assets	4,655	5,204
	-----	-----
Total assets	\$13,101	\$14,005
	=====	=====
Liabilities and partners' equity		
Mortgage note payable	\$34,642	\$35,105
Other liabilities	736	777
Partners' equity	(22,277)	(21,877)
	-----	-----
Total liabilities and partners' equity	\$13,101	\$14,005
	=====	=====
Company's investment in partnerships	\$ 6,784	\$ 7,463
	=====	=====

	Years Ended December 31,		
	2000	1999	1998
	----	----	----
Statement of Operations			
Total revenue	\$ 7,242	\$ 7,003	\$ 2,680
Operating and other expenses	1,895	1,910	643
Interest expense	2,699	2,568	1,022
Depreciation and amortization	532	534	192
	-----	-----	-----
Net income	\$ 2,116	\$ 1,991	\$ 823
	=====	=====	=====
Company's share of net income	\$ 1,037	\$ 976	\$ 403
Amortization of excess investment (See below)	392	392	147
	---	---	---
Income from Partnerships	\$ 645	\$ 584	\$ 256
	=====	=====	=====

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 is being amortized over the life of the related property.

ACADIA REALTY TRUST AND SUBSIDIARIES  
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5. Deferred Charges

Deferred charges consist of the following as of December 31, 2000 and 1999:

	2000	1999
	----	----
Deferred financing costs	\$ 7,091	\$ 7,563
Deferred leasing and other costs	13,092	12,279
	-----	-----
Accumulated amortization	20,183 (7,157)	19,842 (7,468)
	-----	-----
	\$13,026	\$12,374
	=====	=====

6. Mortgage Loans

At December 31, 2000, mortgage notes payable aggregated \$277,112 and were collateralized by 45 properties and related tenant leases. Interest rates ranged from 7.50% to 9.60%. Mortgage payments are due in monthly installments of principal and/or interest and mature on various dates through 2021. Certain loans are cross-collateralized and cross-defaulted as part of a group of properties. 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 December 22, 2000, the Company closed on two fixed-rate financings with a bank for \$11,100 and \$5,550, each of which are secured by one of the Company's properties. The loans, which mature January 1, 2011, require monthly payments of interest at 7.55% and principal amortized over 30 years. Approximately \$13,181 of the proceeds were used to retire existing debt, \$454 for various closing costs and funding of escrows, and the balance of \$3,015 was available for working capital.

On December 11, 2000, the Company fully repaid \$10,137 of outstanding debt with a life insurance company following the sale of a portion of the property which secured the debt (Note 2).

On October 13, 2000, the Company refinanced \$36,000 of maturing debt with a life insurance company, with two new loans from the same lender. The Company repaid \$5,000 prior to refinancing the balance of the maturing debt. The first loan, which is a fixed-rate facility secured by two of the Company's properties, was for \$25,200 and requires the monthly payment of interest at a rate of 8.13% and principal amortized over 25 years. The loan matures in November 2010. The second loan, which is a variable-rate facility secured by three of the Company's properties, was for \$10,800 and requires the monthly payment of interest at LIBOR plus 200 basis points and matures in November 2003. Commencing 18 months after the closing, the loan also requires the monthly payment of principal amortized over 25 years. Both loans are cross-collateralized with all five properties. Furthermore, with respect to the variable-rate facility, the Company is required to deposit 50% of the monthly net cash flow after debt service, which will be used to fund future property and tenant improvements at the collateral properties.

On July 19, 2000, the Company closed on a facility with a bank, which provides for the borrowing of up to \$10,000. The variable-rate facility, which is secured by one of the Company's properties, matures in August 2003 and requires the monthly payment of interest at the rate of LIBOR plus 175 basis points and principal amortized over 25 years. At closing, the Company borrowed \$9,000 under this facility, of which \$7,060 of proceeds were used to retire existing debt with another lender, \$149 for various closing costs and the balance was available for working capital. The Company may draw the additional \$1,000 subject to certain lender requirements including debt-service and collateral value.

On March 30, 2000, the Company closed on a \$59,000 secured financing line with a bank (the "Line"). The Line is secured by five of the seven properties that collateralized a loan with a life insurance company which was retired using \$30,735 of the proceeds from the initial \$36,000 funding. The balance of the Line must be drawn by April 2001. The Line matures April 1, 2005 and requires the monthly payment of interest at a variable-rate of LIBOR plus 175 basis points and principal amortized over 30 years. After September 2001, the debt can be prepaid without prepayment or yield maintenance fees. As of December 31, 2000, \$35,814 was outstanding under the Line.

ACADIA REALTY TRUST AND SUBSIDIARIES  
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6. Mortgage Loans, continued

On March 23, 2000, the Company fully repaid \$4,600 of outstanding debt with a bank which was collateralized by one of the Company's properties.

On February 8, 2000, the Company closed on a revolving credit facility with a bank, which provides for the borrowing of up to \$7,400. The variable-rate facility, which is secured by one of the Company's properties, matures in March 2003 and requires the monthly payment of interest at the rate of LIBOR plus 150 basis points (the rate increases by an additional 25 basis points if the amount outstanding under the facility exceeds 50% of the value of the collateral). The monthly repayment of principal amortized over 25 years is required only if the Company draws the full amount available under the facility. As of December 31, 2000, the Company had \$3,500 outstanding under this facility.

On January 31, 2000, the Company repaid \$23,090 of outstanding debt with a life insurance company from working capital. The remaining outstanding debt of \$30,735 with this lender was fully repaid with the proceeds from the March 30, 2000 bank financing as described above.

The following table summarizes the Company's mortgage indebtedness as of December 31, 2000 and 1999:

	December 31, 2000 -----	December 31, 1999 -----	Interest Rate -----
Mortgage notes payable - variable-rate			
General Electric Capital Corp.	\$ --	\$ 7,126	--
Fleet Bank, N.A.	4,110	3,966	8.51% (LIBOR + 1.75%)
Fleet Bank, N.A.	9,216	9,326	8.54% (LIBOR + 1.78%)
Sun America Life Insurance Company	13,774	13,931	8.55% (LIBOR + 2.05%)
Sun America Life Insurance Company	9,856	9,979	8.55% (LIBOR + 2.05%)
KBC Bank	14,238	14,508	8.07% (LIBOR + 1.25%)
Fleet Bank, N.A.	3,500	--	8.13% (LIBOR + 1.50%)
Fleet Bank, N.A.	8,965	--	8.49% (LIBOR + 1.75%)
Metropolitan Life Insurance Company	10,800	--	8.80% (LIBOR + 2.00%)
First Union National Bank	13,636	13,750	8.21% (LIBOR + 1.45%)
Dime Savings Bank of NY	35,814	--	8.56% (LIBOR + 1.75%)
	-----	-----	
Total variable-rate debt	123,909	72,586	
	-----	-----	
Mortgage notes payable - fixed rate			
Sun America Life Insurance Company	17,999	42,143	7.75%
Huntoon Hastings Capital Corp.	6,222	6,222	7.50%
North Fork Bank	9,887	5,000	7.75%
Anchor National Life Insurance Company	3,775	3,866	7.93%
Lehman Brothers Holdings, Inc.	17,792	17,973	8.32%
Mellon Mortgage Company	7,442	7,566	9.60%
Northern Life Insurance Company	2,895	3,173	7.70%
Reliastar Life Insurance Company	1,996	2,189	7.70%
Metropolitan Life Insurance Company	25,148	--	8.13%
Bank of America, N.A.	11,100	--	7.55%
Bank of America, N.A.	5,550	--	7.55%
Morgan Stanley Mortgage Capital	43,397	44,092	8.84%
Nomura Asset Capital Corporation	--	22,335	9.02%
John Hancock Mutual Life Insurance Company	--	53,878	9.11%
Metropolitan Life Insurance Company	--	41,000	7.75%
M&T Real Estate Inc.	--	4,628	8.18%
	-----	-----	
Total fixed-rate debt	153,203	254,065	
	-----	-----	
	\$277,112	\$326,651	
	=====	=====	



ACADIA REALTY TRUST AND SUBSIDIARIES  
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6. Mortgage Loans, continued

	Maturity -----	Properties Encumbered -----	Payment Terms -----
Mortgage notes payable - variable-rate			
General Electric Capital Corp.	--	--	--
Fleet Bank, N.A.	03/15/02	(1)	(2)
Fleet Bank, N.A.	05/31/02	(3)	(2)
Sun America Life Insurance Company	08/01/02	(4)	(2)
Sun America Life Insurance Company	10/01/02	(5)	(2)
KBC Bank	12/31/02	(6)	(2)
Fleet Bank, N.A.	03/01/03	(7)	(2)
Fleet Bank, N.A.	08/01/03	(8)	(2)
Metropolitan Life Insurance Company	11/01/03	(9)	(24)
First Union National Bank	01/01/05	(10)	(2)
Dime Savings Bank of NY	04/01/05	(11)	(2)
Mortgage notes payable - fixed rate			
Sun America Life Insurance Company	01/10/01	(12)	\$161(2)
Huntoon Hastings Capital Corp.	09/01/02	(13)	(14)
North Fork Bank	12/01/02	(15)	\$76(2)
Anchor National Life Insurance Company	01/01/04	(16)	\$33(2)
Lehman Brothers Holdings, Inc.	03/01/04	(17)	\$139(2)
Mellon Mortgage Company	05/23/05	(18)	\$70(2)
Northern Life Insurance Company	12/01/08	(19)	\$41(2)
Reliastar Life Insurance Company	12/01/08	(19)	\$28(2)
Metropolitan Life Insurance Company	11/01/10	(20)	\$197(2)
Bank of America, N.A.	01/01/11	(21)	\$78(2)
Bank of America, N.A.	01/01/11	(22)	\$39(2)
Morgan Stanley Mortgage Capital	11/01/21	(23)	\$380(2)
Nomura Asset Capital Corporation	--	--	--
John Hancock Mutual Life Insurance Company	--	--	--
Metropolitan Life Insurance Company	--	--	--
M&T Real Estate Inc.	--	--	--

Notes:

(1) Town Line Plaza	(11) Ledgewood Mall	(20) Crescent Plaza
(2) Monthly principal and interest	New Loudon Center	East End Centre
(3) Smithtown Shopping Center	Route 6 Plaza	(21) GHT Apartments
(4) Merrillville Plaza	Bradford Towne Centre	(22) Colony Apartments
(5) Village Apartments	Berlin Shopping Center	(23) Midway Plaza
(6) Marley Run Apartments	(12) Bloomfield Town Square	Kings Fairgrounds
(7) Marketplace of Absecon	Walnut Hill Shopping Center	Shillington Plaza
(8) Soundview Marketplace	(note 20)	Dunmore Plaza
(9) Green Ridge Plaza	(13) Gateway Shopping Center	Kingston Plaza
Luzerne Street Plaza	(14) Interest only until 5/01; monthly	25th Street Shopping Center
Valmont Plaza	principal and interest thereafter	Circle Plaza
(10) 239 Greenwich Avenue	(15) The Branch Shopping Center	Northside Mall
	(16) Pittston Plaza	Monroe Plaza
	(17) Glen Oaks Apartments	New Smyrna Beach
	(18) Mad River Station Shopping	Mountainville Plaza
	Center	Cloud Springs Plaza
	(19) Manahawkin Shopping Center	Birney Plaza
		Troy Plaza
		Martintown Plaza
		Plaza 15
		Ames Plaza
		(24) Interest only until 5/02; monthly
		Principal and interest thereafter

ACADIA REALTY TRUST AND SUBSIDIARIES  
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6. Mortgage Loans, continued

The scheduled principal repayments of all mortgage indebtedness as of December 31, 2000 are as follows:

2001	\$ 21,595
2002	69,291
2003	25,916
2004	23,440
2005	56,912
Thereafter	79,958
	-----
	\$277,112
	=====

7. Minority Interests

Minority interest represents the limited partners' interest of 6,804,144 and 10,484,143 Common Operating Partnership ("Common OP") Units in the Operating Partnership at December 31, 2000 and 1999, respectively, and 2,212 units of Preferred Limited Partnership Interests designated as Series A Preferred Units ("Preferred OP Units") issued November 16, 1999 in connection with the acquisition of all the partnership interests of the limited partnership which owns the Pacesetter Park Shopping Center (note 2).

The Preferred OP Units, which have a stated value of \$1,000 each, are entitled to a quarterly preferred distribution of the greater of (i) \$22.50 (9% 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 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 Preferred OP Units at the lesser of \$7.50 or the market price of the Common Shares as of the conversion date.

On December 12, 2000 and August 15, 2000, 220,300 and 3,459,699 Common OP Units, respectively, were converted into Common Shares by certain limited partners.

Minority interests at December 31, 2000 and 1999 also include an aggregate amount of \$2,197 and \$2,223, respectively, representing interests held by third parties in four of the properties acquired in the RDC Transaction in which the Company has a majority ownership position.

8. Related Party Transactions

During 1998, the Company entered into the following transactions with Mr. Slomowitz, a former trustee and former principal shareholder, in connection with the RDC Transaction: (i) repaid a \$3,030 note related to the Company's 1996 purchase of the Union Plaza, (ii) paid \$600 in severance pay, (iii) paid \$100 on the closing of the RDC Transaction and agreed to pay \$100 on each of the following two anniversary dates of the closing of the RDC Transaction for his agreement not to compete with the Company and for certain consulting services, (iv) granted ten year options to purchase 300,000 Common Shares at an exercise price of \$9.00 per Common Share, (v) cancelled formerly issued options to purchase 200,000 Common Shares at \$12.00 per Common Share and (vi) agreed to pay a brokerage commission of 2% of the sales price of nine designated properties currently comprising a portion of the Company's portfolio, provided such commissions would not exceed \$600 in the aggregate.

On December 30, 1999, the Company and Mr. Slomowitz terminated certain of the obligations described above which were incurred in connection with the RDC Transaction. The principal terms included cancellation of the lease for the Company's prior headquarters in a building owned by Mr. Slomowitz. Rent expenses for this office space was \$119 and \$112 for the years ended December 31, 1999 and 1998, respectively. The Company paid Mr. Slomowitz the sum of \$329 in connection with the lease cancellation. Additionally, Mr. Slomowitz terminated his options to acquire 301,000 common shares and waived the final \$100 installment payment due August, 2000. The Company agreed to indemnify Mr. Slomowitz with respect to certain contingent liabilities. Mr. Slomowitz retains the right to continue to guarantee Company debt up to \$55,000.

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8. Related Party Transactions, continued

Mr. Slomowitz also removed all restrictions on the sale of any properties which he had originally contributed to the Company, waived his claims for present and future brokerage commissions and agreed to absorb up to \$1,250 of tax liabilities resulting in event of the sale thereof. Mr. Slomowitz also resigned from the Company's Board of Trustees effective December 8, 1999.

On July 16, 1999, and April 9, 1999, Mr. Slomowitz converted 600,000 and 100,000 Common OP Units, respectively, into Common Shares.

In connection with the RDC Transaction, the Company acquired certain property management contracts for three properties in which certain current shareholders of the Company or their affiliates have ownership interests. Management fees earned by the Company under these contracts are at rates ranging from 3% to 3.5% of collections. Such fees aggregated \$853, \$639 and \$225 for the years ended December 31, 2000, 1999 and 1998, respectively. Management fees earned under management contracts on properties owned by Mr. Slomowitz aggregated \$8 for the year ended December 31, 1998.

In connection with the RDC Transaction, the Company is obligated, for a period of five years following the transaction, to reimburse the partners of the real estate partnerships which contributed properties as part of the transaction, for any tax liabilities resulting from the sale of any of the contributed properties. As a result, in connection with the sale of a portion of the Abington Towne Center (note 2), the Company estimated that it was obligated to reimburse the partners of the partnership which contributed this property a total of approximately \$640. Of this amount, Mssrs. Dworman and Berstein are owed approximately \$275 as a result of their interests in the contributing partnership. The total estimated obligation was included in the determination of the gain on sale of the property.

9. Tenant Leases

Space in the shopping centers and other retail properties is leased to various tenants under operating leases which 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, 2000 are summarized as follows:

2001	\$ 51,025
2002	47,495
2003	44,179
2004	39,308
2005	32,589
Thereafter	201,162
	-----
	\$415,758
	=====

Minimum future rentals above include a total of \$5,110 for four tenants (with six leases), which have filed for bankruptcy protection. None of these leases have been rejected nor affirmed. During the years ended December 31, 2000, 1999 and 1998, no single tenant collectively accounted for more than 10% of the Company's total revenues.

ACADIA REALTY TRUST AND SUBSIDIARIES  
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10. Lease Obligations

The Company leases land at six of its shopping centers, which are accounted for as operating leases and generally provide the Company with renewal options. The leases terminate during the years 2016 to 2066. Four of these leases provide the Company with options to renew for additional terms aggregating from 20 to 44 years. The Company leases space for its New York City corporate office for a term expiring in 2002. Future minimum rental payments required for leases having remaining non-cancelable lease terms in excess of one year are as follows:

2001	\$ 714
2002	668
2003	642
2004	642
2005	642
Thereafter	20,641
	-----
	\$23,949
	=====

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 10 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. Pursuant to the 1999 Plan, non-employee Trustees receive an automatic grant of 1,000 options following each Annual Meeting of Shareholders. As of December 31, 2000, the Company has issued 2,115,600 options to officers and employees, which are for ten-year terms and vest in three equal annual installments beginning on the grant date. In addition, 9000 options have been issued to non-employee Trustees.

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 in value to the excess of the option exercise price over the fair market value of the Common Shares at the exercise 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. As of December 31, 2000, the Company issued 86,063 Restricted Shares to employees, which vest equally over three years. No awards of Share Appreciation Rights or Performance Units/Shares were granted for the years ended December 31, 2000 and 1999.

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

The Company accounts for stock-based compensation pursuant to Accounting Principles Board Opinion No. 25, "Accounting for Stock Issued to Employees" ("APB 25"), and related interpretations. Under APB 25, no compensation expense has been recognized in the accompanying financial statements related to the issuance of stock options because the exercise price of the Company's employee stock options equaled or exceeded the market price of the underlying stock on the date of grant. The alternative fair value accounting provided for under Statement of Financial Accounting Standards No. 123, "Accounting for Stock-Based Compensation" ("SFAS 123"), has not been elected by the Company.

Accordingly, pro forma information regarding net income and earnings per share as required by SFAS 123 has been determined as if the Company had accounted for its employee stock options under the fair value method. The fair value for these options was estimated at the date of the grant using the Black-Scholes option-pricing model with the following weighted-average assumptions:

	Year ended December 31,		
	2000 ----	1999 ----	1998 ----
Risk-free interest rate	4.9%	6.4%	5.2%
Dividend Yield	7.8%	9.5%	9.4%
Expected Life	7.7 years	8.6 years	9.7 Years
Expected volatility	30.0%	32.4%	37.7%

For purposes of pro forma disclosure, the estimated fair value of the options are amortized to expense over the options vesting period. For the years ended December 31, 2000 and 1999, pro forma net income is \$19,038, or \$0.72 per Share, and \$6,573, or \$0.26 per Common Share, respectively. For the year ended December 31, 1998, the Company has elected not to present proforma information because the impact on the reported net loss per Common Share is immaterial.

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

	Year ended December 31,		
	2000 ----	1999 ----	1998 ----
Outstanding at beginning of period		300,000	329,500
Granted	2,071,600 55,000	2,071,600	305,000
Option price per share granted	\$5.00-\$5.75	\$4.89-\$7.50	\$8.88-\$9.00
Cancelled	2,000	300,000	334,500
Exercisable at end of period	2,108,200	1,368,733	300,000
Exercised	--	--	--
Expired	--	--	--
Outstanding at end of period	2,124,600	2,071,600	300,000
Option prices per share outstanding	\$4.89-\$7.50	\$4.89-\$7.50	\$9.00

As of December 31, 2000 the outstanding options had a weighted average remaining contractual life of approximately 7.7 years.

ACADIA REALTY TRUST AND SUBSIDIARIES  
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12. 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 \$11 for the year ended December 31, 2000. The Company contributed \$143, \$93 and \$77 for the years ended December 31, 2000, 1999 and 1998, respectively.

13. Dividends and Distributions Payable

On December 13, 2000, the Company declared a cash dividend for the quarter ended December 31, 2000 of \$0.12 per Common Share. The dividend was paid on January 15, 2001 to shareholders of record as of December 29, 2000.

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

	2000	1999	1998
	----	----	----
Ordinary income	100%	41%	n/a
Return of capital	-	59%	n/a
	----	----	----
	100%	100%	n/a
	====	====	====

14. Fair Value of Financial Instruments

Statement of Financial Accounting Standards 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, Cash in Escrow, Rents Receivable, Prepaid Expenses, Other Assets, Accounts Payable and Accrued Expenses, Dividends Payable and Other Liabilities. The carrying amount of these assets and liabilities approximates fair value due to the short-term nature of such accounts.

Mortgage Notes Payable

As of December 31, 2000 and 1999, the Company has determined the estimated fair value of its mortgage notes payable are approximately \$287,588 and \$326,797, 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.

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

15. Summary of Quarterly Financial Information (unaudited)

The separate results of operations of the Company for the years ended December 31, 2000 and 1999 are as follows:

	March 31, 2000	June 30, 2000	September 30, 2000	December 31, 2000	Total for Year
Revenue	\$23,863	\$24,969	\$23,489	\$24,437	\$96,758
Income before minority interest	\$2,701	\$4,238	\$1,527	\$17,333	\$25,799
Net income	\$1,874	\$2,964	\$1,105	\$13,964	\$19,907
Net income per Common Share - basic and diluted	\$0.07	\$0.12	\$0.04	\$0.49	\$0.75
Cash dividends declared per Common Share	\$0.12	\$0.12	\$0.12	\$0.12	\$0.48
Weighted average Common Shares outstanding - basic and diluted	25,476,098	25,241,794	26,789,666	28,218,059	26,437,265

	March 31, 1999	June 30, 1999	September 30, 1999	December 31, 1999	Total for Year
Revenue	\$22,251	\$21,904	\$24,428	\$ 24,126	\$92,709
Income before minority interest	\$ 1,141	\$ 1,886	\$ 4,362	\$ 2,936	\$10,325
Net income	\$ 765	\$ 1,289	\$ 3,083	\$ 2,058	\$ 7,195
Net income per Common Share - basic and diluted	\$ 0.03	\$ 0.05	\$ 0.12	\$ 0.08	\$ 0.28
Cash dividends declared per Common Share	\$ 0.12	\$ 0.12	\$ 0.12	\$ 0.12	\$ 0.48
Weighted average Common Shares outstanding - basic and diluted	25,419,215	25,510,424	25,988,860	25,908,199	25,708,787

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

16. Legal Proceedings

On November 20, 1995, Jack Wertheimer, a former President of the Company, filed a complaint against the Company, its Trustees, including Mr. Slomowitz, and the Company's former in-house General Counsel and former Chief Financial Officer in the United States District Court for the Middle District of Pennsylvania. The complaint, which was filed in connection with the termination of Mr. Wertheimer's employment, included many of the allegations raised in a state court proceeding commenced by Mr. Wertheimer in November 1994. The Federal court complaint also included a civil RICO action in which Mr. Wertheimer alleged that the Board of Trustees of the Company conspired with Mr. Slomowitz to terminate Mr. Wertheimer's employment as part of the Mr. Slomowitz's breach of his duty of good faith and fair dealing. Further, Mr. Wertheimer alleged that the above defendants engaged in securities fraud in connection with the initial public offering and that Mr. Slomowitz defrauded or overcharged the Company in corporate transactions. The Federal complaint sought treble damages under RICO, as well as damages arising from Mr. Wertheimer's alleged termination of employment, invasion of privacy, intentional infliction of emotional distress, fraud and misrepresentation.

On December 31, 1998, the Company and Mr. Wertheimer settled this litigation and entered into an agreement whereby the Company paid Mr. Wertheimer \$1,000 on December 31, 1998 and \$900 on April 1, 1999 and agreed to pay him five annual payments of \$200 which commenced January 10, 2000. Pursuant to this agreement, the Company has obtained a standby letter of credit to collateralize the remaining future payments.

The Company is involved in other 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.

17. Contingencies

Upon conducting environmental site inspections in connection with obtaining the Morgan Stanley Mortgage Capital ("Morgan Stanley") financing during October 1996, certain environmental contamination was identified at the Troy Plaza in Troy, New York. The Company entered into a voluntary remedial agreement with the State of New York for the remediation of the property. During 2000, the Company satisfied all conditions to the voluntary remedial agreement and received final approval from the State of New York. All remaining amounts held by Morgan Stanley pertaining to environmental remediation were released in October 2000.

Management is not aware of any other 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.



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

18. Extraordinary Item - Loss on Early Extinguishment of Debt

The consolidated statements of operations for the year ended December 31, 1998 includes the write-off of \$707 in net deferred financing fees as a result of the repayment of the related mortgage debts.

19. Pro Forma Information

The following unaudited pro forma condensed consolidated information for the year ended December 31, 1998 is presented as if the RDC Transaction had occurred on January 1, 1997.

Revenue	\$ 84,053 =====
Loss income before extraordinary item	\$ (5,886)
Net loss income	\$ (6,067)
Net (loss) income per Common Share- basic and diluted	\$ (0.24)
Weighted average number of Common Shares outstanding	24,677,928 =====
Weighted average number of Common Shares outstanding- assuming dilution	24,677,928 =====

20. Subsequent Events

On January 8, 2001, the Company partially repaid \$10,087 of fixed-rate mortgage debt, which was secured by two of the Company's properties, with a life insurance company. Following this repayment from working capital, the remaining balance of \$7,912 was converted to a variable-rate facility which is secured by one of the Company's properties, requires the monthly payments of interest at LIBOR plus 200 basis points and principal amortized over 25 years, and matures January 10, 2002.

On January 4, 2001, the Company announced that Kenneth F. Bernstein, President, was elected by the Board of Trustees to the additional post of Chief Executive Officer and that Ross Dworman, former Chairman and Chief Executive Officer, is to remain as Chairman of the Board.

ACADIA REALTY TRUST  
SCHEDULE III-REAL ESTATE AND ACCUMULATED DEPRECIATION  
December 31, 2000

Description	Encumbrances	Land	Buildings & Improvements	Costs capitalized Subsequent to Acquisition	Land
Shopping Centers					
Circle Plaza Shamokin Dam, PA	(1)	\$ -	\$ 3,435	\$ 152	\$ 2
Martintown Plaza North Augusta, SC	(1)	-	4,625	1,648	-
Midway Plaza Opelika, AL	(1)	196	1,647	3,171	196
Northside Mall Dothan, AL	(1)	1,604	7,080	4,103	1,604
New Smyrna Beach New Smyrna Beach FL	(1)	246	2,219	3,982	246
King's Fairground Danville, VA	(1)	-	1,426	338	-
Cloud Springs Plaza Ft Ogelthorpe, GA	(1)	159	2,712	1,177	159
Crescent Plaza Brockton, MA		1,147	7,425	512	1,147
	8,882				
New Loudon Centre Latham, NY	(2)	505	4,161	10,130	505
Ledgewood Mall Ledgewood, NJ	(2)	619	5,434	31,415	619
Troy Plaza Troy, NY	(1)	479	1,976	1,094	479
Birney Plaza Moosic, PA	(1)	210	2,979	803	210
Dunmore Plaza Dunmore, PA	(1)	100	506	137	100
Mark Plaza Edwardsville, PA		-	4,268	4,111	-
Kingston Plaza Kingston, PA	(1)	305	1,745	463	284
Luzerne Street Plaza Scranton, PA		35	315	1,208	35
Blackman Plaza Wilkes-Barre, PA		120	-	1,383	120
East End Centre Wilkes-Barre, PA		1,086	8,661	3,559	1,086
Greenridge Plaza Scranton, PA		1,335	6,314	655	1,335
Plaza 15 Lewisburg, PA	(1)	171	81	1,481	171

[RESTUB]

Description	Buildings & Improvements	Total	Accumulated Depreciation	Date of Acquisition (a) Construction (c)
Shopping Centers				
Circle Plaza Shamokin Dam, PA	\$ 3,585	\$ 3,587	\$ 1,470	1978(c)
Martintown Plaza North Augusta, SC	6,273	6,273	2,755	1985(a)
Midway Plaza Opelika, AL	4,818	5,014	2,384	1984(a)
Northside Mall Dothan, AL	11,192	12,796	4,653	1986(a)
New Smyrna Beach New Smyrna Beach FL	6,201	6,447	3,338	1983(a)
King's Fairground Danville, VA	1,764	1,764	552	1992(a)
Cloud Springs Plaza Ft Ogelthorpe, GA	3,889	4,048	1,795	1985(a)
Crescent Plaza Brockton, MA	7,937	9,084	3,207	1984(a)
New Loudon Centre Latham, NY	14,291	14,796	4,871	1982(a)
Ledgewood Mall Ledgewood, NJ	36,849	37,468	16,238	1983(a)
Troy Plaza Troy, NY	3,070	3,549	1,692	1982(a)
Birney Plaza Moosic, PA	3,782	3,992	3,374	1968(c)
Dunmore Plaza Dunmore, PA	643	743	331	1975(a)
Mark Plaza Edwardsville, PA	8,379	8,379	4,140	1968(c)
Kingston Plaza Kingston, PA	2,229	2,513	1,324	1982(c)
Luzerne Street Plaza Scranton, PA	1,523	1,558	865	1983(a)
Blackman Plaza Wilkes-Barre, PA	1,383	1,503	122	1968(c)
East End Centre Wilkes-Barre, PA	12,220	13,306	5,834	1986(c)
Greenridge Plaza Scranton, PA	6,969	8,304	3,176	1986(c)
Plaza 15 Lewisburg, PA	1,562	1,733	609	1976(c)

ACADIA REALTY TRUST  
SCHEDULE III-REAL ESTATE AND ACCUMULATED DEPRECIATION  
December 31, 2000

Description	Encumbrances	Land	Buildings & Improvements	Costs capitalized Subsequent to Acquisition	Land
Shopping Centers (cont.)					
Plaza 422 Lebanon, PA	-	190	3,004	517	190
Tioga West Tunkhannock, PA	-	48	1,238	3,215	48
Mountainville Plaza Allentown, PA	(1)	420	2,390	486	420
Monroe Plaza Stroudsburg, PA	(1)	70	2,083	288	150
Ames Plaza Shamokin, PA	(1)	57	1,958	316	57
Route 6 Mall Honesdale, PA	(2)	-	-	12,696	1,664
Pittston Mall Pittston, PA	3,775	1,500	-	5,956	1,521
Valmont Plaza West Hazelton, PA	3,100	522	5,591	1,030	522
Manahawkin Stafford Township, NJ	4,891	2,360	9,396	4,890	3,065
Twenty Fifth Street Easton, PA	(1)	2,280	9,276	199	2,280
Berlin Shopping Centre Berlin, NJ	(2)	1,331	5,351	205	1,331
Shillington Plaza Reading, PA	(1)	809	3,268	322	809
Union Plaza New Castle, PA	-	-	-	19,127	4,312
Bradford Towne Centre Towanda, PA	(2)	-	-	16,100	817
Atrium Mall Abington, PA	-	799	3,197	24	799
Bloomfield Town Square Bloomfield Hills, MI	8,894	3,443	13,774	245	3,443
Walnut Hill Plaza Woonsocket, RI	9,104	3,122	12,488	418	3,122
Elmwood Park Plaza Elmwood Park, NJ	-	3,248	12,992	218	3,248
Merrillville Plaza Hobart, IN	13,775	4,288	17,152	829	4,288
Soundview Marketplace Port Washington, NY	8,965	2,428	9,711	1,332	2,428
Marketplace of Absecon Absecon, NJ	3,500	2,573	10,294	2,316	2,577

[RESTUB]

Description	Buildings & Improvements	Total	Accumulated Depreciation	Date of Acquisition (a) Construction (c)
Shopping Centers (cont.)				
Plaza 422 Lebanon, PA	3,521	3,711	2,168	1972(c)
Tioga West Tunkhannock, PA	4,453	4,501	2,246	1965(c)
Mountainville Plaza Allentown, PA	2,876	3,296	1,649	1983(a)
Monroe Plaza Stroudsburg, PA	2,291	2,441	1,120	1964(c)
Ames Plaza Shamokin, PA	2,274	2,331	1,772	1966(c)
Route 6 Mall Honesdale, PA	11,032	12,696	2,385	1995(c)
Pittston Mall Pittston, PA	5,935	7,456	1,114	1995(c)
Valmont Plaza West Hazelton, PA	6,621	7,143	3,257	1985(a)
Manahawkin Stafford Township, NJ	13,581	16,646	2,167	1993(a)
Twenty Fifth Street Easton, PA	9,475	11,755	2,314	1993(a)
Berlin Shopping Centre Berlin, NJ	5,556	6,887	1,322	1994 (a)
Shillington Plaza Reading, PA	3,590	4,399	724	1994 (a)
Union Plaza New Castle, PA	14,815	19,127	1,987	1996 (c)
Bradford Towne Centre Towanda, PA	15,283	16,100	3,483	1994 (c)
Atrium Mall Abington, PA	3,221	4,020	193	1998(a)
Bloomfield Town Square Bloomfield Hills, MI	14,019	17,462	834	1998(a)
Walnut Hill Plaza Woonsocket, RI	12,906	16,028	948	1998(a)
Elmwood Park Plaza Elmwood Park, NJ	13,210	16,458	772	1998(a)
Merrillville Plaza Hobart, IN	17,981	22,269	1,137	1998(a)
Soundview Marketplace Port Washington, NY	11,043	13,471	712	1998(a)
Marketplace of Absecon Absecon, NJ	12,606	15,183	704	1998(a)

ACADIA REALTY TRUST  
SCHEDULE III-REAL ESTATE AND ACCUMULATED DEPRECIATION  
December 31, 2000

Description	Encumbrances	Land	Buildings & Improvements	Costs capitalized Subsequent to Acquisition	Land
<hr/>					
Shopping Centers (cont.)					
Hobson West Plaza Naperville, IL	-	1,793	7,172	353	1,793
Smithtown Shopping Center Smithtown, NY	9,216	3,229	12,917	933	3,229
Town Line Plaza Rocky Hill, CT	4,110	878	3,510	6,578	909
Branch Shopping Center Village of the Branch, NY	9,887	3,156	12,545	100	3,156
The Caldor Shopping Center Methuen, MA	-	956	3,826	0	956
Gateway Mall Burlington, VT	6,222	1,273	5,091	-	1,273
Mad River Station Dayton, OH	7,442	2,350	9,404	53	2,350
Pacesetter Park Shopping Center Ramapo, NY	-	1,475	5,899	212	1,475
239 Greenwich Greenwich, CT	13,636	1,817	15,846	163	1,817
Residential Properties					
Gate House, Holiday House, Tiger Village Columbia, MO	11,100	2,312	9,247	910	2,312
Village Apartments Winston Salem, NC	9,856	3,429	13,716	615	3,429
Colony Apartments Columbia, MO	5,550	1,118	4,470	264	1,118
Properties under development	-	-	-	6,301	-
	<hr/>				
	\$ 277,112 (5)	\$ 61,591	\$ 293,815	\$ 158,733	\$ 69,206
	<hr/> <hr/>				

[RESTUB]

Description	Buildings & Improvements	Total	Accumulated Depreciation	Date of Acquisition (a) Construction (c)
Shopping Centers (cont.)				
Hobson West Plaza Naperville, IL	7,525	9,318	503	1998(a)
Smithtown Shopping Center Smithtown, NY	13,850	17,079	1,028	1998(a)
Town Line Plaza Rocky Hill, CT	10,057	10,966	1,020	1998(a)
Branch Shopping Center Village of the Branch, NY	12,645	15,801	746	1998(a)
The Caldor Shopping Center Methuen, MA	3,826	4,782	227	1998(a)
Gateway Mall Burlington, VT	5,091	6,364	96	1999(a)
Mad River Station Dayton, OH	9,457	11,807	436	1999(a)
Pacesetter Park Shopping Center Ramapo, NY	6,111	7,586	166	1999(a)
239 Greenwich Greenwich, CT	16,009	17,826	527	1999(c)
Residential Properties				
Gate House, Holiday House, Tiger Village Columbia, MO	10,157	12,469	703	1998(a)
Village Apartments Winston Salem, NC	14,331	17,760	958	1998(a)
Colony Apartments Columbia, MO	4,734	5,852	313	1998(a)
Properties under development	6,301	6,301	-	
	-----	-----	-----	
	444,933	\$ 514,139	\$ 102,461	
	=====	=====	=====	

Acadia Realty Trust  
Notes To Schedule 3  
December 31, 2000

1. These seventeen properties serve as collateral for the financing with Morgan Stanley (note 6).
2. These five properties serve as collateral for the financing with Dime Savings Bank (note 6).
3. Depreciation and investments in buildings and improvements reflected in the statements of operations 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

4. The aggregate gross cost of property included above for Federal income tax purposes was \$453,994 as of December 31, 2000.
5. Total encumbrances include \$14,238 and \$17,792 for Marley Run Apartments and Glen Oaks Apartments which are separately disclosed as Property held for sale in the balance sheet.
- 6.(a) Reconciliation of Real Estate Properties:

The following table reconciles the real estate properties from January 1, 1998 to December 31, 2000:

	For the year ended December 31,		
	2000	1999	1998
	----	----	----
Balance at beginning of period	\$ 569,521	\$ 551,249	\$ 311,688
Other improvements	13,998	19,728	16,647
Properties acquired	-	25,905	254,164
Adjustment of carrying value of property held for sale	-	-	(11,560)
Property held for sale	(54,819)	(27,301)	(11,991)
Fully depreciated assets written off	(11)	(60)	(3,350)
Sale of property	(14,550)	-	(4,349)
Balance at end of period	\$ 514,139	\$ 569,521	\$ 551,249
	=====		

(b) Reconciliation of accumulated Depreciation:

The following table reconciles accumulated depreciation from January 1, 1998 to December 31, 2000:

	For the year ended December 31,		
	2000	1999	1998
	----	----	----
Balance at beginning of period	\$ 90,932	\$ 87,202	\$ 83,326
Sale of property	(453)	-	(2,035)
Property held for sale	(5,374)	(14,074)	(4,918)
Fully depreciated assets written off	(11)	(60)	(3,350)
Depreciation related to real estate	17,367	17,864	14,179
Balance at end of period	\$ 102,461	\$ 90,932	\$ 87,202



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 Number	Description
10.45	Sale-Purchase Agreement between Acadia Realty L.P. and Mark Northwood Associates L.P., seller, and UrbanAmerica, L.P., Buyer, dated June 14, 2000
10.46	Purchase Agreement between RD Abington Associates L.P. and Target Corporation dated June 29, 2000
10.47	Agreement to Sell and Purchase real estate between Mark Twelve Associates, L.P. and Lowes Home Centers, Inc. dated April 25, 2000
10.48	Amended and Restated Mortgage Note between Port Bay Associates, LLC and Fleet Bank, N.A. dated July 19, 2000
10.48.a	Mortgage and Security Agreement between Port Bay Associates, LLC and Fleet Bank, N.A. dated July 19, 2000
10.49	Amended and Restated Promissory Note Between Acadia Realty L.P. and Metropolitan Life Insurance Company for \$25.2 million dated October 13, 2000
10.50	Amended and Restated Promissory Note Between Acadia Realty L.P. and Metropolitan Life Insurance Company for \$10.8 million dated October 13, 2000
10.50.a	Amended and Restated Mortgage, Security Agreement and Fixture Filing between Acadia Realty L.P. and Metropolitan Life Insurance Company dated October 13, 2000
10.51	Term Loan Agreement between Acadia Realty L.P. and The Dime Savings Bank of New York, dated March 30, 2000
10.51.a	Mortgage Agreement between Acadia Realty L.P. and The Dime Savings Bank of New York, dated March 30, 2000
10.52	Promissory Note between RD Whitegate Associates, L.P. and Bank of America, N.A. Dated December 22, 2000
10.53	Promissory Note between RD Columbia Associates, L.P. and Bank of America, N.A. Dated December 22, 2000
21	List of Subsidiaries of Acadia Realty Trust
23	Consent of Independent Auditors to Form S-3 and Form S-8

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SALE-PURCHASE AGREEMENT

between

Acadia Realty Limited Partnership  
and  
Mark Northwood Associates Limited Partnership,  
Seller

and

UrbanAmerica, L.P.,  
Purchaser

Dated as of June 14, 2000

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LIST OF EXHIBITS

Exhibit

A	Description of the Land
B	Escrow Agreement
C	Permitted Encumbrances
D	Leases
E	Actions
F	Free Rent, Concessions, Allowances, Rebates Or Refunds
G	Deed
H	Assignment and Assumption of Leases and Security Deposits
I	Assignment and Assumption of Contracts and Licenses
J	Contracts
K	Intangible Property/Assignment and Assumption of Intangible Property
L	Notice to Tenants
M	Seller's FIRPTA Affidavit
N	Major Tenants
O	Tenant Estoppel Certificate
P	Insurance Policies
Q	Collection Account; Reimbursement Amount Adjustment

SALE PURCHASE AGREEMENT (this "Agreement"), dated as of the 14th day of June, 2000 by and between Acadia Realty Limited Partnership ("Acadia"), a Delaware limited partnership, and Mark Northwood Associates Limited Partnership ("Borrower"), a Florida limited partnership, both having an office at 20 Soundview Marketplace, Port Washington, New York 11050 (Acadia and Borrower are sometimes hereinafter collectively referred to as "Seller"), and UrbanAmerica, L.P., a Delaware limited partnership, having an office at 30 Broad Street, New York, New York 10004, ("Purchaser").

WITNESSETH

WHEREAS, Acadia is the fee owner of the Premises commonly known as Northwood Centre which is located at 1940 Monroe Street, Tallahassee, Florida 32303 ("Premises"); and

WHEREAS, pursuant to that certain lease dated March 1, 1997 ("Ground Lease"), Acadia let and demised the Premises to Borrower; and

WHEREAS, Seller and Purchaser now desire to enter into an agreement whereby, subject to the terms and conditions contained herein, Seller shall sell the Premises and the Ground Lease to Purchaser and Purchaser shall purchase the Premises and the Ground Lease from Seller; and

WHEREAS, Purchaser acknowledges that, except as set forth herein, Seller has made no representations or warranties to Purchaser regarding the Premises or the operation thereof.

NOW, THEREFORE, in consideration of Ten (\$10.00) Dollars and the mutual covenants and agreements hereinafter set forth, and intending to be legally bound hereby, it is hereby agreed as follows:

1. Sale of Premises

Seller agrees to sell and convey to Purchaser, and Purchaser agrees to purchase from Seller, at the price and upon the terms and conditions set forth in this Agreement, all those certain plots, pieces and parcels of land located in the City of Tallahassee, County of Leon and State of Florida, as more particularly described in Exhibit "A" annexed hereto and made a part hereof (the "Land") and all of its interest in the Ground Lease, together with (i) all buildings and other improvements situated on the Land (collectively, the "Buildings"), (ii) all easements, rights of way, reservations, privileges, appurtenances, and other estates and rights of Seller pertaining to the Land and the Buildings, (iii) all right, title and interest of Seller in and to all fixtures, pumps, machinery, generators, equipment, supplies and other articles of personal property attached or appurtenant to the Land or the Buildings, or located thereon or used in connection therewith (collectively, the "Personal Property"), (iv) all oil, gas and mineral rights of Seller, if any, in and to the Land, (v) all right, title and interest of Seller, if any, in and to the trade names of the Buildings, and (vi) all right, title and interest of Seller, if any, in and to all strips and gores, all alleys adjoining the Land, and the 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 right, title and interest of Seller, if any, in and to any award made or to be made in lieu thereof and in and to any unpaid award for any taking by condemnation or any damages to the Land or the Buildings by reason of a change of grade of any street, road or avenue (the Land, together with all of the foregoing items listed in clauses (i) - (vi) above being herein sometimes collectively referred to as the "Premises").

## 2. Purchase Price

The purchase price to be paid by Purchaser to Seller for the Premises (the "Purchase Price") is Thirty-One Million and 00/100ths (\$31,000,000.00) Dollars (subject to adjustment as hereinafter described) payable as follows:

(a) Three Hundred Thousand and 00/100ths (\$300,000.00) Dollars due upon execution of this Agreement ("Initial Deposit") simultaneously with the execution and delivery of this Agreement, by a bank wire transfer of immediately available funds to Blackwell Sanders Peper Martin ("Escrow Agent") and One Million Seven Hundred Thousand and 00/100ths (\$1,700,000.00) Dollars ("Additional Deposit") payable to the Escrow Agent prior to the expiration of the Due Diligence Period (as defined in Section 4(a) of this Agreement) time being of the essence, (the Initial Deposit and Additional Deposit shall be collectively referred to herein as the "Downpayment"). The Downpayment shall be held by Escrow Agent in an interest-bearing account in accordance with the terms of the escrow agreement to be entered into between the parties and Escrow Agent in the form annexed hereto as Exhibit "B" ("Escrow Agreement") of this Agreement. The Downpayment and any interest accrued thereon while held by the Escrow Agent shall hereinafter collectively be referred to as the "Fund"; and

(b) By Purchaser assuming, at Closing, all of the obligations contained in that certain note dated March 4, 1997 from Mark Northwood Associates, Limited Partnership to Nomura Capital Asset Corporation ("Lender"), in the original principal sum of \$23,000,000.00 (the "Note") secured by that certain Mortgage of even date and recorded on March 5, 1997 in the Official Records Book 1989 at Page 2016 of the Public Records of Leon County, Florida (the "Mortgage") which Purchaser shall assume. As of the date hereof, Purchaser represents that the unpaid principal balance of the Loan is approximately \$22,242,000.00. Purchaser agrees that prior to Closing, there will be no payment of principal on the Note beyond the regular monthly payments required in the Loan Agreement (as hereafter defined) and Seller shall continue to pay when due all obligations due thereunder; and

(c) An amount equal to the Purchase Price (reduced by the Downpayment, if any) plus any amounts due Seller pursuant to Section 8(a) less the outstanding balance of the Note as of the Closing Date shall be due and payable at the Closing by bank wire transfer of immediately available federal funds to Seller's account or to the account or accounts of such other party or parties as may be designated by Seller on or before the Closing Date (as defined in Section 6).

## 3. Assumption of Loan; Mezzanine Financing

(a) Pursuant to that certain Loan Agreement dated as of March 4, 1997 ("Loan Agreement"), Borrower, and Lender, completed a transaction wherein and whereby Lender agreed to advance up to \$23 Million to Borrower upon the terms and conditions contained in the Loan Agreement and other agreements referred to therein, (the Loan Agreement and the other documents are sometimes hereinafter collectively referred to as the "Loan Documents"). As security for the Note, Borrower executed and delivered the Mortgage to Lender wherein Borrower granted and conveyed to Lender a lien and security interest in all of Borrower's right, title and interest in the Ground Lease and Acadia joined in the execution of the Mortgage to evidence that its interest in the Premises would be subject and subordinate to the lien created thereby together with all of the terms and conditions of all of the Loan Documents.

Seller has advised Purchaser that, among other things, the sale of the Premises without the consent of the Lender would constitute a default under the Loan Documents thereby allowing the Lender to accelerate the Note and obligate Borrower to prepay same together with the Yield Maintenance Premium (as defined in the Loan Agreement). Seller's obligation to convey the Premises to Purchaser pursuant to this Agreement is specifically conditioned upon Seller being able to obtain Lender's consent to the sale of the Property subject to the Loan Agreement and all of the Loan Documents without the necessity of the payment of the Yield Maintenance Premium by Seller. Such consent shall be contained in the estoppel certificate referred to in Section 3(e) herein and must be obtained not more than ninety (90) days from the expiration of the Due Diligence Period or either party may terminate this Agreement.

(b) Upon notice from Purchaser, Seller and Purchaser will jointly use their collective good faith efforts to attempt to obtain Lender's consent to the sale of the Premises to Purchaser subject to the outstanding balance then due under the Note as well as all of the terms of the Loan Documents. Under no circumstances shall Seller be obligated to pay any fee to Lender to obtain such consent. Purchaser agrees to reasonably cooperate with Seller in its efforts to obtain such consent and to pay all costs or fees imposed by the Lender to obtain such consent. Such cooperation shall include, but not be limited to, Purchaser (i) having its organizational documents conform to the reasonable requirements of the Loan Agreement; (ii) providing Lender and the Rating Agencies with all available background material on Purchaser and its principals as Lender or the Rating Agencies may reasonably request; and (iii) agreeing to be bound by all of the terms and conditions contained in the Loan Documents as well as such reasonable modifications thereto as Lender or the Rating Agencies may reasonably request, provided that such modifications do not adversely affect the economic terms of the Note or Loan Agreement, do not increase the obligations or reduce the rights of the borrower thereunder or require the expenditure of any sums by Purchaser. Seller agrees to not modify any of the Loan Documents prior to Closing without Purchaser's consent.

Seller and Purchaser shall keep each other fully apprised of its discussions with Lender related to this Agreement. Subject to Section 6(b), Seller shall have the right to extend the Closing Date for up to sixty (60) days in order to obtain the consent of Lender to the transfer of the Premises to Purchaser unless either party shall terminate this Agreement pursuant to the immediately succeeding sentence. In the event that Lender fails or refuses to give its consent within sixty (60) days from the expiration of the Due Diligence Period, either party to this Agreement may terminate the Agreement, the Fund shall be returned to Purchaser, and the parties hereto shall have no further rights, duties, obligations or liabilities to one another hereunder except as specifically provided herein to the contrary.

(c) The parties acknowledge that pursuant to Section 2.12 of the Loan Agreement all revenue from the Premises is deposited into either the Collection Account or the Security Deposit Account (as those terms are defined in the Loan Agreement).

(i) The Security Deposit Account. At the Closing, Seller will assign to Purchaser all of its interest in the Security Deposit Account.

(ii) The Collection Account. Pursuant to the Collection Account Agreement all funds deposited in the Collection Account are transferred on a daily basis into a Cash Collateral Account which is composed of the following: (a) a Ground Rents Sub-Account; (b) a Debt Service Payment Sub-Account; (c) a Basic Carrying Cost Sub-Account; (d) a Capital Reserve Sub-Account; (e) a State of Florida Lease Sub-Account; (f) an Emergency Holdback Sub-Account; and (g) an Operating Expense Sub-Account. As of the date hereof, the amounts in each of the foregoing Accounts is set forth on Exhibit "Q". At the Closing, Seller will assign to Purchaser all of its interest in all of the foregoing accounts and Purchaser shall pay to Seller, in addition to the Purchase Price, the sum of One Million Eight Hundred Thousand (\$1,800,000) Dollars ("Reimbursement Amount"). Until Closing, Seller shall have the right to access the funds in the foregoing accounts in accordance with the terms of the Loan Agreement except that Seller agrees not to access any of the funds in the State of Florida Lease Sub-Account. In the event the total of the funds in such Accounts is more or less than \$3,250,000, the Reimbursement Amount shall be adjusted in accordance with the formula set forth on Exhibit "Q".

(d) Purchaser shall be in compliance with all of Lender's reasonable requirements for the transfer of the Premises and the assumption of the Note in accordance with the Loan Agreement, including but not limited to, the requirement that Purchaser be a single purpose entity that does not engage in any business or activity other than the ownership, operation and maintenance of the Premises and activities incidental thereto. If Purchaser does not satisfy Lender's reasonable requirements to be considered a single purpose entity, Purchaser shall take all necessary steps to ensure compliance with such requirements including, but not limited to, executing an assignment of its rights and obligations under this Agreement (in accordance with the terms set forth in Section 2) to an affiliated entity that does meet Lender's requirements.

(e) As a condition of Closing, Seller shall obtain and deliver to Purchaser an estoppel certificate executed by Lender dated not more than thirty (30) days prior to Closing that indicates (i) its consent to the transfer of the Premises to Purchaser and to the Purchaser's assumption of all of the obligations under the Loan Documents; (ii) the outstanding balance due under the Note; (iii) that the Loan Agreement is in full force and effect and has not been modified (or if modified, setting forth all modifications); (iv) that there are not any existing defaults by Seller and Borrower in the performance of their obligations under the Loan Agreement; (v) the date through which interest has been paid; (vi) the amount held in each of the sub-accounts referred to in Section 3 of this Agreement; (vii) the capacity of the person executing such certificate, and that such person is duly authorized to execute the same on behalf of Lender; and (viii) that attached thereto is a true copy of each of the Loan Documents and all amendments and modifications thereto ("Lender Estoppel"). In the event that the Lender Estoppel shall not state that attached thereto is a true copy of each of the Loan Documents and all amendments and modifications thereto, as a condition of Closing Seller shall execute and deliver to Purchaser an estoppel certificate at Closing that indicates that attached thereto is a true copy of each of the Loan Documents and all amendments and modifications thereto.

(f) During the Due Diligence Period (as defined hereinafter), Purchaser shall seek to obtain a commitment for mezzanine financing from an institution or other entity (the "Mezzanine Lender") in an amount such that, when combined with the amount being assumed by Purchaser pursuant to the Loan Agreement, it will constitute at least 75% of all of Purchaser's costs in connection with purchasing the Premises, including without limitation, the Purchase Price, the Reimbursement Amount, tenant improvement costs and other closing costs, on terms and conditions satisfactory to Purchaser in its sole discretion ("Mezzanine Financing"). If Purchaser shall obtain a commitment for Mezzanine Financing (the "Commitment"), Purchaser shall provide Seller with a copy of the Commitment at least five (5) business days prior to the expiration of the Due Diligence Period. Prior to the expiration of the Due Diligence Period, Seller shall provide Purchaser with written notice either approving the terms of the Commitment, or disapproving the terms of the Commitment and specifying the reasons therefor. In the event that Purchaser shall notify Seller at or prior to Closing that the Commitment is no longer effective or that the Mezzanine Lender has failed to provide the Mezzanine Financing, then Purchaser shall not be obligated under this Agreement to purchase the Premises, unless either (i) Seller shall have disapproved the terms of the Commitment prior to the expiration of the Due Diligence Period, or (ii) Seller, upon its election, shall provide Mezzanine Financing on substantially the same terms and conditions as contained in the Commitment, except that (A) the interest rate shall be 18% per annum, (B) Seller shall charge no points or financing fees to Purchaser, (C) the loan may be prepaid by Purchaser at any time without penalty or charge, and (D) the term of the loan shall be three (3) years with an option exercisable by Purchaser in its sole discretion without charge to extend the term until the expiration of the Loan Agreement.

#### 4. Due Diligence Period

(a) The parties hereto acknowledge that Purchaser, as of the date of the execution of this Agreement, has not yet had an opportunity to review, examine, evaluate or otherwise satisfy itself with respect to the financial or economic viability of the transaction contemplated hereby, the soil condition, environmental condition, engineering inspections of the Premises, the terms and provisions of the Leases, Contracts, Loan Documents or other aspects of the Premises. In that regard, Purchaser shall have until July 24, 2000 (the "Due Diligence Period"), in which to conduct such inspections and otherwise examine same. In the event Purchaser fails to deliver the Additional Deposit to the Escrow Agent prior to 5:00 p.m. on July 24, 2000 (the "Due Diligence Date"), or prior thereto provides written notice to Seller of its election to cancel the Agreement, which Purchaser may do in its sole discretion, this Agreement shall be null and void and the Fund shall be returned to Purchaser, whereupon the parties hereto shall have no further rights, duties, obligations or liabilities to one another hereunder except as specifically provided herein to the contrary. Purchaser's timely delivery of the Additional Deposit shall confirm its election to proceed with the transaction in accordance with this Agreement.

(b) Immediately after executing this Agreement and until Closing, Seller will furnish, or cause to be furnished, to Purchaser any documents and other information requested by Purchaser with respect to the Premises and the Loan Documents which Seller has in its possession (without payment of additional fees therefor), including, but not limited to, the Premises Information (as defined in Section 22(e)).



(c) Seller agrees to promptly furnish Purchaser with all necessary authorizations to make searches of records of applicable governmental and quasi-governmental authorities, if required.

(d) Purchaser, its agents, employees and representatives shall have access to the Premises at all times during regular business hours and subsequent to the date of execution of this Agreement with full right to: (i) inspect the Premises; (ii) review, inspect, copy and analyze all books, records and other financial information and data of Seller with respect to the Premises and the operation thereof; and (iii) subject to the conditions hereinafter set forth, to conduct all tests thereon including, but not limited to, soil borings, engineering investigations and hazardous waste studies, and to make such other examinations with respect thereto as Purchaser, its counsel, licensed engineers, surveyors or other representative may deem necessary or desirable (collectively "Investigations").

Prior to its entry upon the Premises to conduct Investigations, (i) Purchaser shall give Seller not less than two (2)-days prior notice before the first such entry and one (1)-day prior notice before each subsequent entry, (ii) the first such notice shall include sufficient information to permit Seller to review the scope of the proposed Investigations, and (iii) neither Purchaser nor Purchaser's Representatives shall permit any borings, drillings or samplings to be done on the Premises without Seller's prior written consent which shall not be unreasonably withheld or delayed. Notwithstanding the foregoing, Seller hereby consents to such borings, drillings, or samplings which are reasonable and customary in connection with the performance of a Phase I Environmental Assessment. Any entry upon the Premises and all Investigations shall be during Seller's normal business hours and at the sole risk and expense of Purchaser and Purchaser's Representatives, and shall not interfere with the activities on or about the Premises of Seller, its tenants and their employees and invitees. Purchaser shall:

(i) promptly repair any damage to the Premises resulting from any such Investigations and replace, refill and regrade any holes made in, or excavations of, any portion of the Premises used for such Investigations so that the Premises shall be in substantially the same condition that it existed in prior to such Investigations;

(ii) fully comply with all laws applicable to the Investigations and all other activities undertaken in connection therewith;

(iii) permit Seller to have a representative present during all Investigations undertaken hereunder;

(iv) take all actions and implement all protections necessary to ensure that all actions taken in connection with the Investigations, and the equipment, materials, and substances generated, used or brought onto the Premises pose no threat to the safety or health of persons or the environment, and cause no damage to the Premises or other property of Seller or other persons;

(v) Purchaser may speak with tenants of the Premises on the following conditions: (A) Purchaser must provide Seller with a minimum of two (2)-days notice; and (B) Seller must be present during any conversations between Purchaser and tenants;

(vi) maintain or cause any contractor to maintain, at Purchaser's or its contractor's expense, a policy of comprehensive general public liability insurance, with a broad form contractual liability endorsement covering Purchaser's indemnification obligations contained in Section 4(h) and Section 22(c), and with a combined single limit of not less than \$1,000,000 per occurrence for bodily injury and property damage, automobile liability coverage including owned and hired vehicles with a combined single limit of \$1,000,000 per occurrence for bodily injury and property damage, and an excess umbrella liability policy for bodily injury and property damage in the amount of \$5,000,000, insuring Purchaser and Seller and Seller's Affiliates, as additional insureds, against any injuries or damages to persons or property that may result from or are related to (A) Purchaser's and/or Purchaser's Representatives' entry upon the Premises, (B) any Investigations or other activities conducted thereon, and (C) any and all other activities undertaken by Purchaser and/or Purchaser's Representatives, all of which insurance shall be on an "occurrence form" and otherwise in such forms and with an insurance company reasonably acceptable to Seller, and deliver a copy of such insurance policy or certificate evidencing such insurance to Seller prior to the first entry on the Premises;

(vii) not allow the Investigations or any and all other activities undertaken by Purchaser or Purchaser's Representatives to result in any liens, judgments or other encumbrances being filed or recorded against the Premises, and Purchaser shall, at its sole cost and expense, promptly discharge or record any such liens or encumbrances that are so filed or recorded (including, without limitation, liens for services, labor or materials furnished); and

(viii) indemnify Seller and Seller's Affiliates (as defined herein) and hold Seller and Seller's Affiliates harmless from and against any and all claims, demands, causes of action, losses, damages, liabilities, costs and expenses (including, without limitation, attorneys' fees and disbursements), suffered or incurred by Seller or any of Seller's Affiliates and arising out of or in connection with (A) Purchaser's and/or Purchaser's Representatives' entry upon the Premises, (B) any Investigations or other activities conducted thereon by Purchaser or Purchaser's Representatives, and/or (C) any liens or encumbrances filed or recorded against the Premises as a consequence of the Investigations or any and all other activities undertaken by Purchaser or Purchaser's Representatives.

The provisions of this Section 4 shall survive the termination of this Agreement and the Closing.

#### 5. Title

(a) (i) Seller shall convey and Purchaser shall accept good, insurable and marketable title to the Premises subject to those matters set forth on Exhibit "C" annexed hereto and made a part hereof (collectively the "Permitted Encumbrances"). Purchaser shall promptly order, at its sole cost and expense, a commitment for an owner's fee title insurance policy or policies with respect to the Premises (the "Title Commitment") from a reputable title insurance company licensed to sell title insurance in the State of Florida (the "Title Company") and shall request that the Title Company to deliver a copy of the Title Commitment, together with true and complete copies of all instruments giving rise to any defects or exceptions to title to the Premises, to Seller's attorneys at the same time as the Purchaser receives the Title Commitment. If the Title Commitment indicates the existence of any liens, encumbrances or other defects or exceptions in or to title to the Premises other than the Permitted Encumbrances (collectively, the "Unacceptable Encumbrances") subject to which

Purchaser is unwilling to accept title and Purchaser gives Seller notice of the same within twenty (20) days after receipt of the Title Commitment, Seller shall undertake to eliminate the same subject to Section 5(b). Purchaser may raise such additional Unacceptable Encumbrance which Purchaser does not notify Seller of within such twenty (20)-day period only if (i) such Unacceptable Encumbrances is first raised by the Title Company subsequent to the date of the Title Commitment or Purchaser shall otherwise first discover same or be advised of same subsequent to the date of the Title Commitment, and (ii) Purchaser shall promptly notify Seller of the same promptly after Purchaser first becomes aware of such Unacceptable Encumbrance. Subject to Section 6(b), Seller, in its sole discretion, may adjourn the Closing one or more times for up to sixty (60) days in the aggregate in order to eliminate Unacceptable Encumbrances, provided that such Unacceptable Encumbrance is reasonably susceptible to being eliminated within such sixty (60)-day period and Seller diligently proceeds to eliminate such Unacceptable Encumbrances.

(ii) If Seller is unable (subject to Section 5(b)) to eliminate all Unacceptable Encumbrances not waived by Purchaser, or to arrange for title insurance reasonably acceptable to Purchaser, and to convey title in accordance with the terms of this Agreement on or before the Closing Date (whether or not the Closing is adjourned as provided in Section 5(a)(i)), Purchaser shall elect on the Closing Date, as its sole remedy for such inability of Seller, either (A) to terminate this Agreement by notice given to Seller pursuant to Section 18(a), in which event the provisions of Section 18(a) shall apply and, in addition, Seller shall reimburse Purchaser for all of its reasonable out-of-pocket costs and expenses incurred in connection with obtaining surveys and title reports, or (B) to accept title subject to such Unacceptable Encumbrances and receive no credit against, or reduction of, the Purchase Price. Seller's obligation to reimburse Purchaser's costs pursuant to the immediately preceding sentence shall survive the termination of this Agreement.

(b) Notwithstanding anything to the contrary set forth in this Section 5 or elsewhere in this Agreement, Seller shall not be obligated to bring any action or proceeding, to make any payments or otherwise to incur any expense in order to eliminate Unacceptable Encumbrances not waived by Purchaser or to arrange for title insurance insuring against enforcement of such Unacceptable Encumbrances against, or collection of the same out of, the Premises; except that Seller shall satisfy mortgages, real estate taxes, assessments, judgments against Seller or other exceptions voluntarily created by Seller (collectively, "Liens") secured by or affecting the Premises; and all other Unacceptable Encumbrances which can be eliminated by payment of amounts not to exceed \$500,000.00 in the aggregate. Without limiting the generality of the preceding provisions of this Section 5(b), for the purposes of this Agreement (including, without limitation, Sections 5(a) and 18(a)), Seller's failure or refusal to bring any action or proceeding, to make any payments or to otherwise incur any expense (except for Seller's obligation to eliminate Unacceptable Encumbrances which can be satisfied by payment of liquidated amounts not to exceed \$500,000.00 in the aggregate as aforesaid) in order to eliminate Unacceptable Encumbrances not waived by Purchaser or to arrange for such title insurance shall be deemed an inability of Seller to eliminate such Unacceptable Encumbrances or to arrange for such title insurance and shall not be a default by Seller hereunder (willful or otherwise).

(c) If on the Closing Date there may be any Liens or other encumbrances which Seller must pay or discharge in order to convey to Purchaser such title as is herein provided to be conveyed, Seller may use any portion of the Purchase Price to satisfy the same, provided:

(i) Seller shall deliver to Purchaser or the Title Company, at the Closing, instruments in recordable form and sufficient to satisfy such Liens or other encumbrances of record together with the cost of recording or filing said instruments; or

(ii) Seller, having made arrangements with the Title Company, shall deposit with said company sufficient monies acceptable to said company to insure the obtaining and the recording of such satisfactions, if such Unacceptable Encumbrances can be removed by the payment of a liquidated amount of money.

The existence of any such Liens or other encumbrances shall not be deemed objections to title if Seller shall comply with the foregoing requirements.

(d) Purchaser agrees to provide, by a wire transfer at Closing, the outstanding amount of the Purchase Price payable pursuant to Section 2(c), in order to facilitate the satisfaction or release of any Liens or other encumbrances. Similarly, at Seller's election, unpaid liens for taxes, water and sewer charges and assessments, which are the obligation of Seller to satisfy and discharge, shall not be objections to title, but the amount thereof, plus interest and penalties thereon, if any, computed to the third (3rd) business day after the Closing Date, shall be deducted from the Purchase Price payable pursuant to Section 2(c) and shall be allowed to Purchaser, subject to the provisions for apportionment of taxes, water and sewer charges and assessments contained herein.

(e) Any franchise or corporate tax open, levied or imposed against Seller or other owners in the chain of title that may be a Lien on the Closing Date, shall not be an objection to title if the Title Company omits same from the title policy issued pursuant to the Title Commitment or excepts same but insures Purchaser against collection thereof out of the Premises. If Lender requires an updated title policy, then Seller shall cause, at its sole cost and expense, the franchise or corporate tax open, levied or imposed against Seller or other owners in the chain of title that may be a Lien on the Closing Date to be omitted from the title policy issued to Lender.

(f) If a search of title discloses judgments, bankruptcies or other returns against other persons or entities having names the same as or similar to that of Seller, Seller will deliver to Purchaser and the Title Company an affidavit stating that such judgments, bankruptcies or other returns are not against Seller, whereupon, provided the Title Company omits such returns as exceptions to title or provides affirmative coverage with respect thereto, such returns shall not be deemed an objection to title.

## 6. Closing

(a) The delivery of the Deed and the consummation of the transactions contemplated by this Agreement (the "Closing") shall take place at Seller's offices or the office of the Title Company on the date that is the later of (i) thirty (30) days after the end of the Due Diligence Period; or (ii) ten (10) days after Lender's approval of the sale of the Premises to Purchaser. (the "Closing Date"). Purchaser shall be entitled to one adjournment of up to forty-five (45) days, but time shall be of the essence against Purchaser on such adjourned date. In the event that Seller exercises its right under this Agreement to qualify the transaction contemplated herein as a like-kind exchange under Section 1031 of the Internal Revenue Code, subject to Section 6(b), Seller may extend Closing for an additional period of time not to exceed sixty (60) days.

(b) In each instance in which Seller shall be entitled to extend or adjourn the Closing Date pursuant to this Agreement, Seller's extension or adjournment shall be concurrent with, rather than in addition to, any other extension or adjournment to which Seller may be entitled so that the maximum extension or adjournment by Seller of the Closing Date shall not exceed sixty (60) days in the aggregate. Time shall be of the essence against Seller on such adjourned date.

## 7. Representations and Warranties

(a) (i) Seller represents and warrants to Purchaser as follows:

(A) Acadia is a duly formed and validly existing limited partnership organized under the laws of the State of Delaware and Borrower is a duly formed and validly existing limited partnership organized under the laws of the State of Florida and is qualified under the laws of the State of Florida to conduct business therein. Borrower is in good standing under the laws of the State of Florida.

(B) Subject to obtaining the consent of the Lender, Seller has the full legal right, power and authority to execute and deliver this Agreement and all documents now or hereafter to be executed by Seller pursuant to this Agreement (collectively, the "Seller's Documents"), to consummate the transaction contemplated hereby, and to perform its obligations hereunder and under Seller's Documents. No party has any option to purchase or right of first refusal to acquire the Premises.

(C) This Agreement and Seller's Documents do not and will not contravene any provision of the partnership agreement of Seller, any judgment, order, decree, writ or injunction issued against Seller, or any provision of any laws or governmental ordinances, rules, regulations, orders or requirements (collectively, "Laws") applicable to Seller. Subject to obtaining the consent of the Lender, the consummation of the transactions contemplated hereby will not result in a breach or constitute a default or event of default by Seller under any agreement to which Seller or any of its assets are subject or bound and will not result in a violation of any Laws applicable to Seller.

(D) There are no leases, licenses or other occupancy agreements, or amendments or modifications thereto, affecting any portion of the Premises on the date hereof, except for those listed in Exhibit "D" annexed hereto and made a part hereof (collectively, the "Leases"). Seller shall deliver to Purchaser true and complete copies of all of the Leases.

(E) There are no pending actions, suits, proceedings or investigations to which Seller is a party before any court or other governmental authority with respect to the Premises except as set forth on Exhibit "E" annexed hereto and made a part hereof, and to the best of Seller's knowledge, no such actions, suits, proceedings, or investigations have been threatened.

(F) Except as set forth on Exhibit "F" or otherwise set forth in this Agreement, (i) no tenant, licensee or occupant under any of the Leases is entitled to any free rent, abatement, concessions, construction allowances, construction to be performed by the landlord, rebates or refunds, (ii) no tenant, licensee or occupant under any of the Leases has prepaid any rents or other charges for more than one (1) month or is in arrears with respect to any rents or other charges, (iii) Seller has not delivered a notice of default to any tenant, licensee or other occupant under any of the Leases during the twelve (12) month period immediately preceding the date of this Agreement, and (iv) Seller has not received a notice from any tenant stating that Seller is in default under any of the Leases. Seller agrees that all such prepayments and security deposits, if any, shall be for the benefit of Purchaser. No tenant has any option, right of first refusal or occupancy claim against any Premises or any part thereof except to occupy the Premises as a tenant.

(G) All brokerage commissions, leasing commissions and other compensations which have been contracted prior to or at the Closing and which are due or payable at any time to any person, firm, corporation or other entity with respect to or on account of the Premises with respect to the present tenants listed on Exhibit "D" in connection with this sale, (including but not limited to any of the Leases or any extensions or renewals thereof) shall be payable at the sole cost and expense of Seller prior to Closing, and Seller hereby covenants and agrees to indemnify and hold Purchaser harmless from and against any and all such commissions and compensation and all reasonable expenses and costs (including but not limited to Purchaser's court costs and reasonable attorneys fees) connected with the defense and/or payment of any and all such claims and suits. Seller's obligation to indemnify Purchaser pursuant to this Paragraph (G) shall survive Closing for a period of nine (9) months.

(H) It has no knowledge of any request by any insurance carrier or Board of Fire Underwriters for any alterations to the Premises.

(I) To the best of Seller's knowledge, there is no pending condemnation, assessment or similar proceeding affecting the Premises or any part or portion thereof, except as disclosed in the Title Commitment.

(J) There is not any action, suit or proceeding pending or to the best of Seller's knowledge, threatened (in any court or before or by any federal, state, county or municipal department, commission, board, bureau or agency or other governmental instrumentality) against or in any way affecting: (1) the Premises or any part or portion thereof; or (2) any of the Leases, and relating to or arising out of the ownership, maintenance, management, leasing, operation or use of the Premises, or (3) Seller's ability to perform its obligations under this Agreement.

(K) Seller is not a "foreign person" as such term is defined in Section 1445 of the Internal Revenue Code of 1986, as amended (the "Code"), nor will the sale transaction herein contemplated be subject to Section 897 of the Code or the withholding requirements of Section 1445 of the Code.

(L) There are no labor contracts, union contracts, collective bargaining agreements, or any other employee agreements affecting any portion of the Premises.

(M) Except as set forth on Exhibit "J", there are no management, service, supply or maintenance agreements with respect to the Premises or any part or portion thereof which cannot be cancelled (without penalty) within thirty (30) days of any notice to cancel.

(N) There are not any persons employed in connection with the management, operation or maintenance of the Premises that cannot be terminated as of the Closing Date without any liability to Purchaser.

(O) No zoning, building or similar law, ordinance, order or regulation is or will be violated by the continued maintenance, operation or use of any building or other improvement presently comprising the Premises, and there are not and will not be any violations of any federal, state or municipal laws, ordinances, orders, regulations or requirements affecting any part or portion of the Premises as now maintained, operated and used, and no notice of any such violation has been issued by any governmental authority having jurisdiction.

(P) Seller shall, between the date hereof and the Closing, continue to operate the Premises in the ordinary course, substantially in accordance with the practices and procedures previously followed, and in compliance with Section 9 of this Agreement.

Copies of the Leases in Seller's possession and certain other Premises Information (as defined in Section 22(e)) have been or will be delivered or otherwise made available to Purchaser during the Due Diligence Period. Seller shall deliver the original Leases and all amendments, if available, to Purchaser on the Closing Date. If the original Leases are unavailable, Seller shall deliver certified copies of the Leases on the Closing Date.

(ii) If prior to the Closing, (A) Purchaser shall become aware (whether through its own efforts, by notice from Seller or otherwise) that any of the representations or warranties made herein by Seller are untrue, inaccurate or incorrect and shall give Seller notice thereof at or prior to the Closing, or (B) Seller shall notify Purchaser that a representation or warranty made herein by Seller is untrue, inaccurate or incorrect, then, subject to Section 6(b), Seller may, in its sole discretion, elect by notice to Purchaser to adjourn the Closing one or more times for up to sixty (60) days in the aggregate in order to cure or correct such untrue, inaccurate or incorrect representation or warranty. If any such representation or warranty is either (1) immaterial or (2) material but not materially untrue, inaccurate or incorrect, and is not cured or corrected by Seller on or before the Closing Date (whether or not the Closing is adjourned as provided above), Purchaser shall nevertheless be deemed to, and shall, waive such misrepresentation or breach of warranty and shall consummate the transactions contemplated hereby without any reduction of or credit against the Purchase Price. If any such representation or warranty is both (1) material and (2) materially untrue, inaccurate or incorrect, and is not cured or corrected by Seller on or before the Closing Date (whether or not the Closing is adjourned as provided above), then Purchaser, as its sole remedy for any and all such materially untrue, inaccurate or incorrect material representations or warranties, shall elect either (x) to waive such misrepresentations or breaches of warranties and consummate the transactions contemplated hereby without any reduction of or credit against the Purchase Price, or (y) to terminate this Agreement by notice given to Seller on the Closing Date, in which event, this Agreement shall be terminated and neither party shall have any further rights, obligations or liabilities hereunder, except for the Surviving Obligations, and except that Purchaser shall be entitled to a return of the Fund.

(iii) The representations and warranties of Seller set forth in Section 7(a)(i) and elsewhere in this Agreement shall be true, accurate and correct in all material respects upon the execution of this Agreement and shall be deemed to be restated on and as of the Closing Date (except with respect to the representations contained in Paragraphs D, E, F and I of Section 7(a)(i) (the "To Be Updated Representations")). At Closing, Seller shall restate the To Be Updated Representations as set forth in Section 12(a)(i). As of the Closing, the representations and warranties (whether express or implied) of Seller set forth in, or required to be made by Seller, in Section 7(a)(i) and elsewhere in this Agreement (including, without limitation, the Updated Representations (as defined in Section 12(a)(i)(B))), and/or the Seller's Documents (including, without limitation, the Deed and the A & A Agreements as defined in Section 13) shall remain operative and shall survive the Closing and the execution and delivery of the Deed for a period of nine (9) months following the Closing, and no action or claim based thereon shall be commenced after such period.

(b) (i) Purchaser represents and warrants to Seller as follows:

(A) Purchaser is a duly formed and validly existing limited partnership, organized under the laws of the State of Delaware, and is qualified under the laws of the State of Delaware to conduct business therein on the Closing Date.



(B) Purchaser has the full legal right, power, and authority to execute and deliver this Agreement and all documents now or hereafter to be executed by it pursuant to this Agreement (collectively, the "Purchaser's Documents"), to consummate the transactions contemplated hereby, and to perform its obligations hereunder and under Purchaser's Documents.

(C) This Agreement and Purchaser's Documents do not and will not contravene any provision of the limited partnership agreement of Purchaser, any judgment, order, decree, writ or injunction issued against Purchaser, or any provision of any laws applicable to Purchaser. The consummation of the transactions contemplated hereby will not result in a breach or constitute a default or event of default by Purchaser under any agreement to which Purchaser or any of its assets are subject or bound and will not result in a violation of any laws applicable to Purchaser.

(D) There are no pending actions, suits, proceedings or investigations to which Purchaser is a party before any court or other governmental authority which may have an adverse impact on the transactions contemplated hereby.

(ii) The representations and warranties of Purchaser set forth in Section 7(b)(i) and elsewhere in this Agreement shall be true, accurate and correct in all material respects upon the execution of this Agreement, shall be deemed to be repeated on and as of the Closing Date (except as they relate only to an earlier date) and shall survive the Closing for nine (9) months.

#### 8. Operation of the Premises prior to the Closing Date

Between the date hereof and the Closing Date, Seller shall continue to operate and maintain the Premises in accordance with past practices. In connection therewith:

(a) (i) Except as hereinafter provided in this Section 8(a), prior to the expiration of the Due Diligence Period, Seller may modify, extend, renew, cancel or permit the expiration of any Lease or enter into any proposed Lease of all or any portion of the Premises without Purchaser's consent, but Seller will promptly, but in any event prior to the expiration of the Due Diligence Period, notify Purchaser of any such event. After the expiration of the Due Diligence Period, Seller shall not modify, extend, renew or cancel (subject to Section 8(b)) any Lease or enter into any proposed Lease of all or any portion of the Premises without Purchaser's prior consent in each instance, which consent shall not be unreasonably withheld and shall be given or denied, with the reasons for any such denial, within the applicable period specified in Section 8(a)(iv).

(ii) If, after the date of this Agreement, Seller enters into any Leases with a tenant not already occupying space in the Premises or any modification of an existing Lease pursuant to which the tenant shall increase the space occupied thereunder, subject to the last sentence of this Paragraph (each, a "New Lease"), Seller shall keep accurate records of all expenses (collectively, "New Lease Expenses") incurred in connection with each New Lease, including, without limitation, the following: (A) third party out-of-pocket brokerage commissions and fees relating to such leasing transaction, (B) expenses incurred for repairs, improvements, equipment, painting, decorating, partitioning and other items to satisfy the tenant's requirements with

regard to such leasing transaction, (C) the third party out-of-pocket costs of removal and/or abatement of asbestos or other hazardous or toxic substances located in the demised space, (D) reimbursements to the tenant for the cost of any of the items described in the preceding clauses (B) and (C), (E) third party out-of-pocket legal fees for services in connection with the preparation of documents and other services rendered in connection with the effectuation of the leasing transaction, (F) rent concessions relating to the demised space provided the tenant has the right to take possession of such demised space during the period of such rent concessions, and (G) third party out-of-pocket expenses incurred for the purpose of satisfying or terminating the obligations of a tenant under a New Lease to the landlord under another lease (whether or not such other lease covers space in the Premises). For purposes of this Agreement, the transactions contemplated under Section 8(a)(iv) shall not be treated as "New Leases".

(iii) The New Lease Expenses for each New Lease allocable to and payable by Seller shall be determined by multiplying the amount of such New Lease Expenses by a fraction, the numerator of which shall be the number of days contained in that portion, if any, of the term of such New Lease commencing on the date on which the tenant thereunder shall have commenced to pay fixed rent ("Rent Commencement Date") and expiring on the date immediately preceding the Closing Date, and the denominator of which shall be the total number of days contained in the period commencing on the Rent Commencement Date and expiring on the date of the scheduled expiration of the term of such New Lease, and the remaining balance of the New Lease Expenses for each New Lease shall be allocable to and payable by Purchaser. At the Closing, upon delivery to Purchaser of documentation supporting same, Purchaser shall reimburse Seller for all reasonable New Lease Expenses theretofore paid by Seller, if any, in excess of the portion of the New Lease Expenses allocated to Seller pursuant to the provisions of the preceding sentence, provided that the New Lease was permitted pursuant to Section 8(a)(i). The provisions of this Section 8(a)(iii) shall survive the Closing for a period of nine (9) months.

(iv) With respect to any proposed action by Seller to be submitted to Purchaser for its consent pursuant to Section 8(a)(i), Purchaser shall consent or deny its consent, with the reasons for any such denial, within ten (10) business days of the date that Seller sends notice of the proposed action or else Purchaser's consent shall be deemed to have been granted.

(v) (A) Existing Business and Professional Regulation Lease. Supplementing Section 8(a)(ii) and (iii) above, Purchaser has been advised by Seller that Exhibit "D" reflects a lease to the Florida Department of Business and Professional Regulation ("BPR") for 123,387 square feet but that BPR only currently occupies approximately 93,000 square feet of this space. The remainder is occupied by the Florida Department of Health ("DOH") with BPR's permission and with rent paid by BPR. DOH has notified Seller that it will vacate these premises and upon doing so the remaining 30,000 square feet of this space for BPR will become available for Seller to renovate in accordance with the BPR lease, after which the rent shall increase pursuant to the BPR lease. Seller will perform all work necessary to renovate this space at Seller's sole cost and expense in a first class, workmanlike, prompt and diligent manner in accordance with the BPR lease and in compliance with all Laws. If not completed by Closing, Seller will continue to complete such work at Seller's sole cost and expense. Seller shall indemnify and hold Purchaser harmless from and against any and all losses, costs or expenses of Purchaser incurred as a result of Seller's performance of or failure to perform this work, including without limitation, any claim by BPR.

(B) New Department of Education Lease. It is anticipated that Seller will consent to an assignment of a portion of the existing DOH lease shown on Exhibit "D" as DOH 64 ("Assignment") to the Florida Department of Education ("DOE") for approximately 46,784 square feet of the space currently occupied by DOH and enter into a new lease with DOE substantially in the same form of the existing DOH lease for an additional 5,000 square feet "(DOE New Lease") at a gross rent of not less than \$13.98 per square foot and the landlord thereunder performing renovations costing not more than \$701,760 (collectively the Assignment and the DOE New Lease are hereinafter referred to as the "DOE Lease"). Upon execution and delivery of the DOE Lease, the Purchase Price shall be increased by \$500,000. If, at Closing, only the Assignment has occurred, then this \$500,000 shall be proportionately adjusted based on the square footage and the balance paid to Seller post-closing at such time as the New Lease is executed and delivered, but in no event shall the balance be paid to Seller if the New Lease is not executed and delivered on or before December 1, 2000. Should DOH vacate these premises prior to Closing and the Due Diligence Period shall have expired, Seller shall notify Purchaser when Seller reasonably anticipates that the renovation work for the DOE space can reasonably be commenced. If it is not reasonably anticipated that the Closing will occur within fifteen (15) days of such notice, subject to the immediately following sentence, Seller shall have the option, but not the obligation, to commence such work, but if Seller does commence such work it shall be obligated to complete such work notwithstanding an intervening Closing. Notwithstanding the immediately preceding sentence, Seller shall be required to commence such work at a date reasonably in advance of the date that the work must be completed pursuant to the DOE Lease to enable such work to be completed by such date. Any work performed by Seller pursuant to this Paragraph shall be performed in a first class, workmanlike, prompt and diligent manner in accordance with the DOE Lease and in compliance with all Laws. At Closing, Purchaser shall reimburse Seller for all reasonable, third-party costs incurred by Seller to date in performing such work and after Closing shall fund any remaining costs to complete such work.

(C) New Business and Professional Regulation Lease. Seller has recently consented to an assignment of a portion of the DOH Lease to the Florida Department of Business and Professional Regulation for approximately 24,000 square feet ("New BPR Premises") which is currently occupied by the Division of Children and Families ("DCF"). In the event DCF vacates the premises prior to Closing, Seller will commence the tenant improvement work on the New BPR Premises and, at Closing, Purchaser will reimburse Seller for all reasonable, third-party costs incurred in performing the tenant work for the New BPR Premises and thereafter fund the balance necessary for Seller to complete such work up to a maximum of \$680,000. Any work performed by Seller pursuant to this Paragraph shall be performed in a first class, workmanlike, prompt and diligent manner in accordance with its obligations to BPR and in compliance with all Laws.

(b) Notwithstanding anything to the contrary contained in this Agreement, Seller reserves the right, but is not obligated, to institute summary proceedings against any tenant or terminate any Lease as a result of a default by the tenant thereunder prior to the Closing Date, but after the expiration of the Due Diligence Period, Seller will not take any such action without first obtaining Purchaser's consent which shall not be unreasonably withheld or delayed. During the Due Diligence Period, Seller shall notify Purchaser prior to commencing any such action and shall keep Purchaser current on all information with respect to any defaults by any tenants, subject to Section 8. Seller makes no representations and assumes no responsibility with respect to the continued occupancy of the Premises or any part thereof by any tenant.

(c) Except as hereinafter provided in this Section 8(c), Seller may cancel, modify, extend, renew or permit the expiration of Contracts or enter into any new Contract without Purchaser's prior consent, provided that Seller shall advise Purchaser thereof promptly and in any event prior to the expiration of the Due Diligence Period. After the expiration of the Due Diligence Period, Seller shall not modify, extend, renew or cancel (except as a result of a default by the other party thereunder) any Contracts or Labor Contracts, or enter into any new Contract without Purchaser's prior consent in each instance where the term of the Contract extends beyond Closing, which consent shall not be unreasonably withheld or delayed, and if withheld, Purchaser shall promptly give Seller a notice stating the reasons therefor; provided, however, that Purchaser's consent shall not be unreasonably withheld to the aforesaid actions if such Contract may be terminated at any time on not more than thirty (30)-days prior notice by Seller, or its successor, without the payment of a penalty.

(d) Seller will keep in force and effect with respect to the Premises the insurance policies currently carried by Seller and listed on Exhibit "P" annexed hereto and made a part hereof or policies providing similar coverage.

(e) Seller will not commence any tax reduction proceeding without Purchaser's consent which consent shall not be unreasonably withheld or delayed.

(f) Seller shall timely pay all taxes and assessments with respect to the Premises.

(g) Seller shall perform and not otherwise be in breach of its obligations under the Leases and any New Leases.

(h) Seller shall neither cause nor permit the occurrence of an Environmental Condition at or on the Premises. For purposes of this Agreement, "Environmental Condition" shall mean the generation, treatment, recycling, transportation or disposal of any solid wastes, pollutants or other hazardous substances (as such terms are defined under any federal, state or local environmental protection laws, regulations, orders or ordinances (collectively, "Environmental Laws") in violation of any Environmental Laws or in a manner resulting in liability under any Environmental Laws.

9. Apportionments

(a) The following shall be apportioned between Seller and Purchaser at the Closing as of midnight of the day preceding the Closing Date:

(i) prepaid rents and Additional Rents (as defined in Section 9(c)(ii) below) and other amounts payable by tenants, if, as and when received;

(ii) real estate taxes, water charges, sewer rents and vault charges, if any, on the basis of the fiscal years, respectively, for which same have been assessed;

(iii) value of fuel stored on the Premises, at Seller's cost, including any taxes, on the basis of a statement from Seller's supplier;

(iv) charges and payments under Contracts assigned to Purchaser at Closing or permitted renewals or replacements thereof;

(v) utilities, including, without limitation, steam, electricity and gas to the extent that such utilities are not paid directly by tenants, on the basis of the most recently issued bills therefor, subject to adjustment after the Closing when the next bills are available, or if current meter readings are available, on the basis of such readings. Seller shall attempt to obtain the readings as close to the Closing as reasonably practicable;

(vi) Seller's share, if any, of all revenues from the operation of the telephone booths located on the Premises if, as and when received;

(vii) any interest under the Note relating to the month in which Closing occurs;

(viii) any interest on the Collection Account payable to the Borrower under the Loan Agreement;

(ix) premium payments made on any insurance policy that insures against loss or damage as the result of an environmental condition on the Premises, if such policy is assigned to Purchaser at Closing pursuant to Purchaser's request.

(b) If the Closing shall occur before a new real estate or personal property tax rate is fixed, the apportionment of taxes at the Closing shall be upon the basis of the old tax rate for the preceding fiscal year applied to the latest assessed valuation. Promptly after the new tax rate is fixed, the apportionment of taxes shall be recomputed and any discrepancy resulting from such recomputation and any errors or omissions in computing apportionments at Closing shall be promptly corrected and the proper party reimbursed, which obligations shall survive the Closing in accordance with Section 9(f).

(c) (i) If on the Closing Date any tenant is in arrears in the payment of rent or has not paid the rent payable by it for the month in which the Closing occurs (whether or not it is in arrears for such month on the Closing Date), any rents received by Purchaser or Seller from such tenant after the Closing shall be applied to amounts due and payable by such tenant during the following periods in the following order of priority: (A) first, to payment of rent for the month in which the Closing occurred, (B) second, to payment of rent for the period, if any, after the month in which the Closing occurs where such rent is due and payable; (C) third, after all rent for all current periods have been paid in full, then in payment of rent for the period prior to the month in which the Closing occurs. If rents or any portion thereof received by Seller or Purchaser after the Closing are due and payable to the other party by reason of this allocation, the appropriate sum, less a proportionate share of any reasonable attorneys fees and costs and expenses expended in connection with the collection thereof, shall be promptly paid to the other party. For purposes of this Section 9(c)(i), rent shall include any regular monthly payment due from a tenant including, but not limited to, real estate taxes, common area maintenance charges or insurance reimbursements, but specifically excluding percentage rent payments.

(ii) If any tenants are required to pay percentage rent, real estate taxes, common area charges, insurance charges or other charges of a similar nature ("Additional Rents") and any Additional Rents are collected by Purchaser from a tenant after the Closing Date and specifically identified by such tenant as being a payment applicable to a time period occurring prior to Closing, then Purchaser shall promptly pay to Seller out of such sums received from such tenant such identified amount that is due and payable by such tenant with respect to any period prior to the Closing Date (whether or not such Additional Rents first became due and payable on or after the Closing Date), less a proportionate share of any reasonable attorneys fees and costs and expenses of collection thereof.

(iii) The provisions of this Section 9(c) shall survive the Closing for nine (9) months.

(d) After the Closing, Seller shall continue to have the right, in its own name, to demand payment of and to collect rent and Additional Rent arrearages owed to Seller by any tenant, which right shall include, without limitation, the right to continue or commence non-possessory legal actions or proceedings against any tenant with respect to any period prior to Closing, and delivery of the Lease Assignment (as hereinafter defined) shall not constitute a waiver by Seller of such right. Purchaser agrees to reasonably cooperate with Seller, at no cost to Purchaser, in connection with Seller's efforts to collect such rents, including without limitation, the delivery to Seller of any relevant books and records in Purchaser's possession (including any rent or Additional Rent statements, receipted bills and copies of tenant checks used in payment of such rent or Additional Rent), provided that such cooperation would not impair Purchaser's interests with respect to any tenants or Leases. In no event shall Purchaser be required to commence any summary proceeding to enforce such rights of Seller. The provisions of this Section 9(d) shall survive the Closing for nine (9) months.

(e) If there is a water meter on the Premises which is the obligation of Seller, Seller shall furnish a reading to a date not more than twenty (20) days prior to the Closing Date, and the unfixed water charges and sewer rent, if any, based thereon for the intervening time shall be apportioned on the basis of such last reading. As soon as possible after Closing, the parties will have an actual meter reading and adjust if necessary.

(f) If any of the items subject to apportionment under the foregoing provisions of this Section 9 cannot be apportioned at the Closing because of the unavailability of the information necessary to compute such apportionment, or if any errors or omissions in computing apportionments at the Closing are discovered subsequent to the Closing, then such item shall be reapportioned and such errors and omissions corrected as soon as practicable after the Closing Date and the proper party reimbursed, which obligation shall survive the Closing for a period of nine (9) months after the Closing Date as hereinafter provided. Neither party hereto shall have the right to require a recomputation of a Closing apportionment or a correction of an error or omission in a Closing apportionment unless within the aforesaid nine (9) month period one of the parties hereto (i) has obtained the previously unavailable information or has discovered the error or omission, and (ii) has given notice thereof to the other party together with a copy of its good faith recomputation of the apportionment and copies of all substantiating information used in such recomputation. Unless due to fraud, the failure of a party to obtain any previously unavailable information or discover an error or omission with respect to an item subject to apportionment hereunder and to give notice thereof as provided above within nine (9) months after the Closing Date shall be deemed a waiver of its right to cause a recomputation or a correction of an error or omission with respect to such item after the Closing Date. Notwithstanding any of the foregoing provisions of this Section 9(f) to the contrary, Purchaser and Seller agree that the nine (9) month limitation set forth in this Section 9(f) shall not apply to the parties' obligations under Section 9(b) and that such obligations shall survive the Closing forever.

(g) If, on the Closing Date, the Premises or any part thereof shall be or shall have been affected by an assessment or assessments which are or may become payable in annual installments, of which the first installment is then a charge or lien, or has been paid, then for the purposes of this Agreement all the unpaid installments of any such assessment, including those which are to become due and payable after Closing, shall be deemed to be due and payable and to be liens upon the Property and shall be paid and discharged by Seller upon the Closing.

(h) Purchaser shall be responsible for paying all expenses and closing costs incurred in connection with the assumption of the Mortgage by Purchaser including, without limitation and expenses and fees of the Lender and Seller in connection therewith.

#### 10. Section 1031 Exchange

Purchaser hereby acknowledges that Seller may intend to qualify the transaction contemplated herein as a like-kind exchange under Section 1031 of the Internal Revenue Code of 1986, as amended (the "Code"). In the event that Seller exercises its right under this Agreement to qualify the transaction contemplated herein as a like-kind exchange under Section 1031, Purchaser agrees to cooperate in the exchange, at Seller's sole cost and expense (whether before or after Closing), and execute any additional agreements which Seller reasonably determines to be necessary for the transaction represented by this Agreement to qualify as part of a like-kind exchange under Code Section 1031 either prior to or after Closing provided that (i) Purchaser incurs no liability, cost or expense; and (ii) Purchaser shall not be required to take title to any property other than the property which is the subject of this Agreement. Furthermore,

Purchaser expressly acknowledges and agrees that Seller's rights under this Agreement are assignable by Seller to permit Seller to qualify this transaction as part of a like-kind exchange under the Code provided, however, that any such assignment shall not release Seller from its obligations hereunder. Seller hereby agrees to indemnify and hold Purchaser harmless against any cost, loss or expense incurred by Purchaser as a result of Seller seeking to qualify the transaction contemplated herein as a like-kind exchange under Code Section 1031. Seller's obligations pursuant to the immediately preceding sentence shall survive Closing.

#### 11. Transfer Taxes

All documentary stamps and recording taxes ("Seller's Transfer Tax Payments") that are imposed pursuant to the laws of the State of Florida or any other governmental authority in connection with the Deed shall be paid by Seller. All documentary stamps and recording charges ("Purchaser's Transfer Tax Payments") that are imposed as a result of the assumption of the Mortgage contemplated herein shall be paid by Purchaser. A Florida Documentary Stamp Tax Return (the "Transfer Tax Return") required under the laws of the State of Florida shall be duly executed by both Seller and Purchaser. Purchaser shall not be entitled to receive a credit against or abatement of the Purchase Price payable to Seller at the Closing as a result of Purchaser's Transfer Tax Payments. Notwithstanding the foregoing, if, under applicable Laws, Seller is required to actually make Purchaser's Transfer Tax Payment to the taxing authority, then, at the Closing, Seller shall make such Purchaser's Transfer Tax Payment and the portion of the Purchase Price payable by Purchaser pursuant to Section 2(c) shall be increased by the amount thereof.

#### 12. Conditions Precedent to Closing

(a) Purchaser's obligation under this Agreement to purchase the Premises is subject to the fulfillment of each of the following conditions:

(i) (A) All of the representations and warranties of Seller contained in this Agreement, other than the To Be Updated Representations, shall be true, accurate and correct as if restated on and as of the Closing Date.

(B) Seller shall update the To Be Updated Representations as of the Closing Date to reflect the then present state of facts underlying the To Be Updated Representations (as updated, the "Updated Representations"). A difference between the To Be Updated Representations and the Updated Representations shall not in and of itself constitute a breach of a representation by Seller. Notwithstanding the immediately preceding sentence, it shall be a condition of Purchaser's obligation under this Agreement to purchase the Premises that the Updated Representations do not differ from the To Be Updated Representations, except that the facts underlying the representations contained in Paragraphs D and F of Section 7(a)(i) may be updated as of the Closing Date, respectively, to reflect (I) any New Leases or Lease amendments or modifications permitted pursuant to Section 9, and (II) any defaults by any tenants under the Leases (subject to the provisions of Section 7(a)(ii));



(ii) Seller shall be ready, willing and able to deliver title to the Premises in accordance with the terms and conditions of this Agreement; and

(iii) Seller shall have delivered all the documents and other items required pursuant to Section 3, and shall have performed all other covenants, undertakings and obligations, and complied with all conditions required by this Agreement to be performed or complied with by the Seller at or prior to the Closing.

(iv) The Title Company is willing to insure, without conditions, fee simple title subject only to the Permitted Exceptions at filed or promulgated rates without additional premiums or endorsements.

(v) In accordance with Section 3(f), either (A) the Mezzanine Lender or Seller shall be ready, willing and able to provide Mezzanine Financing to Purchaser, or (B) Seller shall have disapproved the terms of the Commitment.

### 13. Documents to be Delivered by Seller at Closing

At the Closing, Seller shall execute, acknowledge and/or deliver, as applicable, the following to Purchaser or the Title Company:

(a) A deed (the "Deed") conveying title to the Premises in the form of Exhibit "G" annexed hereto and made a part hereof and an assignment of the Ground Lease in a form reasonably acceptable to Purchaser.

(b) The Assignment and Assumption of Leases, Security Deposits, Security Deposit Account and Collection Account in the form of Exhibit "H" annexed hereto and made a part hereof assigning all of Seller's right, title and interest, if any, in and to the Leases, all guarantees thereof and the security deposits thereunder in Seller's possession, if any (the "Lease Assignment").

(c) The Assignment and Assumption of Contracts and Licenses in the form of Exhibit "I" annexed hereto and made a part hereof (the "Contract and License Assignment") assigning without warranty or representation all of Seller's right, title and interest, if any, in and to (i) all of the assignable licenses, permits, certificates, approvals, authorizations and variances issued for or with respect to the Premises by any governmental authority (collectively, the "Licenses"), and (ii) all assignable service contracts relating to the operation of the Premises as set forth in Exhibit "J" which Purchaser elects to have assigned to it (collectively, the "Contracts").

(d) The Assignment and Assumption of Intangible Property in the form of Exhibit "K" annexed hereto and made part hereof assigning without warranty or representation all of Seller's right, title and interest, if any, in and to all intangible property owned by Seller with respect to the operation of the Premises listed on Exhibit "K" annexed hereto and made a part hereof, including, without limitation, the trade name Northwood Center (the "Intangible Property Assignment") (the Lease Assignment, the Contract and License Assignment and the Intangible Property Assignment are herein referred to collectively as the "A & A Agreements").

(e) To the extent in Seller's possession, executed counterparts of all Leases and New Leases and any amendments, guarantees and other documents relating thereto, or, if unavailable, certified copies thereof, together with a schedule of all tenant security deposits thereunder and the accrued interest on such security deposits payable to tenants which are in the Security Sub-Account which shall be assigned to Purchaser.

(f) Notices to the tenants of the Premises in the form of Exhibit "L" annexed hereto and made a part hereof advising the tenants of the sale of the Premises to Purchaser and directing that rents and other payments thereafter be sent to Purchaser or as Purchaser may direct.

(g) To the extent in Seller's possession and not already located at the Premises, keys to all entrance doors to, and equipment and utility rooms located in, the Premises.

(h) The Transfer Tax Return, and Seller's Transfer Tax Payment.

(i) A "FIRPTA" affidavit sworn to by Seller in the form of Exhibit "M" annexed hereto and made a part hereof. Purchaser acknowledges and agrees that upon Seller's delivery of such affidavit, Purchaser shall not withhold any portion of the Purchase Price pursuant to Section 1445 of the Internal Revenue Code of 1986, as amended, and the regulations promulgated thereunder.

(j) An Estoppel Certificate from each tenant listed on Exhibit "N" ("Major Tenants") and 50% of the balance of the tenants (collectively, the "Minimum Estoppel Requirements"). The Estoppel Certificates shall be in the form annexed hereto as Exhibit "O" and made a part hereof. In the event that the Minimum Estoppel Requirements shall not be satisfied at least five (5) business days prior to the Closing Date, Purchaser shall be entitled to elect to terminate this Agreement, whereby the Agreement would be null and void, and the Fund shall be returned to Purchaser together with any interest, whereupon the parties hereto shall have no further rights, duties, obligations or liabilities to one another hereunder except as specifically provided herein to the contrary. In the event that the Minimum Estoppel Requirements shall not have been satisfied at least five (5) business days prior to the Closing Date and Purchaser shall not have terminated this Agreement, Seller shall execute and deliver to Purchaser an estoppel certificate setting forth to the best of Seller's knowledge all of the matters required to be set forth in the Estoppel Certificate with respect to each tenant necessary to satisfy the Minimum Estoppel Requirements.

(k) All other documents Seller is required to deliver pursuant to the provisions of this Agreement including all documents required by the Lender in order for Purchaser to assume the loan in accordance with the terms of this Agreement.

(l) All evidence of authority as may be requested by Title Company as well as all affidavits and documents reasonably required by Title Company to issue the Title Commitment and any subsequently issued title policy.

(m) The Lender Estoppel.

14. Documents to be Delivered by Purchaser at Closing

At the Closing, Purchaser shall execute, acknowledge and/or deliver, as applicable, the following to Seller:

(a) The portion of the Purchase Price payable by wire transfer at the Closing pursuant to Section 2(c) subject to apportionments, credits and adjustments as provided in this Agreement.

(b) The A & A Agreements.

(c) Purchaser's Transfer Tax Payments together with the Transfer Tax Return, if any.

(d) All other documents Purchaser is required to deliver pursuant to the provisions of this Agreement.

15. As Is

(a) Purchaser expressly acknowledges that the Premises is being sold and accepted "AS-IS, WHERE-IS, WITH ALL FAULTS" except as may otherwise be specifically provided herein.

(b) This Agreement, as written, contains all the terms of the agreement entered into between the parties as of the date hereof, and Purchaser acknowledges that neither Seller nor any of Seller's Affiliates, nor any of their agents or representatives, nor Broker has made any representations or held out any inducements to Purchaser, and Seller hereby specifically disclaims any representation, oral or written, past, present or future, other than those specifically set forth in this Agreement. Without limiting the generality of the foregoing, Purchaser has not relied on any representations or warranties, and neither Seller nor any of Seller's Affiliates, nor any of their agents or representatives has or is willing to make any representations or warranties, express or implied, other than as may be expressly set forth herein, as to (i) the status of title to the Premises, (ii) the Leases, (iii) the Contracts, (iv) the Licenses, (v) the current or future real estate tax liability, assessment or valuation of the Premises; (vi) the potential qualification of the Premises for any and all benefits conferred by any laws whether for subsidies, special real estate tax treatment, insurance, mortgages or any other benefits, whether similar or dissimilar to those enumerated; (vii) the compliance of the Premises in its current or any future state with applicable laws or any violations thereof, including, without limitation, those relating to access for the handicapped, environmental or zoning matters, and the ability to obtain a change in the zoning or a variance in respect to the Premises' non-compliance, if any, with zoning laws; (viii) the nature and extent of any right-of-way, lease, possession, lien, encumbrance, license, reservation, condition or otherwise; (ix) the availability of any financing for the purchase, alteration, rehabilitation or operation of the Premises from any source, including, without limitation, any government authority or any lender; (x) the current or future use of the Premises, including, without limitation, the Premises use for

commercial, manufacturing or general office purposes; (xi) the present and future condition and operating state of any Personal Property and the present or future structural and physical condition of the Buildings, their suitability for rehabilitation or renovation, or the need for expenditures for capital improvements, repairs or replacements thereto; (xii) the viability or financial condition of any tenant; (xiii) the status of the leasing market in which the Premises is located; or (xv) the actual or projected income or operating expenses of the Premises.

(c) In the event this Agreement is not terminated pursuant to Section 4(a)(iii), then, it shall be deemed an acknowledgment by Purchaser that Purchaser has inspected the Premises, is thoroughly acquainted with and accepts its condition, and has reviewed, to the extent necessary in its discretion, all the Premises Information. Seller shall not be liable or bound in any manner by any oral or written "setups" furnished by any real estate broker, including, without limitation, the Broker.

(d) Nothing contained in this Section 15 or elsewhere in this Agreement shall preclude Purchaser from making a claim against Seller for Seller's fraud.

(e) The provisions of this Section 15 shall survive the termination of this Agreement and the Closing.

#### 16. Broker

Purchaser and Seller represent and warrant to each other that Eastdil Realty (the "Broker") is the sole broker with whom it has dealt in connection with the Property and the transactions described herein. Seller shall be liable for, and shall indemnify Purchaser against, all brokerage commissions or other compensation due to the Broker arising out of the transaction contemplated in this Agreement, which compensation shall be paid subject and pursuant to a separate agreement between Seller and the Broker. Each party hereto agrees to indemnify, defend and hold the other harmless from and against any and all claims, causes of action, losses, costs, expenses, damages or liabilities, including reasonable attorneys fees and disbursements, which the other may sustain, incur or be exposed to, by reason of any claim or claims by any broker, finder or other person, except (in the case of Purchaser as indemnitor hereunder) the Broker, for fees, commissions or other compensation arising out of the transactions contemplated in this Agreement if such claim or claims are based in whole or in part on dealings or agreements with the indemnifying party. The obligations and representations and warranties contained in this Section 16 shall survive the termination of this Agreement and the Closing.

#### 17. Casualty & Condemnation

(a) Damage or Destruction: If a "material" part (as hereinafter defined) of the Premises is damaged or destroyed by fire or other casualty, Seller shall notify Purchaser of such fact and, except as hereinafter provided, Purchaser shall have the option to terminate this Agreement upon notice to Seller given not later than ten (10) business days after receipt of Seller's notice. If this Agreement is so terminated, the provisions of Section 17(c) shall apply. If (i) Purchaser does not elect to terminate this Agreement, or (ii) there is damage to or destruction of an "immaterial" part ("immaterial" is herein deemed to be any damage or destruction which is not "material", as such term is hereinafter defined) of the Premises and as a result thereof no Major Tenant is entitled to cancel or terminate its Lease, Purchaser shall close title as provided in this Agreement and, at the Closing, Seller shall, unless Seller has repaired such damage or destruction prior to the Closing, (x) pay over to Purchaser the proceeds of any insurance collected by Seller less the amount of all reasonable out-of-pocket third party costs incurred by Seller in connection with the repair of such damage or destruction, and (y) either, (A) if the insurance policies are in full force and effect and the insurer has no defenses thereunder, assign and transfer to Purchaser all right, title and interest of Seller in and to any uncollected insurance proceeds which Seller may be entitled to receive from such damage or destruction and Purchaser shall receive a credit

against the Purchase Price in the amount of any deductible or self-insured amounts, or (B) if the insurance policies are not in full force and effect or the insurer has defenses thereunder, Purchaser shall have the option to terminate this Agreement upon notice to Seller given not later than the Closing Date, in which event the provisions of Section 17(c) shall apply. A "material" part of the Premises shall be deemed to have been damaged or destroyed if the cost of repair or replacement shall be \$500,000.00 or more as reasonably as estimated by Seller.

(b) Condemnation: If, prior to the Closing Date, all or any portion of the Premises is taken by eminent domain or condemnation (or is the subject of a pending taking which has not been consummated), Seller shall notify Purchaser of such fact and the Purchaser shall have the option to terminate this Agreement upon notice to the Seller given not later than ten (10) business days after receipt of the Seller's notice. If this Agreement is so terminated, the provisions of Section 17(c) shall apply. If Purchaser does not elect to terminate this Agreement, at the Closing Seller shall assign and turnover, and Purchaser shall be entitled to receive and keep, all awards or other proceeds for such taking by eminent domain or condemnation.

(c) If Purchaser elects to terminate this Agreement pursuant to Section 17(a) or 17(b), this Agreement shall be terminated and neither party shall have any further rights, obligations or liabilities hereunder, except for the Surviving Obligations, and except that Purchaser shall be entitled to a return of the Fund subject to Section 22(d) and provided Purchaser is not otherwise in default hereunder.

#### 18. Remedies

(a) If the Closing fails to occur by reason of Seller's inability (as opposed to Purchaser's or Seller's default or Seller's refusal to perform) (subject to Section 5(b)) to perform its obligations under this Agreement, then Purchaser, as its sole remedy for such inability of Seller, may terminate this Agreement by notice to Seller. If Purchaser elects to terminate this Agreement, then this Agreement shall be terminated and neither party shall have any further rights, obligations or liabilities hereunder, except for the Surviving Obligations, and except that Purchaser shall be entitled to a return of the Fund subject to Section 22(d) and provided Purchaser is not otherwise in default hereunder. Except as set forth in this Section 18(a), Purchaser hereby expressly waives, relinquishes and releases any other right or remedy available to it at law, in equity or otherwise by reason of Seller's inability to perform its obligations hereunder.

(b) In the event of a default hereunder by Purchaser or, if the Closing fails to occur by reason of Purchaser's failure or refusal to perform its obligations hereunder, then Seller may terminate this Agreement by notice to Purchaser. If Seller elects to terminate this Agreement, then this Agreement shall be terminated and Seller may retain the Fund as liquidated damages as its sole and exclusive remedy for all loss, damage and expenses suffered by Seller, it being agreed that Seller's damages are impossible to ascertain, and neither party shall have any further rights, obligations or liabilities hereunder, except for the Surviving Obligations. Nothing contained herein shall limit or restrict Seller's ability to pursue any rights or remedies it may have against Purchaser with respect to the Surviving Obligations. Except as set forth in this Section 18(b) and Section 22(f), Seller hereby expressly waives, relinquishes and releases any other right or remedy available to it at law, in equity or otherwise by reason of Purchaser's default hereunder or Purchaser's failure or refusal to perform its obligations hereunder.

(c) If the Closing fails to occur by reason of Seller's failure or refusal to perform its obligations hereunder or its default, then Purchaser, may either (i) terminate this Agreement by notice to Seller and obtain a return of the Deposit or (ii) seek specific performance from Seller or any other remedy at law or in equity. As a condition precedent to Purchaser exercising any right it may have to bring an action for specific performance as the result of Seller's failure or refusal to perform its obligations hereunder, Purchaser must commence such an action within ninety (90) days after the occurrence of such default. Purchaser agrees that its failure to timely commence such an action for specific performance within such ninety (90)-day period shall be deemed a waiver by it of its right to commence such an action.

(d) After Closing, Purchaser shall retain all rights and remedies at law or in equity that it may have against Seller except as expressly limited pursuant to this Agreement.

#### 19. Assignment

This Agreement may not be assigned by Purchaser without the express written consent of Lender. Any assignment or attempted assignment by Purchaser without the express written consent of Lender shall constitute a default by Purchaser hereunder and shall be null and void.

#### 20. Access to Records

For a period of three (3) years subsequent to the Closing Date, Seller, Seller's Affiliates and their employees, agents and representatives shall be entitled to access during business hours to all documents, books and records given to Purchaser by Seller at the Closing for tax and audit purposes, regulatory compliance, and cooperation with governmental investigations upon reasonable prior notice to Purchaser, and shall have the right, at its sole cost and expense, to make copies of such documents, books and records.

#### 21. Notices

(a) All notices, elections, consents, approvals, demands, objections, requests or other communications which Seller, Purchaser or Escrow Agent may be required or desire to give pursuant to, under or by virtue of this Agreement must be in writing and sent by (i) hand-delivery, (ii) first class U.S. certified or registered mail, return receipt requested, with postage prepaid, or (iii) express mail or courier (for next business day delivery), addressed as follows:

If to Seller:

Acadia Realty Limited Partnership  
20 Soundview Marketplace  
Port Washington, NY 11050

Attention: Robert Masters, Esq.

with copies to:

Blackwell Sanders Peper Martin  
13710 FNB Parkway, Suite 200  
Omaha, NE 68154

Attention: Marvin J. Levine, Esq.

If to Purchaser:

UrbanAmerica, L.P.  
30 Broad Street  
New York, NY 10004

Attention: Mr. Hal Reiff

with a copy to:

Weil Gotshal & Manges  
767 Fifth Avenue  
New York, NY 10153

Attention: Samuel M. Zylberberg, Esq.

If to Escrow Agent:

Blackwell Sanders Peper Martin  
13710 FNB Parkway, Suite 200  
Omaha, NE 68154

Attention: John Katelman, Esq.

(b) Seller, Purchaser or Escrow Agent may designate another addressee or change its address for notices and other communications hereunder by a notice given to the other parties in the manner provided in this Section 21. A notice or other communication sent in compliance with the provisions of this Section 21 shall be deemed given and received on (i) the third (3rd) day following the date it is deposited in the U.S. mail, or (ii) the date it is delivered to the other party if sent by express mail, courier or hand.

## 22. Premises Information and Confidentiality

(a) Purchaser agrees that, prior to the Closing, all Premises Information shall be kept strictly confidential and shall not, without the prior consent of Seller, be disclosed by Purchaser or Purchaser's Representatives, in any manner whatsoever, in whole or in part, and will not be used by Purchaser or Purchaser's Representatives, directly or indirectly, for any purpose other than evaluating the Premises. Moreover, Purchaser agrees that, prior to the Closing, the Premises Information will be transmitted only to Purchaser's Representatives who need to know the Premises Information for the purpose of evaluating the Premises, and who are informed by the Purchaser of the confidential nature of the Premises Information. The provisions of this Section 22(a) shall in no event apply to Premises Information which is a matter of public record and shall not prevent Purchaser from complying with laws, including, without limitation, governmental regulatory, disclosure, tax and reporting requirements.

(b) Purchaser and Seller, for the benefit of each other, hereby agree that between the date hereof and the Closing Date, they will not release or cause or permit to be released any press notices, publicity (oral or written) or advertising promotion relating to, or otherwise announce or disclose or cause or permit to be announced or disclosed, in any manner whatsoever, the terms, conditions or substance of this Agreement or the transactions contemplated herein, without first obtaining the written consent of the other party hereto. It is understood that the foregoing shall not preclude either party from discussing the substance or any relevant details of the transactions contemplated in this Agreement, subject to the terms of Section 22(a), with any of its attorneys, accountants, professional consultants or potential lenders, as the case may be, or prevent either party hereto from complying with Laws, including, without limitation, governmental regulatory, disclosure, tax and reporting requirements.

(c) Purchaser and Seller shall indemnify and hold each other harmless from and against any and all claims, demands, causes of action, losses, damages, liabilities, costs and expenses (including, without limitation, attorneys' fees and disbursements) suffered or incurred by either party and arising out of or in connection with a breach by the other of the provisions of this Section 22.

(d) In the event this Agreement is terminated, Purchaser and Purchaser's Representatives shall promptly deliver to Seller all originals and copies of the Premises Information referred to in Section 22(e) in the possession of Purchaser and Purchaser's Representatives.

(e) As used in this Agreement, the term "Premises Information" shall mean all information and documents in any way relating to the Premises provided by Seller, the operation thereof or the sale thereof (including, without limitation, Leases, Contracts, Labor Contracts and Licenses) furnished to, or otherwise made available for review by, Purchaser or its directors, officers, employees, affiliates, partners, brokers, agents or other representatives, including, without limitation, attorneys, accountants, contractors, consultants, engineers and financial advisors (collectively, "Purchaser's Representatives"), by Seller or any of Seller's Affiliates, or their agents or representatives, including, without limitation, their contractors, engineers, attorneys, accountants, consultants, brokers or advisors.



(f) In addition to any other remedies available to Seller, Seller shall have the right to seek equitable relief, including, without limitation, injunctive relief or specific performance, against Purchaser or Purchaser's Representatives in order to enforce the provisions of this Section 22 and 4(e)(i).

(g) The provisions of this Section 22 shall survive the termination of this Agreement and the Closing for nine (9) months.

### 23. Miscellaneous

(a) This Agreement shall not be altered, amended, changed, waived, terminated or otherwise modified in any respect or particular, and no consent or approval required pursuant to this Agreement shall be effective, unless the same shall be in writing and signed by or on behalf of the party to be charged.

(b) This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and to their respective heirs, executors, administrators, successors and permitted assigns.

(c) All prior statements, understandings, representations and agreements between the parties, oral or written, are superseded by and merged in this Agreement, which alone fully and completely expresses the agreement between them in connection with this transaction and which is entered into after full investigation, neither party relying upon any statement, understanding, representation or agreement made by the other not embodied in this Agreement. This Agreement shall be given a fair and reasonable construction in accordance with the intentions of the parties hereto, and without regard to or aid of canons requiring construction against Seller or the party drafting this Agreement.

(d) Purchaser agrees that it does not have and will not have any claims or causes of action against any disclosed or undisclosed officer, director, employee, trustee, shareholder, partner, principal, parent, subsidiary or other affiliate of Seller, or any officer, director, employee, trustee, shareholder, partner or principal of any such parent, subsidiary or other affiliate (collectively, "Seller's Affiliates"), arising out of or in connection with this Agreement or the transactions contemplated hereby. Purchaser agrees to look solely to Seller and its assets for the satisfaction of any liability or obligation arising under this Agreement or the transactions contemplated hereby, or for the performance of any of the covenants, warranties or other agreements contained herein, and further agrees not to sue or otherwise seek to enforce any personal obligation against any of Seller's Affiliates with respect to any matters arising out of or in connection with this Agreement or the transactions contemplated hereby. Without limiting the generality of the foregoing provisions of this Section 23(d), Purchaser hereby unconditionally and irrevocably waives any and all claims and causes of action of any nature whatsoever it may now or hereafter have against Seller's Affiliates, and hereby unconditionally and irrevocably releases and discharges Seller's Affiliates from any and all liability whatsoever which may now or hereafter accrue in favor of Purchaser against Seller's Affiliates, in connection with or arising out of this Agreement or the transactions contemplated hereby. Seller agrees that it does not have and will not have any claims or causes of action against any disclosed or undisclosed officer, director, employee, trustee, shareholder, partner, principal, parent, subsidiary or other affiliate of Purchaser, or any officer,

director, employee, trustee, shareholder, partner or principal of any such parent, subsidiary or other affiliate (collectively, "Purchaser's Affiliates"), arising out of or in connection with this Agreement or the transactions contemplated hereby. Seller agrees to look solely to Purchaser and its assets for the satisfaction of any liability or obligation arising under this Agreement or the transactions contemplated hereby, or for the performance of any of the covenants, warranties or other agreements contained herein, and further agrees not to sue or otherwise seek to enforce any personal obligation against any of Purchaser's Affiliates with respect to any matters arising out of or in connection with this Agreement or the transactions contemplated hereby. Without limiting the generality of the foregoing provisions of this Section 23(d), Seller hereby unconditionally and irrevocably waives any and all claims and causes of action of any nature whatsoever it may now or hereafter have against Purchaser's Affiliates, and hereby unconditionally and irrevocably releases and discharges Purchaser's Affiliates from any and all liability whatsoever which may now or hereafter accrue in favor of Seller against Purchaser's Affiliates, in connection with or arising out of this Agreement or the transactions contemplated hereby. The provisions of this Section 23(d) shall survive the termination of this Agreement and the Closing.

(e) No failure or delay of either party in the exercise of any right or remedy given to such party hereunder or the waiver by any party of any condition hereunder for its benefit (unless the time specified herein for exercise of such right or remedy has expired) shall constitute a waiver of any other or further right or remedy nor shall any single or partial exercise of any right or remedy preclude other or further exercise thereof or any other right or remedy. No waiver by either party of any breach hereunder or failure or refusal by the other party to comply with its obligations shall be deemed a waiver of any other or subsequent breach, failure or refusal to so comply.

(f) Neither this Agreement nor any memorandum thereof shall be recorded and any attempted recordation hereof shall be void and shall constitute a default.

(g) This Agreement may be executed in one or more counterparts, each of which so executed and delivered shall be deemed an original, but all of which taken together shall constitute but one and the same instrument.

(h) Each of the Exhibits and Schedules referred to herein and is incorporated herein by this reference.

(i) The caption headings in this Agreement are for convenience only and are not intended to be a part of this Agreement and shall not be construed to modify, explain or alter any of the terms, covenants or conditions herein contained.

(j) This Agreement shall be interpreted and enforced in accordance with the laws of the State of New York.

(k) If any provision of this Agreement shall be unenforceable or invalid, the same shall not affect the remaining provisions of this Agreement and to this end the provisions of this Agreement are intended to be and shall be severable. Notwithstanding the foregoing sentence, if (i) any provision of this Agreement is finally determined by a court of competent jurisdiction to be unenforceable or invalid in whole or in part, (ii) the opportunity for all appeals of such determination have expired, and (iii) such unenforceability or invalidity alters the substance of this Agreement (taken as a whole) so as to deny either party, in a material way, the realization of the intended benefit of its bargain, such party may terminate this Agreement within thirty (30) days after the final determination by notice to the other. If such party so elects to terminate this Agreement, then this Agreement shall be terminated and neither party shall have any further rights, obligations or liabilities hereunder, except for the Surviving Obligations, and except that Purchaser shall be entitled to a return of the Fund subject to Section 22(d) and provided Purchaser is not otherwise in default hereunder.

(1) SELLER AND PURCHASER HEREBY WAIVE TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM (WHETHER ARISING IN TORT OR CONTRACT) BROUGHT BY EITHER AGAINST THE OTHER ON ANY MATTER ARISING OUT OF OR IN ANY WAY CONNECTED WITH THIS AGREEMENT.

IN WITNESS WHEREOF, this Agreement has been duly executed by the parties hereto as of the day and year first above written.

Acadia Realty Limited Partnership, Seller

By: Acadia Realty Trust, General Partner

By: \_\_\_\_\_  
Kenneth F. Bernstein, President

Mark Northwood Associates

By: Mark Northwood Realty, Inc., General Partner

By: \_\_\_\_\_  
Kenneth F. Bernstein, President

UrbanAmerica, L. P., Purchaser

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

EXHIBIT "A"

Legal Description

Parcel No. 1:

Commence at the Southeast corner of the Southwest Quarter of Section 24, Township 1 North, Range 1 West, Leon County, Florida, and run North 02 degrees 40 minutes West 40.04 feet to a point on the North right-of-way boundary of Tharpe Street as shown on the plat of Parkview Estates Unit No. 1 as recorded in Plat Book 3, page 10 of the Public Records of Leon County, Florida, thence South 89 degrees 54 minutes West 647.08 feet to an iron pin, thence North 00 degrees 06 minutes West 0.62 feet to an iron pin, thence North 89 degrees 54 minutes East 2.0 feet to an iron pin, thence North 00 degrees 00 minutes 22 seconds East 29.38 feet to an iron pin for the Point of Beginning. From said Point of Beginning continue North 00 degrees 00 minutes 22 seconds East 444.38 feet to a point in a concrete power pole, thence South 89 degrees 58 minutes 26 seconds West 352.75 feet to a concrete monument, thence North 02 degrees 35 minutes 36 seconds West 408.39 feet to a concrete monument, thence North 10 degrees 55 minutes 48 seconds East 413.33 feet to a concrete monument, thence North 70 degrees 39 minutes 36 seconds East 639.44 feet to a nail and cap, thence North 46 degrees 49 minutes 36 seconds East 162.60 feet to a concrete monument lying on a curve concave to the Southwesterly on the Southwesterly right of way boundary of North Monroe Street (State Road No. 63), thence from a tangent bearing of South 45 degrees 12 minutes 49 seconds East run Southeasterly along said right of way curve with a radius of 5708.21 feet, through a central angle of 03 degrees 32 minutes 27 seconds, for an arc distance of 352.77 feet to a concrete monument marking the Southeast corner of property described in Official Records Book 363, pages 276 and 277 of the Public Records of Leon County, Florida, thence North 89 degrees 31 minutes 25 seconds West along the South boundary of said property 107.15 feet to a concrete monument on the Northwesterly boundary of Lot 6, Block "F" of said Parkview Estates Unit No. 1, thence South 49 degrees 08 minutes 11 seconds West along the Northwesterly boundary of said Lot 6 and a projection thereof a distance of 171.52 feet to a concrete monument, thence South 40 degrees 51 minutes 49 seconds East 559.57 feet to an iron pin, thence South 56 degrees 50 minutes 42 seconds West 10.08 feet to a concrete monument, thence South 41 degrees 08 minutes 37 seconds East 51.05 feet to a concrete monument on the Northwesterly right of way boundary of Martin Luther King, Jr. Boulevard (formerly Boulevard Street) (80 foot right of way), thence South 56 degrees 50 minutes 42 seconds West along said right of way boundary 79.88 feet to a concrete monument lying on a curve concave to the Southeasterly, thence from a tangent bearing of South 56 degrees 36 minutes 58 seconds West run Southwesterly along said right of way curve with a radius of 340.00 feet, through a central angle of 56 degrees 16 minutes 32 seconds, for an arc distance of 333.94 feet to a concrete monument, thence South 00 degrees 02 minutes 00 seconds East (bearing base) along said right of way boundary 420.55 feet to a concrete monument on the North right of way boundary of said Tharpe Street as described in Official Records Book 333, pages 238-240 of the Public Records of Leon County, Florida, thence South 89 degrees 54 minutes 00 seconds West along said North right of way boundary 606.52 feet to the Point of Beginning.

Less and Except right of way described in Official Records Book 264, page 477 of the Public Records of Leon County, Florida.

Also Less and Excepting that part thereof described in Official Records Book 1644, page 1613 of the Public Records of Leon County, Florida.

Also Less and Excepting that part thereof described in Official Records Book 1344, page 737 of the Public Records of Leon County, Florida.

Parcel No. 2:

Commence at the Southeast corner of the Southwest Quarter of the Southwest Quarter of the Southeast Quarter of Section 24, Township 1 North, Range 1 West, Leon County, Florida, and run North 00 41 minutes West 40.0 feet, thence South 89 degrees 54 minutes West 621.48 feet to a point on the South boundary of Parkview Estates Unit No. 1 as recorded in Plat Book 3, page 10 of the Public Records of Leon County, Florida, thence North 00 degrees 06 minutes West 3.29 feet to the intersection of the North right of way boundary of Tharpe Street with the East right of way boundary of the old right of way of Boulevard Street, said intersection being 36.7 feet West of the West boundary of Lot 17, Block "C" of said Parkview Estates Unit No. 1, thence North 00 degrees 02 minutes 00 seconds West (bearing base) along the Easterly right of way boundary of Boulevard Street 24.00 feet to the existing North right of way boundary of Tharpe Street as described in Official Records Book 351, pages 16 and 17 of the Public Records of Leon County, Florida, thence continue North 00 degrees 02 minutes 00 seconds West along the East right of way boundary of Martin Luther King, Jr., Boulevard (formerly Boulevard Street) (80 foot right of way) a distance of 175.00 feet to a concrete monument marking the Northwest corner of property deeded to Standard Oil Company and recorded in Official Records Book 356, pages 287 and 288 of the Public Records of Leon County, Florida, for the Point of Beginning.

From said Point of Beginning continue thence North 00 degrees 02 minutes 00 seconds West along said East right of way boundary 50.93 feet to a concrete monument, thence South 89 degrees 58 minutes 14 seconds East 350.16 feet to a concrete monument (formerly a 1/2" rebar), thence North 00 degrees 03 minutes 27 seconds East 200.00 feet to a concrete monument, thence North 89 degrees 58 minutes 14 seconds West 350.48 feet to a concrete monument on the Easterly right of way boundary of said Martin Luther King, Jr., Boulevard (formerly Boulevard Street) (80 foot right of way), said point lying on a curve concave to the Easterly, thence from a tangent bearing of North 00 degrees 18 minutes 57 seconds East run Northerly along said right of way curve with a radius of 260.00 feet, through a central angle of 11 degrees 11 minutes 46 seconds, for an arc distance of 50.81 feet to a nail and cap set in an iron pipe marking the Southwest corner of property described in Official Records Book 506, page 748 and 750 of the Public Records of Leon County, Florida, thence South 89 degrees 53 minutes 38 seconds East along the South boundary of said property 345.31 feet to a concrete monument marking the Southeast corner of said property, thence North 00 degrees 02 minutes 00 seconds West along

the East boundary of said property 87.08 feet to a concrete monument on the Southwesterly boundary of a 30 foot driveway adjacent to Block "E" of said Parkview Estates Unit No. 1, thence South 39 degrees 21 minutes 30 seconds East along the Southwesterly boundary of said drive 161.37 feet to a concrete monument, thence North 56 degrees 22 minutes 21 seconds East along the Southeasterly boundary of a 15 foot drive adjacent to said Block "E" a distance of 157.63 feet to an iron pin lying on a curve concave to the Southwesterly on the Southwesterly right of way boundary of North Monroe Street (State Road No. 63), thence from a tangent bearing of South 31 degrees 35 minutes 18 seconds East run Southeasterly along said right of way curve with a radius of 5708.21 feet, through a central angle of 00 degrees 03 minutes 01 seconds, for an arc distance of 5.00 feet to an iron pin on the Southeasterly boundary of said Parkview Estates Unit No. 1, thence South 56 degrees 22 minutes 21 seconds West along said Southeasterly boundary 166.93 feet to a concrete monument, thence South 00 degrees 08 minutes 21 seconds West along the Easterly boundary of said Parkview Estates Unit No. 1 a distance of 432.24 feet to a concrete monument on the Northerly right of way boundary of Tharpe Street as described in Official Records Book 351, pages 16 and 17, thence North 89 degrees 07 minutes 11 seconds West along said Northerly right of way boundary 271.42 feet to a concrete monument marking the Southeast corner of said property deeded to Standard Oil Company, thence North 00 degrees 02 minutes 00 seconds West along the East boundary of said property 175.00 feet to a concrete monument, thence South 89 degrees 48 minutes 40 seconds West along the North boundary of said property 175.00 feet to the Point of Beginning.

LESS AND EXCEPT that portion of the above described property set forth in that Special Warranty Deed recorded in Official Records Book 1784, Page 2368.

Parcel No. 3:

Begin at the Westerly corner of Lot 6, Block "F" of Parkview Estates Unit No. 1 as per plat recorded in Plat Book 3, page 10 of the Public Records of Leon County, Florida, thence South 50 degrees 50 minutes 46 seconds West 50.00 feet to the most Westerly corner of that parcel of property described in Official Records Book 359, pages 288-289 of the Public Records of Leon County, Florida, thence South 39 degrees 10 minutes 54 seconds East along the Southwesterly boundary of said parcel 252.62 feet to the Westerly right of way boundary of the proposed Martin Luther King Boulevard Extension (100 foot right of way), said point also being a point on a curve concave to the Southeasterly with a radius of 425.00 feet, thence Northeasterly along said curve an arc distance of 240.63 feet, through a central angle of 32 degrees 26 minutes 25 seconds (the chord of said arc bears North 24 degrees 26 minutes 27 seconds East with a length of 237.43 feet) to a point of reverse curve concave to the West having a radius of 30.00 feet, thence Northerly along said curve an arc distance of 41.99 feet, through a central angle of 80 degrees 11 minutes 13 seconds (the chord of said arc bears North 00 degrees 34 minutes 03 seconds East with a length of 38.64 feet) to a point on a curve concave to the Southwesterly with a radius of 5693.21 feet, said point also being on the proposed South boundary of State Road No. 63 (U.S. 27, North Monroe Street), thence Northwesterly along said curve an arc distance of 59.94 feet, through a central angle of 00 degrees 36 minutes 12 seconds (the chord of said curve bears North 39 degrees 49 minutes 40 seconds West with a length of 59.94 feet) to a point on the

Southerly boundary of that parcel of property recorded in Official Records Book 363, page 276 of said Public Records, thence North 87 degrees 51 minutes 08 seconds West along said Southerly boundary 86.94 feet to the Northwesterly boundary of said Lot 6, thence South 50 degrees 50 minutes 46 seconds West along said Northerly boundary 121.52 feet to the Point of Beginning.

The above parcel is also described as:

Begin at a concrete monument #1254 marking the most Westerly corner of that parcel of land described in Official Records Book 1210, page 1457 of the Public Records of Leon County, Florida, and run thence North 49 degrees 08 minutes 11 seconds East along the Northerly boundary of Lot 6 and the projection thereof Block "F" of Parkview Estates Unit No. 1, a subdivision as per map or plat thereof recorded in Plat Book 3, page 10 of the Public Records of Leon County, Florida, a distance of 171.52 feet to a concrete monument, thence South 89 degrees 31 minutes 25 seconds East 86.90 feet to a City of Tallahassee iron pin on the proposed Southwesterly right of way boundary of State Road No. 63 (North Monroe Street - U.S. Highway No. 27), said iron pin lying on a curve concave to the Southwesterly, thence Southeasterly along said proposed right of way boundary and said curve with a radius of 5693.21 feet, through a central angle of 00 degrees 36 minutes 13 seconds, for an arc distance of 59.97 feet (the chord of said arc being South 41 degrees 47 minutes 57 seconds East 59.97 feet) to a City of Tallahassee iron pin marking a point of compound curve on the Northwesterly right of way boundary of the proposed relocation of Martin Luther King Boulevard, thence Southerly and Southwesterly along said right of way boundary and said curve with a radius of 30.00 feet, through a central angle of 80 degrees 11 minutes 17 seconds, for an arc distance of 41.99 feet (the chord of said arc being South 01 degree 06 minutes 45 seconds East 38.64 feet) to a City of Tallahassee iron pin marking a point of reverse curve, thence Southwesterly along said right of way boundary and said curve with a radius of 425.00 feet, through a central angle of 32 degrees 26 minutes 33 seconds, for an arc distance of 240.65 feet to a City of Tallahassee iron pin, thence North 40 degrees 51 minutes 49 seconds West along the Southwesterly boundary of property described in Official Records Book 1210, page 1457 of said Public Records of Leon County, Florida, a distance of 252.50 feet to the Point of Beginning.

Less and Excepting the following parcel:

Commence at the Westerly corner of Lot 6, Block "F" of Parkview Estates Unit No. 1 as per plat recorded in Plat Book 3, page 10 of the Public Records of Leon County, Florida, thence South 50 degrees 50 minutes 46 seconds West 50.00 feet to the most Northwesterly corner, also the most Westerly corner of that parcel of property described in Official Records Book 359, pages 288-289 of said Public Records, thence leaving said Northwesterly corner South 39 degrees 10 minutes 54 seconds East along the Southwesterly boundary of said parcel 252.62 feet to the Point of Beginning; said point also being on the Westerly right of way boundary of the proposed Martin Luther King Boulevard Extension (100 foot right of way). From said Point of Beginning continue South 39 degrees 10 minutes 54 seconds East along the Southwesterly boundary of said parcel 306.95 feet, thence South 58 degrees 45 minutes 18 seconds West 10.08 feet; thence



South 39 degrees 10 minutes 56 seconds East 51.05 feet to a point on the Northwesterly right of way boundary of the existing Martin Luther King Boulevard, thence along the Northwesterly right of way boundary of the existing Martin Luther King Boulevard, South 58 degrees 44 minutes 27 seconds West 80.82 feet to the beginning of a curve concave to the Southeasterly with a radius of 340.00 feet, thence Southwesterly 334.22 feet along said curve, through a central angle of 56 degrees 10 minutes 18 seconds (the chord of said arc bears South 29 degrees 50 minutes 45 seconds West with a length of 320.92 feet), thence leaving said Northwesterly right of way boundary North 88 degrees 18 minutes 54 seconds West 9.72 feet to a point on the Westerly right of way boundary of said proposed right of way boundary, thence North 01 degrees 43 minutes 18 seconds East along said proposed right of way boundary 554.91 feet to a point on a curve concave to the Southeasterly with a radius of 425.00 feet, thence Northeasterly 48.21 feet along said curve, through a central angle of 06 degrees 29 minutes 56 seconds (the chord of said arc being North 04 degrees 48 minutes 17 seconds East with a length of 48.18 feet) to the Point of Beginning.

The above parcel is also described as follows:

Commence at a concrete monument #1254 marking the most Westerly corner of that parcel of property described in Official Records Book 1210, page 1457 of the Public Records of Leon County, Florida, and run thence South 40 degrees 51 minutes 49 seconds East 252.50 feet to a City of Tallahassee iron pin for the Point of Beginning. From said Point of Beginning continue South 40 degrees 51 minutes 49 seconds East 307.07 feet to an iron pin with a cap, thence South 56 degrees 50 minutes 42 seconds West 10.08 feet to a concrete monument, thence South 41 degrees 08 minutes 37 seconds East 51.05 feet to a concrete monument on the Northwesterly right of way boundary of the existing 80 foot right of way boundary of Martin Luther King Boulevard, thence South 56 degrees 50 minutes 42 seconds West along said Northwesterly right of way boundary 79.88 feet to a concrete monument on a curve concave to the Southeasterly, thence Southwesterly along said right of way boundary and said curve with a radius of 340.00 feet, through a central angle of 56 degrees 16 minutes 32 seconds, for an arc distance of 333.94 feet (the chord of said arc being South 28 degrees, 28 minutes 42 seconds West 320.68 feet) to a concrete monument, thence South 82 degrees 13 minutes 06 seconds West 9.58 to a City of Tallahassee iron pin on the Westerly right of way boundary of a proposed 80 foot right of way of a proposed relocated Martin Luther King Boulevard, thence North 00 degrees 02 minutes 50 seconds East along said Westerly right of way boundary 554.92 feet to a City of Tallahassee iron pin with a cap and a point of curve to the right, thence Northeasterly along said right of way boundary and said curve with a radius of 425.00 feet, through a central angle of 06 degrees 30 minutes 10 seconds, for an arc distance of 48.23 feet (the chord of said arc being North 03 degrees 17 minutes 16 seconds East 48.21 feet) to the Point of Beginning.

Parcel No. 4:

A tract of land located in Section 24, Township 1 North, Range 1 West, Leon County, Florida, more particularly described as follows:

Commence at the Northwest corner of Lot 16, Block "L" of Parkside Unit No. 4, a subdivision recorded in Plat Book 3, page 126 of the Public Records of Leon County, Florida, and run South 35 degrees 21 minutes 20 seconds East 452.39 feet, thence run North 40 degrees 14 minutes 40 seconds East 260.69 feet to a concrete monument on the Northeasterly right of way of Boone Boulevard, thence run along said right of way Southeasterly along a curve concave to the Southwest with a radius of 1728.26 feet, through a central angle of 06 degrees 24 minutes 20 seconds, for an arc distance of 193.22 feet (the chord bears South 37 degrees 54 minutes 10 seconds East 193.12 feet), thence continue along said right of way South 34 degrees 42 minutes 00 seconds East 630.19 feet, thence Southeasterly along a curve concave to the Northeasterly with a radius of 108.60 feet, through a central angle of 44 degrees 32 minutes 00 seconds, for an arc distance of 84.41 feet (the chord bearing South 56 degrees 58 minutes 00 seconds East 82.30 feet), thence South 79 degrees 14 minutes 00 seconds East 157.14 feet, thence leaving said right of way run North 09 degrees 55 minutes 40 seconds East 50.00 feet, thence run North 70 degrees 02 minutes 45 seconds East 49.25 feet to the Point of Beginning. From said Point of Beginning continue North 70 degrees 02 minutes 45 seconds East 566.30 feet, thence run North 47 degrees 08 minutes 37 seconds West 170.79 feet, thence run South 39 degrees 03 minutes 46 seconds West 202.18 feet, thence run North 49 degrees 42 minutes 20 seconds West 632.12 feet to the Southeasterly right of way of Universal Drive, thence run along said right of way Southwesterly along a curve concave to the Northwest with a radius of 530.96 feet, through a central angle of 15 degrees 00 minutes 20 seconds, for an arc distance of 139.06 feet (the chord bears South 47 degrees 47 minutes 50 seconds West 138.66 feet), thence continue along said right of way South 55 degrees 18 minutes 00 seconds West 15.60 feet, thence leaving said right of way run South 34 degrees 42 minutes 00 seconds East along the Northeasterly boundary of the property recorded in Official Records Book 1344, pages 737-740 of the Public Records of Leon County, Florida, for 558.56 feet to the Point of Beginning.

EXHIBIT "B"

ESCROW AGREEMENT

THIS ESCROW AGREEMENT, dated as of this \_\_\_\_\_ day of May, 2000, by and among Acadia Realty Limited Partnership, a Delaware limited partnership, and Mark Northwood Associates Limited Partnership, a Florida limited partnership, (collectively, the "Seller"); UrbanAmerica, L.P., a Delaware limited partnership ("Purchaser"); and Blackwell Sanders Peper Martin ("Escrow Agent").

WHEREAS, Seller is the owner of the property commonly known as Northwood Centre which is located at 1940 Monroe Street, Tallahassee, Florida 32303 ("Premises"); and

WHEREAS, contemporaneously herewith, Seller and Purchaser have entered into an agreement whereby, subject to the terms and conditions contained therein, Seller shall sell the Premises to Purchaser and Purchaser shall purchase the Premises from Seller (the "Agreement"); and

WHEREAS, Seller and Purchaser desire that Escrow Agent act as escrow agent, and Escrow Agent is willing to do so, all upon the terms and conditions hereinafter set forth.

NOW, THEREFORE, in consideration of the premises and the mutual covenants and agreements herein contained, the parties hereto agree as follows:

1. Escrow Agent shall hold the Downpayment and all interest accrued thereon, if any (collectively, the "Fund") in an attorney escrow account and shall dispose of the Fund only in accordance with the following provisions:

(a) Escrow Agent shall deliver the Fund to Seller or Purchaser, as the case may be, as follows:

- (i) to Seller, upon completion of the Closing; or
- (ii) to Seller, after receipt of Seller's demand in which Seller certifies either that (A) Purchaser has defaulted under the Agreement, or (B) the Agreement has been otherwise terminated or cancelled, and Seller is thereby entitled to receive the Fund; Escrow Agent shall not honor Seller's demand until more than ten (10) days after Escrow Agent has given a copy of Seller's demand to Purchaser in accordance with this Escrow Agreement nor thereafter if Escrow Agent receives a Notice of Objection from Purchaser within such ten (10)-day period; or
- (iii) to Purchaser, after receipt of Purchaser's demand in which Purchaser certifies either that (A) Seller has defaulted under the Agreement, or (B) the Agreement has been otherwise terminated or cancelled, and Purchaser is thereby entitled to receive the Fund; but Escrow Agent shall not honor Purchaser's demand until more than ten (10) days after Escrow Agent has given a copy of Purchaser's demand to Seller in accordance with this Escrow Agreement, nor thereafter if Escrow Agent receives a Notice of Objection from Seller within such ten (10)-day period.

(b) (i) Upon receipt of a written demand from Seller or Purchaser under this Escrow Agreement, Escrow Agent shall send a copy of such demand to the other party. Within ten (10) days after the date of receiving same, but not thereafter, the other party may object to delivery of the Fund to the party making such demand by giving a notice of objection (a "Notice of Objection") to Escrow Agent. After receiving a Notice of Objection, Escrow Agent shall send a copy of such Notice of Objection to the party who made the demand; and thereafter, in its sole and absolute discretion, Escrow Agent may elect either (A) to continue to hold the Fund until Escrow Agent receives a written agreement of Purchaser and Seller directing the disbursement of the Fund, in which event Escrow Agent shall disburse the Fund in accordance with such agreement; and/or (B) to take any and all actions as Escrow Agent deems necessary or desirable (except to disburse all or any portion of the Fund to any party), in its sole and absolute discretion, to discharge and terminate its duties under this Agreement, including, without limitation, depositing the Fund into any court of competent jurisdiction and bringing any action of interpleader or any other proceeding; and/or (C) in the event of any litigation between Seller and Purchaser, to deposit the Fund with the clerk of the court in which such litigation is pending.

(ii) If Escrow Agent is uncertain for any reason whatsoever as to its duties or rights hereunder, and whether or not Escrow Agent has received any written demand or Notice of Objection under this Escrow Agreement, notwithstanding anything to the contrary herein, Escrow Agent may hold the Fund and may decline to take any other action whatsoever. In the event the Fund is deposited in a court by Escrow Agent, Escrow Agent shall be entitled to rely upon the decision of such court. In the event of any dispute whatsoever among the parties with respect to disposition of the Fund, Purchaser and Seller shall pay the attorney's fees and costs incurred by Escrow Agent (which said parties shall share equally, but for which said parties shall be jointly and severally liable) for any litigation in which Escrow Agent is named as, or becomes, a party.

(c) Notwithstanding anything to the contrary in this Agreement, within two (2) business days after the date of this Agreement, Escrow Agent shall place the Downpayment in an Approved Investment (as defined hereinafter). The interest, if any, which accrues on such Approved Investment shall be deemed part of the Fund; and Escrow Agent shall dispose of such interest as and with the Fund pursuant to this Agreement. Escrow Agent may not commingle the Fund with any other funds held by Escrow Agent. Escrow Agent may convert the Fund from the Approved Investment into cash or a non-interest-bearing demand account at an Approved Institution as follows:

(i) at any time within two (2) business days prior to the Closing Date; or

(ii) if the Closing Date is accelerated or extended, at any time within two (2) business days prior to the accelerated or extended Closing Date (provided, however, that Escrow Agent shall hold the Fund in an Approved Investment upon notice from Seller and Purchaser of any adjournment of the accelerated or extended Closing Date).

(d) As used herein, the term, "Approved Investment" means (i) any interest-bearing demand account or money market fund in a financial institution having a net worth in excess of \$50,000,000 or in any other institution otherwise approved by both Seller and Purchaser (collectively, an "Approved Institution"), or (ii) any other investment approved by both Seller and Purchaser. The rate of interest or yield need not be the maximum available and deposits, withdrawals, purchases, reinvestment of any matured investment and sales shall be made in the sole discretion of Escrow Agent, which shall have no liability whatsoever therefor. Discounts earned shall be deemed interest for the purpose hereof.

(e) Escrow Agent shall have no duties or responsibilities except those set forth herein, which the parties hereto agree are ministerial in nature. Seller and Purchaser acknowledge that Escrow Agent shall have no liability of any kind whatsoever arising out of or in connection with its activity as Escrow Agent. Seller and Purchaser jointly and severally agree to and do hereby indemnify and hold harmless Escrow Agent from all loss, cost, claim, damage, liability, and expense (including, without limitation, attorney's fees and disbursements whether paid to retained attorneys or representing the fair value of legal services rendered to itself) which may be incurred by reason of its acting as Escrow Agent provided the same is not the result of Escrow Agent's willful default, misconduct or gross negligence.

(f) Any Notice of Objection, demand or other notice or communication which may or must be sent, given or made under this Escrow Agreement to or by Escrow Agent shall be sent in accordance with the provisions of the Agreement

(g) Simultaneously with their execution and delivery of this Agreement, Purchaser and Seller shall furnish Escrow Agent with their true Federal Taxpayer Identification Numbers so that Escrow Agent may file appropriate income tax information returns with respect to any interest in the Fund or other income from the Approved Investment. The party ultimately entitled to any accrued interest in the Fund shall be the party responsible for the payment of any tax due thereon.

(h) Any amendment of the Agreement which could alter or otherwise affect Escrow Agent's obligations hereunder will not be effective against or binding upon Escrow Agent without Escrow Agent's prior consent, which consent may not be unreasonably withheld.

2. Upon delivery of the Fund in accordance with the terms of this Agreement, Escrow Agent shall be relieved of all liability hereunder and with respect to the Fund. Escrow Agent shall deliver the Fund, at the election of the party entitled to receive the same, by (i) a good, unendorsed check of Escrow Agent payable to the order of such party, (ii) an unendorsed official bank or cashier's check payable to the order of such party, or (iii) a bank wire transfer of immediately available funds to an account designated by such party.

3. Capitalized Terms. Capitalized terms used herein and not otherwise defined herein shall have the meanings ascribed to them in the Contract. Notwithstanding the foregoing, it is expressly understood and agreed by the parties hereto that all references to the Contract are for the convenience of the parties hereto and that Escrow Agent shall have no obligation or duties with respect thereto.

4. GOVERNING LAW. THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE INTERNAL LAWS OF THE STATE OF NEW YORK APPLICABLE TO AGREEMENTS MADE AND TO BE PERFORMED ENTIRELY WITHIN SUCH STATE, WITHOUT REGARD TO THE CONFLICTS OF LAW PRINCIPLES OF SUCH STATE.

5. Successors. This Agreement shall be binding upon and inure to the benefit of the respective successors and assigns of the parties hereto; provided, however, that this Agreement may not be assigned by any party without the prior written consent of the other parties hereto, which consent may be withheld for any or no reason.

6. Entire Agreement. This Agreement contains the entire agreement and understanding between the parties hereto with respect to the subject matter hereof and supersedes all prior agreements and understandings relating to such subject matter.

7. Amendments. No amendment, modification, termination, cancellation, rescission or supersession to this Agreement shall be effective unless it shall be in writing and signed by each of the parties hereto.

8. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall constitute an original, but all of which, taken together, shall be considered one and the same agreement.

9. Severability. If any provision of this Agreement or the application of any such provision to any person or circumstance shall be, held invalid, illegal or unenforceable in any respect by a court of competent jurisdiction, such invalidity, illegality or unenforceability shall not affect any other provision hereof.

IN WITNESS WHEREOF, the parties have executed and delivered this Escrow Agreement as of the date and year first above written.

ACADIA REALTY LIMITED PARTNERSHIP, Seller

By: Acadia Realty Trust, General Partner

By: \_\_\_\_\_  
\_\_\_\_\_, Trustee

MARK NORTHWOOD ASSOCIATES LIMITED PARTNERSHIP, Seller

By: Mark Northwood Realty, Inc., General Partner

By: \_\_\_\_\_  
Kenneth F. Bernstein, President

URBANAMERICA, L.P., Purchaser

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

ESCROW AGENT:

(m) BLACKWELL SANDERS PEPER MARTIN

(n)

(o) By: \_\_\_\_\_

EXHIBIT "C"

PERMITTED ENCUMBRANCES

Purchaser shall take title to the Premises subject to:

1. Final Judgment upon Stipulation in Case No. 67-82 creating right of way and drainage easement, recorded April 21, 1967 in Official Records Book 264, Page 477.
2. Easement for purpose of placing and maintaining pay station phone booths in favor of Southeastern Telephone Company, recorded in Official Records Book 392, Page 616. (AFFECTS PARCELS 1 AND 2)
3. Thirty (30) foot easement from John F. Yamnitz to Moore-Handley, Incorporated contained in Deed dated December 1, 1977 and recorded December 2, 1977 in Official Records Book 883, Page 954.
4. Easement in favor of City of Tallahassee by instrument recorded in Official Records Book 965, Page 2172.
5. Easement in favor of City of Tallahassee by instrument recorded in Official Records Book 965, Page 2180.
6. Slope Easement Agreement in favor of General Mills Restaurant Group, Inc., recorded in Official Records Book 1043, Page 556.
7. Drainage Easement in favor of City of Tallahassee, recorded in Official Records Book 1344, Page 741.
8. Drainage Easement in favor of City of Tallahassee, recorded in Official Records Book 1384, Page 1242.
9. Right of Way Easement in favor of City of Tallahassee, recorded in Official Records Book 1384, Page 1258.
10. Traffic Maintenance and Control Easement in favor of City of Tallahassee, recorded in Official Records Book 1384, Page 1265.
11. Easement in favor of City of Tallahassee, recorded in Official Records Book 1154, Page 341.
12. Terms and Conditions of existing recorded and un-recorded Leases that are listed on Exhibit D and all rights thereunder of the Lessee(s) and any person claiming by, through or under the Lessee(s).



13. Thirty foot (30') easement set forth in that Warranty Deed, recorded in Official Records Book 1091, Page 2291. (AS TO PARCEL 4)
14. Twelve and a half foot (12.5') drainage easement set forth in that Warranty Deed, recorded in Official Records Book 883, page 941. (AS TO PARCEL 4)
15. Assignment of Leases and Rents by and between Mark Northwood Associates, Limited Partnership (Assignor) and Nomura Asset Capital Corporation (Assignee) dated March 4, 1997 and recorded March 5, 1997 in Official Records Book 1989, Page 2086.
16. Leasehold Mortgage from Mark Northwood Associates, Limited Partnership, to Nomura Capital Asset Corporation, given to secure the original principal sum of \$23,000,000.00, joined by Mark Centers Limited Partnership ("fee owner") for the purpose of and subordinating the fee simple title to the lien, encumbrance and effect of the mortgage as if said fee owner executed and delivered the mortgage to the mortgagee; said mortgage having been dated March 4, 1997, and recorded on March 5, 1997 in Official Records Book 1989, at Page 2016, of the Public Records of Leon County, Florida.
17. Assignment of Management Agreement and Agreements Affecting Real Estate by and between Mark Northwood Associates, Limited Partnership (Assignor) and Nomura Asset Capital Corporation (Assignee), dated March 4, 1997 and recorded March 5, 1997 in Official Records Book 1989, Page 2105.
18. Manager's Consent and Subordination of Management Agreement by and between Mark Northwood Associates, Limited Partnership (Borrower), Mark Centers Limited Partnership (Manager), and Nomura Asset Capital Corporation (Lender), dated March 4, 1997 and recorded March 5, 1997 in Official Records Book 1989, Page 2121.
19. UCC-1 Financing Statement by and between Mark Northwood Associates, Limited Partnership (Debtor) and Nomura Asset Capital Corporation (Secured Party), recorded March 5, 1997 in Official Records Book 1989, Page 2166.
20. UCC-1 Financing Statement by and between Mark Northwood Associates, Limited Partnership d/b/a Northwood Mall (Debtor) and Nomura Asset Capital Corporation (Secured Party), recorded March 5, 1997 in Official Records Book 1989, Page 2185.

21. Present and future zoning laws, ordinances, resolutions, orders and regulations of all municipal, county, state or federal governments having jurisdiction over the Premises and the use of improvements thereof, provided that they do not restrict the continued use, or affect the maintenance, of the Premises.
22. Such state of facts as shown on that survey dated January 29, 1993, and most recently revised and recertified on January 29, 1997, by Broward Davis & Associates, Inc.

EXHIBIT "D"

LEASES

(see attached Rent Roll)

EXHIBIT "E"

ACTIONS, SUITS, PROCEEDINGS OR INVESTIGATIONS

None.

EXHIBIT "F"

FREE RENT, CONCESSIONS, ALLOWANCES,  
REBATES AND REFUNDS

None.

EXHIBIT "G"

SPECIAL WARRANTY DEED

Acadia Realty Limited Partnership, a Delaware limited partnership ("GRANTOR"), in consideration of Ten and 00/100th Dollars (\$10.00) and other valuable consideration, received from UrbanAmerica, L.P., a Delaware limited partnership ("GRANTEE"), the receipt and sufficiency whereof are hereby acknowledged, grants, bargains, sells, and conveys to GRANTEE the following described real estate:

See Exhibit "A" attached hereto and incorporated herein

The above described real estate is conveyed by GRANTOR and accepted by GRANTEE.

GRANTOR covenants with GRANTEE that GRANTOR:

(1) is lawfully seized of such real estate and that it is free from encumbrances except as set forth on Exhibit "B " attached hereto;

(2) has legal power and lawful authority to convey the same;

(3) warrants and will forever defend title to the real estate against the lawful claims of all persons claiming the same or any part thereof through, by or under Grantor.

Executed \_\_\_\_\_, 2000.

Acadia Realty Limited Partnership, Grantor

By: Acadia Realty Trust, General Partner

By: \_\_\_\_\_

Kenneth F. Bernstein, President

STATE OF \_\_\_\_\_ )  
                                  ) ss.  
COUNTY OF \_\_\_\_\_ )

The foregoing instrument was acknowledged before me on \_\_\_\_\_, 2000 by \_\_\_\_\_, \_\_\_\_\_ of Acadia Realty Trust, which is the general partner of Acadia Realty Limited Partnership, a Delaware limited partnership, on behalf of said partnership.

\_\_\_\_\_  
Notary Public

My commission expires: \_\_\_\_\_

EXHIBIT "H"

ASSIGNMENT AND ASSUMPTION  
OF LEASES AND SECURITY DEPOSITS

ASSIGNMENT AND ASSUMPTION OF LEASES AND SECURITY DEPOSITS, dated \_\_\_\_\_, 2000, between Acadia Realty Limited Partnership, a Delaware limited partnership, and Mark Northwood Associates Limited Partnership, a Florida limited partnership, both having an office at 20 Soundview Marketplace, Port Washington, New York 11050 (collectively herein, the "Assignor"), and, UrbanAmerica, L.P., a Delaware limited partnership having an office at 30 Broad Street, New York, New York 10004 ("Assignee").

W I T N E S S E T H:

WHEREAS, Assignor has this day sold and conveyed to Assignee the real property more particularly described in Schedule "1" annexed hereto and made a part hereof (the "Premises").

NOW, THEREFORE, in consideration of the sum of Ten Dollars (\$10.00) and other good and valuable consideration paid by Assignee to Assignor, the receipt and sufficiency of which are hereby acknowledged, Assignor hereby assigns, transfers and conveys to Assignee all of Assignor's right, title and interest as landlord in and to (i) the leases, licenses and other occupancy agreements affecting the Premises and all guarantees thereof set forth on Schedule "2" annexed hereto and made a part hereof (collectively, the "Leases"); (ii) the security deposits made under the Schedule "3" annexed hereto and made a part hereof (collectively, the "Security Deposits"); and any and all guarantees thereof.

TO HAVE AND TO HOLD the same unto Assignee, its successors and assigns, forever, from and after the date hereof, subject to the terms covenants, conditions and provisions of the Leases.

ASSIGNEE HEREBY ACCEPTS the foregoing assignment, acknowledges receipt of the Security Deposits, assumes and agrees to perform all of the obligations of Assignor under the Leases, accruing from and after the date hereof; and agrees to hold or apply all of the Security Deposits in accordance with terms of the Leases under which the Security Deposits were made; and

ASSIGNEE FURTHER AGREES to defend and indemnify assignor and any disclosed or undisclosed officer, director, employee, trustee, shareholder, partner, principal, parent, subsidiary or other person or entity affiliated with Assignor and any disclosed or undisclosed officer, director, employee, trustee, shareholder, partner or principal of any such parent, subsidiary or other affiliate (collectively, "Assignor's Affiliates") against, and to hold Assignor and Assignor's Affiliates harmless from, any and all claims, demands, causes of action, losses, damages, liabilities, and costs and expenses (including, without limitation, attorney's fees and disbursements), whether foreseen or unforeseen, asserted against or incurred by Assignor or any of Assignor's Affiliates in connection with or arising out of acts or omissions of Assignee or its

directors, officers, employees, affiliates, partners, brokers, agents, contractors, consultants and/or representatives, or other matters or occurrences that take place, from and after the date hereof relating to the Leases and Security Deposits.

ASSIGNOR FURTHER AGREES to defend and indemnify assignee and any disclosed or undisclosed officer, director, employee, trustee, shareholder, partner, principal, parent, subsidiary or other person or entity affiliated with Assignee and any disclosed or undisclosed officer, director, employee, trustee, shareholder, partner or principal of any such parent, subsidiary or other affiliate (collectively, "Assignee's Affiliates") against, and to hold Assignee and Assignee's Affiliates harmless from, any and all claims, demands, causes of action, losses, damages, liabilities, and costs and expenses (including, without limitation, attorney's fees and disbursements), whether foreseen or unforeseen, asserted against or incurred by Assignee or any of Assignee's Affiliates in connection with or arising out of acts or omissions of Assignor or its directors, officers, employees, affiliates, partners, brokers, agents, contractors, consultants and/or representatives, or other matters or occurrences that take place, prior to the date hereof relating to the Leases and Security Deposits.

This Assignment and Assumption of Leases and Security Deposits is made without any covenant, warranty or representation by, or recourse against, Assignor or Assignor's Affiliates of any kind whatsoever, except as set forth in that certain Sale-Purchase Agreement between Acadia Realty Limited Partnership and Mark Northwood Associates Limited Partnership, as Seller and



UrbanAmerica, L.P., as Purchaser, dated as of June \_\_, 2000.

IN WITNESS WHEREOF, this Assignment and Assumption of Leases and Security Deposits has been executed on the date and year first above written.

ASSIGNOR:

Acadia Realty Limited Partnership

By: Acadia Realty Trust, General Partner

By: \_\_\_\_\_  
\_\_\_\_\_, Trustee

Mark Northwood Associates Limited Partnership

By: Mark Northwood Realty, Inc.,  
General Partner

By: \_\_\_\_\_  
Kenneth F. Bernstein, President

ASSIGNEE:

UrbanAmerica, L.P., a Delaware limited partnership

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

EXHIBIT "I"

ASSIGNMENT AND ASSUMPTION  
OF CONTRACTS AND LICENSES

ASSIGNMENT AND ASSUMPTION OF CONTRACTS AND LICENSES, dated \_\_\_\_\_, 2000, between Acadia Realty Limited Partnership, a Delaware limited partnership, and Mark Northwood Associates Limited Partnership, a Florida limited partnership, both having an office at 20 Soundview Marketplace, Port Washington, New York 11050 (collectively, the "Assignor"), and UrbanAmerica, L.P., a Delaware limited partnership, having an office at 30 Broad Street, New York, New York 10004 ("Assignee").

W I T N E S S E T H:

WHEREAS, Assignor has this day sold and conveyed to assignee the real property more particularly described in Schedule "1" annexed hereto and made a part hereof (the "Premises").

NOW, THEREFORE, in consideration of the sum of Ten Dollars (\$10.00) and other good and valuable consideration paid by Assignee to Assignor, the receipt and sufficiency of which are hereby acknowledged, Assignor hereby assigns, transfers and conveys to Assignee all of Assignor's right, title and interest in and to (i) all of the licenses, permits, certificates, approvals, authorizations and variances issued for or with respect to the Premises by any governmental authority set forth on Schedule "2" annexed hereto and made a part hereof (collectively, the "Licenses") and (ii) all purchase orders, equipment leases, advertising agreements, franchise agreements, license agreements, management agreements, leasing and brokerage agreements and other service contracts relating to the operation of the Premises set forth on Schedule "3" annexed hereto and made a part hereof (collectively, the "Contracts").

TO HAVE AND TO HOLD the same unto Assignee, its successors and assigns, forever, from and after the date hereof, subject to the terms, covenants, conditions and provisions of the Licenses and the Contracts.

ASSIGNEE HEREBY ACCEPTS the foregoing assignment and assumes and agrees to perform all of the obligations of Assignor under the Licenses and the Contracts accruing from and after the date hereof; and

ASSIGNEE FURTHER AGREES to defend and indemnify Assignor and any disclosed or undisclosed officer, director, employee, trustee, shareholder, partner, principal, parent, subsidiary or other person or entity affiliated with Assignor and any disclosed or undisclosed officer, director, employee, trustee, shareholder, partner or principal of any such parent, subsidiary or other affiliate (collectively, "Assignor's Affiliates") against, and to hold Assignor and Assignor's Affiliates harmless from, any and all claims, demands, causes of action, losses,

damages, liabilities, and costs and expenses (including, without limitation, attorney's fees and disbursements), whether foreseen or unforeseen, asserted against or incurred by Assignor or any of Assignor's Affiliates in connection with or arising out of acts or omissions of Assignee or its directors, officers, employees, affiliates, partners, brokers, agents, contractors, consultants and/or representatives, or other matters or occurrences that take place, from and after the date hereof relating to the Licenses and the Contracts.

ASSIGNOR FURTHER AGREES to defend and indemnify Assignee and any disclosed or undisclosed officer, director, employee, trustee, shareholder, partner, principal, parent, subsidiary or other person or entity affiliated with Assignee and any disclosed or undisclosed officer, director, employee, trustee, shareholder, partner or principal of any such parent, subsidiary or other affiliate (collectively, "Assignee's Affiliates") against, and to hold Assignee and Assignee's Affiliates harmless from, any and all claims, demands, causes of action, losses, damages, liabilities, and costs and expenses (including, without limitation, attorney's fees and disbursements), whether foreseen or unforeseen, asserted against or incurred by Assignee or any of Assignee's Affiliates in connection with or arising out of acts or omissions of Assignor or its directors, officers, employees, affiliates, partners, brokers, agents, contractors, consultants and/or representatives, or other matters or occurrences that take place prior to the date hereof relating to the Licenses and the Contracts.

This Assignment and Assumption of Contracts and Licenses is made without any covenant, warranty or representation by, or recourse against, Assignor or Assignor's Affiliates of any kind whatsoever, except as set forth in that certain Sale-Purchase Agreement between Acadia Realty Limited Partnership and Mark Northwood Associates Limited Partnership, as Seller and

UrbanAmerica, L.P., as Purchaser, dated as of June \_\_\_\_, 2000.

IN WITNESS WHEREOF, this Assignment and Assumption of Contracts and Licenses has been executed on the date and year first above written.

ASSIGNOR:

Acadia Realty Limited Partnership

By: Acadia Realty Trust, General Partner

By: \_\_\_\_\_  
\_\_\_\_\_, Trustee

Mark Northwood Associates Limited Partnership

By: Mark Northwood Realty, Inc.,  
General Partner

By: \_\_\_\_\_  
Kenneth F. Bernstein, President

ASSIGNEE:

UrbanAmerica, L.P., a Delaware limited partnership

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

EXHIBIT "J"

CONTRACTS

1. Service Contract between Seller and United States Service Industries for the performance of janitorial services, dated December 1, 1999.
2. Agreement between Seller and May Day Outdoor Services, Inc., for the performance of horticultural services dated February 14, 1999.
3. Service Contract between Seller and Southwest Security, for the performance of security services, dated September 1, 1999.
4. Service Agreement between Seller and Southern Message Centers dated July 5, 1994.
5. Contract between Seller and Liebert Global Services, dated June 16, 1998.
6. Service Agreement between Seller and Quality Sound, Inc., dated April 7, 1994.
7. Battery Maintenance Agreement between Seller and Stationary Power Services dated May 20, 1998.
8. Fire Alarm Testing and Inspection Service Agreement between Seller and Siemens Building Technologies, Inc. dated August 19, 1999.
9. Contract between Seller and May Day Outdoor Services, Inc. dated April 5, 1999.
10. Contract between Seller and May Day Outdoor Services, Inc. dated July 31, 1998.
11. Service Contract between Seller and Grinnell Fire Protection Systems Company dated September 1, 1999.

EXHIBIT "K"  
INTANGIBLE PROPERTY

1. The trade name "Northwood Center".

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EXHIBIT "L"

NOTICE TO TENANTS

[JOINT LETTERHEAD OF SELLER AND PURCHASER]

\_\_\_\_\_, 2000

[Tenant's Name and Address]

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Re: [Building Address]

\_\_\_\_\_  
(the "Building")

Gentlemen:

With reference to your lease of space in the \_\_\_\_\_ Building, please be advised that Acadia Realty Limited Partnership and Mark Northwood Associates Limited Partnership have this day sold, transferred and assigned the Building and your lease to UrbanAmerica, L.P. ("Purchaser").

[Insert the following if there is a security deposit being transferred: Please be further advised that the security deposit under your lease and the accrued interest thereon, if any, have been turned over to the Purchaser, whose address is 30 Broad Street, New York, New York 10004.]

Finally, until you receive further notice from Purchaser, all rent checks and other payments under your lease should henceforth be made payable to [ , the managing agent for the Building or as otherwise required by the Loan Documents,] and mailed or delivered to their office at \_\_\_\_\_, and all notices to the landlord under your lease should also be addressed to the Purchaser at the foregoing address.

SELLER:

Acadia Realty Limited Partnership

By: Acadia Realty Trust, General Partner

By: \_\_\_\_\_  
Kenneth F. Bernstein, President

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Mark Northwood Associates Limited Partnership

By: Mark Northwood Realty, Inc.,  
General Partner

By: \_\_\_\_\_  
Kenneth F. Bernstein, President

PURCHASER:

UrbanAmerica, L.P., a Delaware limited partnership

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

[REMINDER:

This notice should be mailed or otherwise  
sent in the manner required by each tenant's  
lease and any applicable local law.]

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EXHIBIT "M"

NON-FOREIGN AFFIDAVIT UNDER  
INTERNAL REVENUE CODE  
SECTION 1445(b)(2)

STATE OF \_\_\_\_\_ )  
  ) ss:  
COUNTY OF \_\_\_\_\_ )

\_\_\_\_\_ being first duly sworn deposes and states  
under penalty of perjury:

1. That he/she is the \_\_\_\_\_ of Acadia Realty Limited Partnership, the transferor of the property located at 1940 North Monroe Street, Tallahassee, Florida 32303 and known as Northwood Centre.
2. That the transferor's office address is 20 Soundview Marketplace, Port Washington, New York 11050.
3. That the United States taxpayer identification number for the transferor is \_\_\_\_\_.
4. That the transferor is not a "foreign person" as that term is defined in Section 1445(f) of the United States Internal Revenue Code of 1986, as amended (the "Code").

This affidavit is given to UrbanAmerica, L.P., the transferee of the property described in paragraph 1 above., for the purpose of establishing and documenting the nonforeign affidavit exemption to the withholding requirement of Section 1445 of the Code. The transferor understands that this affidavit may be disclosed to the Internal Revenue Service by the transferee and that any false statement contained herein could be punished by fine, imprisonment, or both.

Acadia Realty Limited Partnership

By: Acadia Realty Trust, General Partner

By: \_\_\_\_\_  
Kenneth F. Bernstein, President

Subscribed and sworn to before me this \_\_\_\_ day of \_\_\_\_\_, 2000.

\_\_\_\_\_  
Notary Public

EXHIBIT "N"

MAJOR TENANTS

1. DPR (790-0070): Lease of 123,387 square feet to DPR (790-0070) commencing on May 1, 1999.
2. Florida Department of Health: Lease of 59,150 square feet to the Florida Department of Health commencing on May 1, 1999.
3. Jack Eckerd Corporation: Lease of 9.750 square feet to Jack Eckerd Corporation commencing on August 22, 1998.
4. DCF #590:2664: Lease of 9,855 square feet to DCF #590:2664 commencing on November 21, 1997.
5. DCF #590:2348: Lease of 14,331 square feet to DCF #590:2348 commencing on April 16, 1993.
6. DCF #590:2523: Lease of 19,984 square feet to DCF #590:2523 commencing on March 26, 1995.
7. DCF #590:2570: Lease of 15,368 square feet to DCF #590:2570 commencing on May 1, 1995.
8. DCF #590L1998: Lease of 119,054 square feet to DCF #590L1998 commencing on August 1, 1989.
9. DOR #730:0209: Lease of 5,913 square feet to DOR #730:0209 commencing on May 15, 1997.
10. Florida Department of Revenue: Lease of 7,948 square feet to the Florida Department of Revenue commencing on July 1, 1994.
11. Hooter's of America, Inc.: Lease of 4,500 square feet to Hooter's of America, Inc. commencing on September 26, 1989.
12. Publix Supermarket: Lease of 51,950 square feet to Publix Supermarket commencing on June 1, 1985.
13. Florida Department of Health: Lease of 6,635 square feet to the Florida Department of Health commencing on November 1, 1998.

\*Note: The above-listed tenants are only considered to be "Major Tenants" with respect to the Leases referred to on this Schedule 11.

EXHIBIT "O"  
FORM OF  
TENANT ESTOPPEL CERTIFICATE,

\_\_\_\_\_, 2000

To: UrbanAmerica, L.P.

\_\_\_\_\_  
\_\_\_\_\_  
("Purchaser")

Re: Lease dated \_\_\_\_\_ (the "Lease") between \_\_\_\_\_  
as landlord ("Landlord"), and \_\_\_\_\_ as  
tenant ("Tenant"), regarding certain space described in the Lease  
located in the building known as \_\_\_\_\_ (the "Premises").

Ladies/Gentlemen:

At the request of Landlord, and knowing that you are relying on the accuracy of the information contained herein, the undersigned hereby certifies that, to the undersigned's knowledge:

I. Tenant is the tenant under the Lease covering the Premises.

II. Tenant is in full and complete possession of the Premises, such possession having been delivered by Landlord, or its predecessor in title, pursuant to the Lease and having been accepted by Tenant. If the landlord named in the Lease is other than Landlord, Tenant recognizes Landlord as the landlord under the Lease.

III. The improvements and space required to be furnished by the terms of the Lease have been completed in all respects and to the satisfaction of Tenant, and are open for the use of Tenant, its employees, patients (or customers) and invitees.

IV. All duties of an inducement nature required of Landlord in the Lease have been fulfilled.

V. The Lease is in full force and effect; and has not been modified or, if the Lease has been modified, the following is a list of all modifications to the Lease and, as modified, the Lease is in full force and effect (if there are no modifications, please state "none"):  
\_\_\_\_\_;

VI. The rent and all other amounts payable by Tenant under the Lease have been paid through \_\_\_\_\_; no rent or other amounts payable by Tenant have been prepaid more than thirty (30) days in advance of the due date, except as provided by the Lease; and Tenant has not asserted, and has no knowledge of, any claim against Landlord under the Lease that might be set-or credited against future accruing rents;

VII. The undersigned has not given Landlord any written notice claiming that Landlord is in default under the Lease, which default remains uncured. Tenant has not received from Landlord any written notice claiming that Tenant is in default under the Lease other than the following (if none, please state "none"):

\_\_\_\_\_;

VIII. The term of the lease commenced on \_\_\_\_\_, The termination date of the present term of the Lease, excluding renewals, is \_\_\_\_\_;

IX. The address for notices to be sent to Tenant under the Lease is as follows:

\_\_\_\_\_;

X. There are no actions, whether voluntary or otherwise, pending against Tenant under the bankruptcy laws of the United States or any state thereof.

This letter is being furnished to Purchaser in connection with its acquisition of the Premises and may be relied upon by Purchaser, Landlord, Purchaser's lender and any assignee of Purchaser, if any, in connection with any loan Purchaser may obtain with respect to the Premises, and by their respective successors and assigns.

Very truly yours,

TENANT

[\_\_\_\_\_]

By: \_\_\_\_\_

Name:

Title:

EXHIBIT "P"  
INSURANCE POLICIES

Coverage	Amount of Insurance	Deductibles
Blanket Building & Personal Property Business Interruption Extra Expense Special Form Including Theft Valuation: Agreed Amount/Replacement	\$592,581,084 \$ 5,000,000	\$ 5,000 \$ 5,000
Flood Demolition/Increased Cost of Construction	\$ 50,000,000 \$ 10,000,000	\$25,000 \$ 5,000
Earthquake	\$ 50,000,000	\$25,000

EXHIBIT "Q"

COLLECTION ACCOUNT; REIMBURSEMENT AMOUNT ADJUSTMENT

A. [List account amounts]

B. The Reimbursement Amount shall be adjusted as follows:

1. In the event the amount in the Accounts is greater than \$3,250,000.00, then the Reimbursement Amount shall be increased by 40% of the difference between the amount in the Accounts and \$3,250,000.00.
2. In the event the amount in the Accounts is less than \$3,250,000.00, then the Reimbursement Amount shall be decreased by 40% of the difference between \$3,250,000.00 and the amount in the Accounts.

## PURCHASE AGREEMENT

THIS AGREEMENT (this "Agreement") is made and entered effective \_\_\_\_\_, 2000 by and between RD ABINGTON ASSOCIATES LIMITED PARTNERSHIP ("Seller"), a Delaware limited partnership, and TARGET CORPORATION ("Buyer"), a Minnesota corporation.

## RECITALS:

A. Seller is the owner of a certain tract of land (the "Shopping Center Tract") consisting of approximately 11.64 acres located in the County of Montgomery, Commonwealth of Pennsylvania, legally described on Exhibit A-1 and shown on the site plan attached hereto as Exhibit B (the "Site Plan").

B. The Shopping Center Tract is currently developed as an approximately 221,505 square foot shopping center with an approximately 207,429 square foot multi-level "Main Building" and a separate approximately 14,076 square foot single level out-parcel building. The various units or parcels within the Shopping Center Tract are collectively sometimes referred to herein as the "Shopping Center."

C. A proposed Condominium Plat and Plan is attached hereto as Exhibit C (the "Condominium Plan") and a proposed Declaration of Condominium of Abington Towne Center Condominium is attached hereto as Exhibit D (the "Declaration"). Seller shall convert the Shopping Center Tract into a commercial condominium consisting of various units and become the Declarant of a condominium regime to be created pursuant to the Declaration and Condominium Plan to be recorded in the Office of the Recorder of Deeds of Montgomery County, Pennsylvania. The condominium regime will consist of three (3) units, two of which will be owned by Seller ("Units I and II") and one to be conveyed to Buyer ("Unit III").

D. Buyer desires to secure from Seller the exclusive right to purchase the condominium Unit III that is identified on Exhibit B and legally described on Exhibit A-1, which Unit III consists of Parcels T1, T2 and T3 and is generally referred to herein as the "Property"), for the intended purposes of constructing the Contemplated Improvements (hereinafter defined) thereon and the conduct of a retail business thereon. The Property consists of approximately 157,616 square feet on three levels of the Main Building plus parking, loading dock and driveway areas. The final Unit size and configuration shall be subject to confirmation by Seller and Buyer.

E. Seller is willing to grant and extend to Buyer such purchase right on the terms and conditions set forth herein.

NOW THEREFORE, in consideration of the covenants set forth herein and other good and valuable consideration, the receipt and sufficiency of which the parties hereby acknowledge, Seller agrees to sell to Buyer and Buyer agrees to purchase from Seller the Property, together with and including all hereditaments, appurtenances, easements and right of ways thereunto belonging or in any way appertaining, subject to and upon the following terms and conditions:

SECTION 1 - PURCHASE PRICE. The purchase price of the Property (the "Purchase Price") shall be Nine Million Five Hundred Thousand and No/100 Dollars (\$9,500,000.00). The Purchase Price shall be payable at Closing (as defined in Section 13) by cashier's check or by wire transfer, at Buyer's option.

SECTION 2 - DEPOSIT. As consideration for the grant of the exclusive right to purchase the Property, within five (5) days of receipt by Buyer of a fully executed original counterpart of this Agreement, Buyer shall place in escrow with:

New York Land Services, Inc.  
Attn: Monique Sage  
630 3rd Avenue  
5th Floor  
New York, New York 10017  
Fax: (212) 490-8012

(the "Title Company" and also sometimes referred to as "Escrow Agent") the sum of Ten Thousand Dollars (\$10,000.00) (the "Deposit") which shall be retained and disbursed by the Title Company for the benefit of Seller and Buyer in accordance with the provisions of Section 3 below.



SECTION 3 - INVESTMENT AND DISBURSEMENT OF THE DEPOSIT. Upon receipt of funds paid toward the Deposit, the Title Company is hereby directed to invest the same in an interest-bearing account acceptable to Buyer. Interest earned on said funds shall be considered to be part of the Deposit and shall be disbursed accordingly. The Title Company shall disburse the Deposit as follows:

A. If Seller terminates this Agreement because of Buyer's default, the Deposit shall be disbursed to Seller upon such termination.

B. If this Agreement terminates for any reason other than Buyer's default, then the Deposit shall be disbursed to Buyer upon such termination.

C. If Buyer proceeds to Closing, the Deposit shall be disbursed to Seller at Closing in part payment of the Purchase Price.

SECTION 4 - CONTINGENCIES. Buyer contemplates acquiring the Property for the construction and operation of a general merchandise store initially containing approximately 152,091 square feet of floor space, together with parking, loading dock and driveway areas and other appurtenant facilities (the "Contemplated Improvements"). Seller acknowledges that the Property may be of no use to Buyer unless certain conditions precedent to such use exist. Seller has delivered to Buyer, for Buyer's review and approval, all on- and off-site engineering, geotechnical engineering, development schedules, reports and Phase I and Phase II (if any) environmental reports and copies of all agreements relating to obtaining government approvals for the re-development of the Shopping Center.

Buyer's obligation to close the transaction contemplated herein shall therefore be conditioned upon Buyer satisfying itself on or before thirty (30) days prior to the Date of Closing (the "Due Diligence Period") that the following contingencies are met:

A. Buyer may use the Property for retail/commercial purposes without being in violation of any zoning classification, land use classification, environmental requirement, or any other land use classification or building classification or requirement established by any entity or authority having legal jurisdiction or authority thereover. The availability or probability of the issuance of a variance or special use permit necessary to satisfy this condition shall not be considered sufficient unless the actual issuance thereof

is or will be unconditional. Seller shall be responsible to obtain all governmental approvals (except building and occupancy permits for the Property, which will be Buyer's responsibility in the ordinary course of construction) necessary for the re-development of the Shopping Center Tract and the Buyer's Contemplated Improvements. It is Buyer's understanding that the Shopping Center Tract is currently properly zoned for the re-development of the Shopping Center, including the construction (and subsequent operation) of the Contemplated Improvements. Buyer and Seller are therefore of the opinion that as of the date hereof the contingencies set forth in this paragraph have been satisfied. At closing, Seller shall confirm to Buyer that the circumstances involving the contingencies set forth in this paragraph have not changed.

B. All utilities, including electricity, gas, water (fire and domestic), storm and sanitary sewer, are, or will be at the time Buyer shall commence construction of its contemplated improvements, available on-site, of size and capacity sufficient to serve the Contemplated Improvements and retail use, and at the time of such construction commencement, Buyer will be immediately entitled to connect into such utilities upon payment of only the usual and customary connection fees. Buyer and Seller contemplate that after the Closing the utilities will be installed and/or constructed within the Shopping Center Tract as part of the work to be performed pursuant to either Building Development Agreement (the "BDA") or the Site Development Agreement (the "SDA") referenced in Section 5 hereof. Buyer hereby acknowledges that it is satisfied that this contingency has been met, subject to work being completed under the BDA and SDA. At closing, Seller shall confirm to Buyer that the circumstances involving the contingencies set forth in this paragraph have not changed.

C. The Site Plan has received all necessary governmental approvals. (Buyer has approved the Site Plan that Developer submitted for governmental approvals.) Any changes to the Site Plan shall require Buyer's approval, which approval shall not be unreasonably withheld provided, however, that Buyer's approval of any of the following modifications to the Site Plan must be acceptable to Buyer in Buyer's sole and absolute discretion: (i) changes or alterations in any points of access, (ii) changes or alterations in the locations of any freestanding signs, (iii) changes or alterations in the permitted building area envelopes, and (iv) changes or alterations in parking area layouts and traffic patterns. Buyer and Seller are of the opinion that as of the date hereof the contingencies set forth in this paragraph have been satisfied. At closing, Seller shall confirm to Buyer that the circumstances involving the contingencies set forth in this paragraph have not changed.

D. On or before Closing, a condominium regime will have been validly formed in accordance with the Pennsylvania Uniform Condominium Act and the final Declaration and Condominium Plan (both in form and substance acceptable to Buyer) have either (i) been recorded or (ii) received all necessary approvals, are in final recordable form and have been delivered to the Title Company for recording at Closing, such that the Property can be conveyed to Buyer as contemplated herein. The Condominium Plan shall not be acceptable to Buyer if it (or any municipal ordinance enacted in conjunction with the approval of it) contains any conditions to, or reservation of approvals necessary for the issuance of building permits or a certificate of occupancy, other than compliance with applicable building codes.

E. The Property and the Shopping Center Tract have ingress and egress for vehicular traffic to and from adjacent public streets as provided in the Site Plan. Buyer and Seller are of the opinion that as of the date hereof the contingencies set forth in this paragraph have been satisfied. At closing, Seller shall confirm to Buyer that the circumstances involving the contingencies set forth in this paragraph have not changed.

F. Buyer is satisfied, at its sole discretion, that all permits, licenses and other governmental authorizations necessary for the development of the Property and construction of the Contemplated Improvements in accordance with the approved Site Plan and its building permit have been issued or will be issued upon closing of the transaction contemplated by this Agreement or upon payment of applicable fees. This condition shall not be considered satisfied unless the actual issuance of the foregoing permits, licenses, approvals and authorizations is unconditional. Seller shall, at Seller's expense be responsible to obtain all of the foregoing approvals, permits and variances (except building and occupancy permits for any portion of the development being constructed by Buyer and others) necessary for the re-development of the Shopping Center Tract and the Buyer's Contemplated Improvements. Buyer and Seller are of the opinion that as of the date hereof the contingencies set forth in this paragraph have been satisfied. At closing, Seller shall confirm to Buyer that the circumstances involving the contingencies set forth in this paragraph have not changed. The foregoing is not intended to modify Seller's obligations to obtain all such approvals, permits and variances.

G. If Buyer were to apply for a building permit for the Contemplated Improvements on the Property as of the Date of Closing and pay all required application fees, and provided that the plans for such Contemplated Improvements complied with all applicable building codes, Buyer could obtain such building permit without further act.

H. All of the representations and warranties of Seller contained in this Agreement are true and correct in all material respects on the Date of Closing as if the same were made on and as of such date.

I. Seller's certificate, if any, regarding material changes in its representations and warranties as contemplated by Section 11 does not disclose any matter not acceptable to Buyer in Buyer's sole and absolute discretion.

J. The conditions and/or circumstances found to exist during Buyer's investigations and studies of the Property pursuant to Sections 4 and 7.1 hereof shall remain unchanged.

K. All covenants of Seller required in this Agreement to be performed on or before the Date of Closing have been timely and duly performed in all material respects.

L. At Closing, the Property shall be free of Hazardous Substances.

If circumstance change prior to closing such that the foregoing conditions no longer exist to the satisfaction of Buyer, in its sole and absolute discretion, Buyer may, at Buyer's sole option, terminate this Agreement by giving written notice to Seller at any time prior to Closing. Upon such termination of this Agreement, both parties shall be released from all duties and obligations created herein. The conditions set forth in this Section 4 are for Buyer's sole benefit and Buyer may, in its sole and absolute discretion, waive (conditionally or absolutely) the fulfillment of one or more of the conditions or any part thereof. Seller agrees that it will not take or authorize, directly or indirectly, any action that modifies or changes the circumstances upon which the conditions set forth in this Section 4 were deemed satisfied or waived by Buyer without Buyer's prior written consent.

SECTION 5 - ADDITIONAL AGREEMENTS. Seller and Buyer have agreed that the Shopping Center Tract shall be used as a retail shopping complex. In furtherance of the parties' understandings, on or before the Closing, Seller and Buyer shall each execute the agreements (the "Additional Agreements") attached hereto as:

Exhibit D: Declaration of Condominium (Seller, only, executes); and

Exhibit E: Building Development Agreement (BDA).

Exhibit F: Site Development Agreement (SDA).

Seller shall obtain the proper execution of the BDA, SDA and Declaration by any other necessary party thereto.

The execution and delivery of the Additional Agreements in accordance with this Section 5 shall be an affirmative obligation of each party. The Title Company shall deliver one original counterpart of the Declaration, BDA and SDA to each party thereto at Closing and record the same.

SECTION 6 - CONDOMINIUM PLATTING. Seller acknowledges that the Shopping Center Tract must be platted as a condominium and the Declaration recorded in order for Buyer to record the Deed and re-develop the Property as intended. Seller, at its sole cost and expense shall cause such platting requirement to be satisfied in accordance with the Site Plan or as otherwise approved in advance by Buyer and the Declaration to be recorded by no later than Closing. The Property shall be assessed as a separate tax parcel. Seller agrees that it shall not form any assessment district for the payment of on- or off-site improvements related to the re-development of the Shopping Center. If such a district is formed, Seller shall indemnify Buyer from such assessments. The foregoing obligations shall survive the Closing and delivery of the Deed.

Seller, with Buyer's assistance, shall use commercially reasonable efforts and all due diligence to complete the procedure as quickly as possible. If, as a result of such platting, the legal description of the Property is modified, Seller shall cause the Survey and the Commitment to be updated to reflect such modification. If such platting is not completed prior to the Closing, Buyer, at its option, may (i) take over the platting process and complete the same, deducting the cost thereof from the Purchase Price payable at Closing and extend the Closing as necessary, (ii) terminate this Agreement and receive from Seller the reimbursement of Buyer's out-of-pocket expenses associated with the project contemplated herein; or (iii) elect to extend the Date of Closing until such procedure is completed; provided, however, that if Buyer elects to extend the Date of Closing pursuant to (i) or (iii) above, this Agreement shall nevertheless terminate if such procedure has not been completed within one (1) year of the originally scheduled Date of Closing. Upon such termination each party shall be released from all duties or obligations contained herein.

SECTION 7 - BUYER'S INVESTIGATION AND INSPECTIONS.

7.1 Seller hereby grants to Buyer, its employees, agents, consultants and contractors, the right to enter onto the Property and, to the extent necessary, onto any other part of the Shopping Center Tract or other adjacent land owned by the Seller, for the purpose of performing such surveys, soil tests, hydrology tests, percolation tests, environmental tests, and other engineering tests or environmental investigations Buyer may reasonably deem appropriate. As of the date hereof, Buyer believes that it has completed all such tests and investigations.

7.2 Seller represents that it has delivered to Buyer all of the information (for example, any surveys, plans, reports, test results, permits or tank registrations, and title policies) Seller has within its control regarding the Property and Shopping Center Tract, including, without limitation, relating to the environmental condition of the Property and Shopping Center Tract and/or any subterranean structures or utilities which may be present on the Property and Shopping Center Tract, and Seller shall continue to promptly deliver all such materials. Seller understands that Buyer needs this information in order to properly evaluate the Property and, more importantly, to avoid damaging underground structures and utilities and to avoid causing, contributing to or exacerbating the release of a hazardous substance in the course of its investigations.

7.3 Buyer agrees to pay all of the costs and expenses associated with its investigation and testing and to repair, and Buyer shall restore any damage to the Property to Seller's reasonable satisfaction caused by Buyer's investigations or testing, at Buyer's expense. Buyer also agrees to hold the Seller harmless from all costs, expenses and liabilities arising out of Buyer's negligence or willful misconduct or that of its employees, agents, consultants or contractors in performing its evaluation of the Property, except that Buyer shall have no responsibility to Seller and is hereby released from liability by Seller for any damage to persons or property or any release arising out of existing environmental conditions or subterranean structures or utilities that were known to the Seller and not disclosed to Buyer as provided in Section 7.2 hereof.

7.4 Soil, rock, water, asbestos, and other samples taken from the Property shall remain the property of Seller. At Seller's request, Buyer will assist in making arrangements for the lawful disposal of any contaminated samples and will pay any related transportation or disposal fees, but only if Seller signs the manifest and any other documents required in connection with the disposal of contaminated samples. If Seller is not willing to sign the required documentation, Buyer's only obligation shall be to return the contaminated samples to Seller.

7.5 Any investigation or inspection conducted by Buyer or any agent or representative of Buyer pursuant to this Agreement in order to verify independently Seller's satisfaction of any conditions precedent to Buyer's obligation hereunder or to determine whether Seller's representations and warranties are true and accurate, shall not affect (or constitute a waiver by Buyer of) any of Seller's obligations hereunder or Buyer's reliance thereon.

SECTION 8 - SITE PLAN APPROVAL AND PERMITS. Except for Buyer's exterior building signage approvals for which Buyer shall be responsible, Seller shall be responsible for obtaining all necessary permits, variances, platting and subdivision and other forms of governmental approvals necessary for the re-development of the Shopping Center (including those deemed necessary by Buyer for development of the Property and construction of the Contemplated Improvements, but excluding Buyer's store building permit or the permits Buyer is required to obtain for its water and sewer connections), including the installation of utilities and other operation or use applications relating to the Shopping Center and Property and the construction of any necessary off-site improvements (excluding a certificate of occupancy for Buyer's store building). Seller agrees to cooperate with Buyer in the planning and engineering for final site plan approval and for all necessary off-site improvements, and the prosecution of any such other applications or petitions. The cost for all land use work (i.e., engineering, surveying, plating, zoning application fees, attorney's fees) shall be Seller's responsibility.

SECTION 9 - TITLE EVIDENCE.

9.1 Buyer shall obtain a commitment (the "Commitment") for an owner's policy of title insurance (ALTA Owner's Policy 1970 or the equivalent) in the amount of the Purchase Price covering the Property and easements appurtenant thereto and Buyer's estimate of the cost of the Contemplated Improvements. The Commitment shall bear a date subsequent to the date hereof, shall include legible copies of all documents, maps or plats set forth therein as affecting the Property and shall be issued through Commonwealth Land Title Insurance Company (the "Title Company") (or such other title company that Buyer has approved in advance). The Commitment shall identify the Property and easements appurtenant thereto by the legal description(s) set forth on the Survey referred to in Section 10 hereof and shall include all appropriate real estate tax information and lien, judgment and bankruptcy searches. The Commitment shall

contain endorsements (unless prohibited by law) insuring (i) that all of the parcels comprising the Shopping Center and specifically the Property are contiguous (if comprised of more than one parcel) and that the Property is contiguous to the remainder of the Shopping Center and any real estate containing easements appurtenant thereto, (ii) deleting the co-insurance provisions of Section 7(b), as well as arbitration and creditor's rights provisions, (iii) that the Property and Shopping Center abut the public street(s) immediately adjacent thereto and has direct and valid access thereto, and (iv) that the Condominium has been validly formed in accordance with the Pennsylvania Uniform Condominium Act. Seller hereby agrees to provide to the Title Company any updated abstracts of title covering the Shopping Center Tract and/or any other form of title evidence it may have obtained, including any attorney's title opinion or any owner's title insurance policy.

9.2 Within thirty (30) days after receipt of the Commitment and the Survey in the forms specified herein, Buyer shall deliver to Seller a written statement containing any objections Buyer may have to title, including any matters shown on the Survey. If such statement is so delivered, Seller shall use commercially reasonable efforts and all due diligence to cure or remove all such objections prior to Closing. The removal or cure of any such objection shall be evidenced by Seller providing an endorsement to the Commitment and/or a revised Survey or updated Commitment showing such objections to be cured or removed.

9.3 Buyer may, from time to time (but no more than once every 45 days) prior to Closing and in conjunction with the Closing, request an update to the Commitment ("Title Update(s)"). If any Title Update(s) disclose any defects in or exceptions to title in addition to the defects and exceptions disclosed by the Commitment which Purchaser shall not have expressly consented to in writing, Seller shall use commercially reasonable efforts and all due diligence to eliminate or otherwise correct said additional title defects and/or exceptions prior to Closing (unless arising out of the acts or omissions of Buyer).



9.4 If any objection is not cured or removed prior to Closing, Buyer may elect, before the Closing Date to (i) accept title to the Property as it is, subject to the right to deduct from the Purchase Price funds necessary to satisfy outstanding mechanics, mortgage-related or judgment liens, or (ii) terminate this Agreement. Upon any such termination, each party shall be released from all duties or obligations contained herein.

9.5 Buyer, at Closing, shall be responsible to pay the premium for the owner's title insurance policy required hereunder for the Property, including the additional cost, if any, of an extended coverage endorsement, for any increase in the policy limit to cover the cost of the Contemplated Improvements and for any endorsements in addition to those set forth in Section 9.1 hereof which do not serve to cure a title defect. Seller shall be responsible for the additional cost of curing a title defect.

SECTION 10 - SURVEY.

10.1 Seller, at its expense, has delivered to Buyer a current survey of the Property (the "Survey") as soon as possible hereafter prepared by a surveyor licensed by the Commonwealth of Pennsylvania. Seller directed that the Survey be prepared in accordance with the current standards for Land Title Surveys of the American Title Association and the American Congress on Surveying and Mapping. The Survey shall be certified to Buyer, Seller and the Title Company. Seller may request Buyer's Survey Requirements from Buyer's Site Development Manager and is encouraged to do so. The Survey shall set forth the legal description(s) and street address(es) (if any) of the Property and shall include a vicinity map showing the location of major streets and/or highways. The Survey shall identify all (i) improvements (including fences), (ii) easements (visible or recorded), including recording information concerning the documents creating any such easements, (iii) building lines, (iv) curb cuts, (v) sewage, water, electricity, gas and other utility facilities, together with points of connection, (vi) roads and other means of physical and record ingress and egress to and from the Property from public roads (including the dimensions of abutting streets), (vii) riparian areas and areas located within flood plains or conservation areas or designated as wetlands, and (viii) improvements on adjoining properties which are within five (5) feet of the property lines of the Property.

10.2 If the Survey shall show encroachments onto the Property from any adjacent real estate, encroachments from the Property onto any adjacent real estate, a gap between the Property and an supposedly adjoining tract or street, violation of any recorded building lines or setbacks, restrictions or easements affecting the Property and/or any matters not reflected on the Commitment, including the possible rights of third parties, such matters shall automatically be objections to title.

SECTION 11 - SELLER'S WARRANTIES AND REPRESENTATIONS.

A. General Representations and Warranties.

Seller warrants and represents to Buyer that the following statements are now true and accurate:

1. Seller has good, marketable and insurable record title to the Shopping Center Tract; Seller has owned and/or been in possession of the Shopping Center Tract for approximately ten (10) years.

2. Seller shall secure all private and municipal and governmental agreements and approvals necessary for the development and operation of the Shopping Center and the Target store on the Property (other than approval of Buyer's signage and building plans), including, without limitation, all exterior signs, the Declaration and the Condominium Plan. Developer shall specifically warrant the foregoing at Closing.

3. The Property is not subject to any mechanics' liens, nor are there any third parties in or entitled to possession thereof.

4. Seller has not received any notice, nor is it aware of any pending action to take all or any portion of the Shopping Center Tract, nor has Seller agreed or committed to dedicate any part of the Shopping Center Tract.

5. The Shopping Center Tract and the Property have free and full access to and from all adjoining streets, roads and highways, and there is no pending or threatened action that would impair such access.

6. Neither the Property nor the Shopping Center Tract has been classified under any designation authorized by law to obtain a special low ad valorem tax rate or receive either an abatement or deferment of ad valorem taxes which, in such case, will result in additional, catch-up ad valorem taxes in the future in order to recover the amounts previously abated or deferred, and Seller shall not form any other assessment district.

7. Neither the Shopping Center Tract nor its use is in violation of any local governmental rule, ordinance, regulation or building code, nor is there a pending or threatened investigation regarding a possible violation of any of the foregoing.

8. Seller has not received any notice nor is it aware of any litigation or administrative proceeding pending or threatened (including the expiration of any appeal period with respect thereto) relating to the Shopping Center Tract or its use which may adversely affect the validity of any license, permit or other governmental determination or authorization necessary to development and operation of the Shopping Center Tract.

9. Seller is not a "foreign person" as contemplated by Section 1445 of the Internal Revenue Code.

10. Seller has the full capacity, right, power and authority to execute, deliver and perform this Agreement and all documents to be executed by Seller pursuant hereto, and all required actions and approvals therefor have been duly taken and obtained. The individuals signing this Agreement and all other documents executed or to be executed pursuant hereto on behalf of Seller are and shall be duly authorized to sign the same on Seller's behalf and to bind Seller thereto.

11. This Agreement and all documents to be executed pursuant hereto by Seller are and shall be binding upon and enforceable against Seller in accordance with their respective terms, and the transaction contemplated hereby will not result in a breach of, or constitute a default or permit acceleration and maturity under, any indenture, mortgage, deed of trust, loan agreement or other agreement to which Seller or the Property or Shopping Center Tract are subject or by which Seller or the Property or Shopping Center Tract are bound.

12. Seller has not (i) made a general assignment for the benefit of creditors, (ii) filed any involuntary petition in bankruptcy or suffered the filing of any involuntary petition by Seller's creditors, (iii) suffered the appointment of a receiver to take possession of all or substantially all of Seller's assets, (iv) suffered the attachment or other judicial seizure of all, or substantially all, of Seller's assets, (v) admitted in writing its inability to pay its debts as they come due, or (vi) made an offer of settlement, extension or composition to its creditors generally.

B. Seller represents and warrants to Buyer that the following statements are now true and accurate:

1. To the best of Seller's knowledge, no Hazardous Substance is located on, in, or under the Shopping Center Tract, except as disclosed on Exhibit G.
2. To the best of Seller's knowledge, neither as of this date nor at any time prior to the date hereof, has there been a Release of any Hazardous Substance in, on, or under the Shopping Center Tract, except as disclosed on Exhibit G.
3. Neither Seller nor Seller's Affiliates have ever used the Shopping Center Tract for the use, storage, generation, manufacture, treatment, transportation or disposal of any Hazardous Substance, nor, to the best of Seller's knowledge, has the Shopping Center Tract ever been used for the storage, manufacture, disposal, handling, transportation or use of any Hazardous Substance, except as disclosed on Exhibit G.
4. Any permits or licenses necessary or required to store, use or manufacture any Hazardous Substance within or on the Shopping Center Tract have been obtained, are being complied with, and are in full force and effect.
5. To the best of Seller's knowledge, Seller's activities on the Shopping Center Tract and those of its tenants, subtenants and licensees, if any, comply with all applicable Environmental Laws.
6. There is no, nor, to the best of Seller's knowledge, has there ever been any, investigation, administrative proceeding, litigation, regulatory hearing or other action proposed, threatened or pending, relating to the Shopping Center Tract and alleging non-compliance with or liability under any Environmental Law; nor is the Shopping Center Tract listed on CERCLIS or any comparable state list of hazardous waste sites identified for investigation or remediation except as may otherwise be specified in Exhibit G;
7. Seller has disclosed to Buyer all assessments, studies, sampling results, evaluations and other reports commissioned by or for Seller or within Seller's possession or control relating to the environmental condition of the Shopping Center Tract.
8. There are not now and were not at any time during which Seller's Affiliates had any interest in the Shopping Center Tract, nor to the best of Seller's knowledge, have there ever been, any above-ground or underground storage tanks located in, on or under the Shopping Center Tract, except as disclosed on Exhibit G.
9. With respect to any storage tanks removed from the Shopping Center Tract before Seller or Seller's Affiliates had any interest in the Shopping Center Tract, to the best of Seller's knowledge, any contaminated soil was removed from the Shopping Center Tract except as may otherwise be specified in Exhibit G.
10. With respect to any storage tanks removed from the Shopping Center Tract at a time during which Seller or Seller's Affiliates had any interest in the Shopping Center Tract, any contaminated soil was removed from the Shopping Center Tract except as may otherwise be specified in Exhibit G.

11. If disclosed on Exhibit G, any storage tanks located above or under the Shopping Center Tract have been properly registered with all appropriate regulatory and governmental bodies and are otherwise in compliance with applicable federal, state and local statutes, regulations, ordinances and other regulatory requirements, and Seller has delivered to Buyer copies of any such tank registrations, quantity (or volume) reconciliation records, tightness test results and cathodic protection test results within Seller's possession or control.

For purposes of this Agreement:

The term "Hazardous Materials" shall mean and refer to the following: petroleum products and fractions thereof, asbestos, asbestos containing materials, urea formaldehyde, polychlorinated biphenyls, radioactive materials and all other dangerous, toxic or hazardous pollutants, contaminants, chemicals, materials, substances and wastes listed or identified in, or regulated by, any Environmental Law.

The term "Environmental Law(s)" shall mean and refer to the following: all federal, state, county, municipal, local and other statutes, laws, ordinances and regulations which relate to or deal with human health or the environment, all as may be amended from time to time.

The term "Release" shall mean and refer to any spilling, leaking, pumping, pouring, emptying, discharging, injecting, escaping, leaching, dumping or disposing into the environment, including the abandonment or discarding of barrels, drums, containers, tanks, or other receptacles containing or previously containing any Hazardous Material.

The term "Seller's Affiliates" shall mean and refer to any (i) spouse, ancestor, descendant or sibling of Seller; (ii) any corporation in which Seller is or was an officer, director, or shareholder; (iii) any partnership in which Seller is or was a partner; (iv) any trust which is or was for the benefit of Seller or any spouse, ancestor, descendant or sibling of Seller; (v) if Seller is a partnership, any partner of Seller; and (vi) if Seller is a corporation, any officer, director or controlling shareholder of Seller.

C. Representations and Warranties deemed Remade as of Closing; Certificate. Except to the extent otherwise set forth on a Certificate delivered to Buyer as provided below in this Section 11C., the foregoing representations and warranties shall automatically be deemed to have been remade by Seller as of the Date of Closing. Seller shall execute and deliver to Buyer at Closing a written certification to Buyer disclosing, where applicable, the extent to which

Seller cannot remake said representations and warranties as of the Date of Closing (the "Certificate"). The Certificate shall be executed by an authorized and incumbent corporate officer of Seller if Seller is a corporation (or a general partner if Seller is a partnership, or Seller, if Seller is an individual), and Seller shall deliver the Certificate to Buyer at Closing. Upon delivery to Buyer, the Certificate shall be deemed to constitute a part of this Agreement. Any disclosure on the Certificate shall not affect Buyer's rights under Section 5 or Section 11E.

D. Seller covenants and agrees as follows:

1. So long as this Agreement remains in force, Seller shall not lease, convey or otherwise transfer or encumber all or any portion of the Property.

2. Seller shall not take or authorize, directly or indirectly, any action (a) that modifies or alters the accuracy of any of the statements at Section 11A.1. through 12. or Section 11B.1. through 11B.11, or (b) which would prevent Seller from representing and warranting as to the truth and accuracy of said statements as of the Date of Closing.

3. Seller shall, at Seller's sole cost and expense, remove, remediate, transport, dispose and/or control all Hazardous Materials on or under the Property, or migrating to or from the Property (including any soil contaminated by one or more Hazardous Materials) of which Seller is made aware on or before the date that Buyer completes its construction of the Contemplated Improvements on the Property (the "Completion Date"), all in accordance with a remediation management plan approved by Buyer and all applicable regulatory authorities (the "Remediation Management Plan"). Buyer's approval of the Remediation Management Plan shall not be unreasonably withheld, provided that the same is approved by Buyer's consultant and does not interfere with Buyer's contemplated construction or operation activities for the Property. Approval of a remediation management plan by Buyer and/or its consultant shall not constitute assumption of responsibility by Buyer for the accuracy, sufficiency or propriety thereof, nor shall such approval constitute a representation or warranty by Buyer that the same complies with requirements of any governmental agency having jurisdiction thereover. Buyer shall have the right, but not the obligation, at its sole discretion, to at any time cause all or a part of such removal, remediation, transportation, disposal and/or control work to be undertaken at its direction, whether or not Seller has commenced such work. Seller shall reimburse Buyer for the costs incurred in connection with such work within thirty (30) days of receipt of an invoice therefor from Buyer. Notwithstanding anything contained in this Agreement to the contrary, in no event shall the term "Hazardous Materials" as used in this subsection 11D.3. be deemed to include Hazardous Materials brought onto the Property by or at the direction of Buyer.

4. Seller shall deliver the Property to Buyer on the Date of Closing free and clear of any and all waste and debris of any and all kinds.

E. The foregoing covenants, representations and warranties set forth in this Section 11 are express covenants, representations and warranties upon which Buyer shall be entitled to rely regardless of any investigation or inquiry made by, or any knowledge of, Buyer. Seller shall indemnify and hold Buyer forever harmless from and against any and all claims, actions, judgments, liabilities, liens, damages, penalties, fines, costs and expenses, including, but not limited to, attorneys' fees, asserted against, imposed on, suffered or incurred by Buyer (or the Property) directly or indirectly arising out of or in connection with any breach of the foregoing covenants, representations and warranties (including as remade as of the Closing), and whether known to or discovered by Buyer before, on or after the Closing. Consummation of this Agreement by Buyer with knowledge of any such breach shall not constitute a waiver or release by Buyer of any claims arising out of or in connection with such breach. Notwithstanding anything contained in this Agreement to the contrary, the foregoing covenants, representations and warranties (as made and as remade pursuant to Section 11C.) and the foregoing indemnity obligation shall survive for a period of two (2) years after the Closing or the termination of this Agreement, as the case may be.

SECTION 12 - BUYER'S WARRANTIES AND REPRESENTATIONS. Buyer warrants and represents to Seller that the following statements are now, and will on the Date of Closing be, true and accurate:

A. Buyer is not a "foreign person" as contemplated by Section 1445 of the Internal Revenue Code.

B. Buyer has the full capacity, right, power and authority to execute, deliver and perform this Agreement and all documents to be executed by Buyer pursuant hereto, and all required actions and approvals therefor have been duly taken and obtained. The individuals signing this Agreement and all other documents executed or to be executed pursuant hereto on behalf of Buyer are and shall be duly authorized to sign the same on Buyer's behalf and to bind Buyer thereto.

C. This Agreement and all documents to be executed pursuant hereto by Buyer are and shall be binding upon and enforceable against Buyer in accordance with their respective terms.

D. Buyer has not (i) made a general assignment for the benefit of creditors, (ii) filed any involuntary petition in bankruptcy or suffered the filing of any involuntary petition by Buyer's creditors, (iii) suffered the appointment of a receiver to take possession of all or substantially all of Buyer's assets, (iv) suffered the attachment or other judicial seizure of all, or substantially all, of Buyer's assets, (v) admitted in writing its inability to pay its debts as they come due, or (vi) made an offer of settlement, extension or composition to its creditors generally.

SECTION 13 - CLOSING. Subject to any extension specifically provided herein or agreed to in writing by the parties, the closing of this transaction shall take place in the office of the Title Company on latter to occur of (i) thirty (30) days after all of the conditions set forth in Sections 4 and 9 have been satisfied or waived by Buyer or (ii) November 28, 2000. Such date shall be the "Date of Closing" hereunder. Seller shall consistently keep Buyer informed as to the scheduling of the Closing. As used in this Agreement, the term "Closing" shall mean the time at which the Title Company is in possession of all funds, instruments and documents necessary for it to perform its obligations under Section 13-E. If the Closing has not occurred on or before December 1, 2001, this Agreement may be terminated by either party upon five (5) days' prior written notice to the other. In the event such Closing has not occurred because of Buyer's default hereunder, Seller shall be eligible to receive liquidated damages as set forth in Section 14 hereof.

Possession of the Property shall be given by Seller to Buyer at the time of Closing. The following procedure shall govern the Closing:

A. At least five (5) days before the Date of Closing, Seller shall deliver to Buyer and the Title Company a copy of the proposed special warranty deed (the "Deed") which shall be in recordable form, and shall convey good and marketable record title to the Property to Buyer, subject only to current real estate taxes and other matters approved by Buyer as set forth in Section 9; the Deed shall be in form and content satisfactory to Buyer. The form of Deed is attached hereto as Exhibit I.



B. On or before the Date of Closing, Seller shall deliver to the Title Company the following:

1. the Deed, properly executed and acknowledged;
2. current tax receipts for the Shopping Center Tract and, a calculation of the share allocable to the Property based on the net square feet contained in the Property and the Shopping Center Tract;
3. two (2) sets, properly executed and acknowledged, of any other documents required by this Agreement, including the Additional Agreements and any documents required therein;
4. corporate authority documentation, an owner's affidavit, and any other documentation reasonably requested by the Title Company in order to confirm the authority of Seller to consummate this transaction or to permit the Title Company to issue to Buyer upon completion of the Closing its owner's title insurance policy covering the Property and appurtenant easements, including the easements granted to Buyer pursuant to the Declaration, with the standard printed exceptions deleted (including exceptions for mechanics' liens, parties in possession and matters of survey) and the special endorsements added, as per the Commitment, in an amount equal to the Purchase Price, subject only to real estate taxes and those matters shown on the Commitment which were approved by Buyer (the "Title Policy");
5. an affidavit, complying with the requirements of Section 1445 of the Internal Revenue Code, affirming that Seller is not a "foreign person" as defined therein;
6. such funds as may be required of Seller to pay closing costs or charges properly allocable to Seller, or an authorization to the Title Company to deduct such amounts from the Purchase Price proceeds;
7. a re-certification of the representations and warranties made by Seller under Sections 11A and 11B hereof; and
8. such other returns and documents as are required for conveyance of the Property to Buyer and recording of the Deed, the Declaration, memorandum of the Site Development Agreement, and the memorandum of BDA.

C. On or before the Date of Closing, Buyer shall deliver the following to the Title Company:

1. the balance of the Purchase Price and such additional funds as may be required of Buyer to pay closing costs or charges properly allocable to Buyer, less any amounts for which Buyer is to receive a credit;
2. two (2) sets, properly executed and acknowledged, of the closing statement prepared by the Title Company pursuant to Section 13D below, and of any other documents required by this Agreement; and
3. any other documentation reasonably requested by the Title Company to confirm the authority of Buyer to consummate this transaction or to permit the Title Company to issue the Title Policy to Buyer upon completion of the Closing.

D. After the Title Company has received and is unconditionally prepared to disburse and deliver, in accordance with this Agreement, all of the items to be deposited with it, and when confirmation from the Title Company has been received that it is in a position to issue the Title Policy required hereunder, the Title Company shall:

1. record the Condominium Plan (if not already of record), the Declaration, the Deed, the Memorandum of SDA, and the Memorandum of BDA in that order and without intervening documents, instructing the Recorder's Office to return the recorded Deed and Memoranda to Buyer and the recorded Declaration to Seller;
2. record any other instruments executed by the parties or either of them that are contemplated by this Agreement to be placed of record;
3. issue to Buyer a marked-up commitment obligating the Title Company to issue the Title Policy to Buyer;
4. charge Buyer for one-half of any deed transfer, revenue or similar tax with respect to the sale of the Property to Buyer, and for the premium for the Title Policy including any additional cost of the extended coverage endorsement for the Title Policy, for the cost of recording the Deed, for one-half of the cost of recording the Declaration and the Memoranda, and for one-half of the closing fee, if any;
5. charge Seller for one-half of any deed transfer, revenue or similar tax with respect to the sale of the Property to Buyer, for the cost of recording any documents clearing title to the Property, and for one-half of the closing fee, and for one-half of the cost of recording the Declaration and the Memoranda;

7. real estate taxes for the Property shall be prorated in the following manner: (a) If taxes are based on a prior year's assessment of value (i.e. the date for fixing assessment of value is October 1, 1996 and the real estate taxes based on that valuation are paid in 1996 and 1997), Seller shall pay all of the taxes payable in the year of Closing, and the taxes payable in the next year (which are based on the assessment of value in the year of Closing) shall be prorated using the date of Closing; or (b) if taxes are based on the current year's assessment of value, the taxes shall be prorated as of the Date of Closing. Notwithstanding anything contained herein to the contrary, Seller shall be responsible to pay any and all so-called "Roll Back" taxes attributable to any special low real estate tax rate or abatement/deferral, and such sum shall be paid (or escrowed, if the actual amount is not certain and/or then payable). Any special assessment or fee, including interest or penalty due thereon, which is a lien or charge against the Property on the Date of Closing, whether due in total or in part, shall be charged to Seller and shall be paid in full by the Title Company concurrently with the recording of the Deed, unless Buyer agrees to take subject thereto in which case a credit for such amount shall be made against the Purchase Price. If applicable real estate taxes are not available, then a proration shall be made based on the best estimate; it being understood adjustments shall be made when the current amount becomes known;

8. prepare closing statements for Seller and Buyer indicating deposits, credits and charges (including the allocation of real property taxes) and deliver the same, together with a disbursement of funds, to the appropriate party;

9. deliver the Title Policy to Buyer as soon as reasonably practicable; and

10. deliver to Buyer a duplicate original or true copy of every other document required to be deposited with the Title Company by Seller pursuant to this Agreement.

Any supplemental closing instructions given by either party shall also be followed by the Title Company provided they do not conflict with any instructions set forth herein, or are consented to in writing by the other party.

SECTION 14 - DEFAULT BY BUYER. IF THIS TRANSACTION FAILS TO CLOSE AS A RESULT OF A MATERIAL DEFAULT BY BUYER WITH RESPECT TO ANY OF THE TERMS OF THIS AGREEMENT, AND SUCH MATERIAL DEFAULT CONTINUES FOR A PERIOD OF TEN (10) DAYS AFTER SELLER NOTIFIES BUYER IN WRITING OF SUCH EVENT, SELLER'S SOLE AND EXCLUSIVE REMEDY FOR SUCH MATERIAL DEFAULT SHALL BE THE RIGHT TO CANCEL AND TERMINATE THIS AGREEMENT AND RECEIVE AND RETAIN THE DEPOSIT PLUS RECEIVE AND RETAIN FROM BUYER THE SUM OF SIX MILLION FIVE HUNDRED THOUSAND DOLLARS (\$6,500,000.00) AS LIQUIDATED DAMAGES, IT BEING UNDERSTOOD AND AGREED THAT

SELLER IS HEREBY RELEASING AND/OR WAIVING ANY RIGHT IT MIGHT HAVE EITHER TO SPECIFICALLY ENFORCE THIS AGREEMENT OR TO SUE FOR ANY OTHER OR ADDITIONAL DAMAGES. SELLER HAS AGREED TO THIS LIQUIDATED DAMAGE PROVISION BECAUSE OF THE DIFFICULTY OF ASCERTAINING SELLER'S ACTUAL DAMAGES GIVEN THE UNCERTAINTIES OF THE REAL ESTATE MARKET, FLUCTUATING PROPERTY VALUES AND DIFFERENCES OF OPINION WITH RESPECT TO SUCH MATTERS. UNLESS SELLER WAIVES THE BUYER'S DEFAULT IN WRITING WITHIN FIVE (5) DAYS AFTER THE EXPIRATION OF THE 10-DAY PERIOD SPECIFIED IN THE PRECEDING SENTENCE, OR SUCH DEFAULT IS CURED WITHIN SUCH 10-DAY PERIOD, THIS AGREEMENT SHALL AUTOMATICALLY TERMINATE EFFECTIVE FIFTEEN (15) DAYS AFTER THE NOTICE OF DEFAULT IS GIVEN WITHOUT THE NECESSITY OF FURTHER NOTICE BEING GIVEN. UPON SUCH TERMINATION, EACH PARTY SHALL BE RELEASED FROM ALL DUTIES OR OBLIGATIONS CONTAINED HEREIN, EXCEPT FOR THOSE SUCH OBLIGATIONS THAT SPECIFICALLY SURVIVE TERMINATION INCLUDING, WITHOUT LIMITATION, BUYER'S OBLIGATIONS TO PAY LIQUIDATED DAMAGES HEREUNDER.

SECTION 15 - DEFAULT BY SELLER. If Seller refuses to perform any of its obligations as set forth herein, Buyer shall be entitled to the return of the Deposit and may, at its option, elect one or more of the following remedies:

A. To terminate this Agreement, in which event neither party shall have any further rights or obligations hereunder, except that Seller shall reimburse Buyer for all of Buyer's reasonable out-of-pocket costs incurred by Buyer in connection with this transaction and the Contemplated Improvements, or

B. To (i) enforce specific performance of Seller's obligations under this Agreement, including specifically the conveyance of the Property in the condition required hereby, and/or (ii) in the event Seller's failure to comply with any of its obligations to promptly file applications and petitions for approvals, to prosecute said applications and petitions with all due diligence in an effort to obtain all necessary and/or appropriate approvals on or before the Date of Closing, or to seek with all due diligence to obtain on an irrevocable basis on or before the Date of Closing the third-party, private approvals necessary and/or appropriate hereunder, Buyer may, at its sole option, attempt to obtain any one or more of said approvals.

SECTION 16 - EXPENSE OF ENFORCEMENT. If either party brings an action at law or in equity to enforce or interpret this Agreement, the prevailing party in such action shall be entitled to recover reasonable attorney's fees and court costs for all stages of litigation, including, but not limited to, appellate proceedings, in addition to any other remedy granted.

SECTION 17 - BROKERS. Notwithstanding anything contained herein to the contrary, this Section 17 is for the sole and exclusive benefit of Buyer and Seller, and specifically not for the benefit of any third party including, without limitation, any broker mentioned herein or any other broker or consultant. Seller warrants to Buyer that Seller has not taken any action in connection with this transaction which would result in any real estate broker's fee, finder's fee, or other fee being due or payable to any party, other than Ripco and Metro Commercial; Seller agrees to be solely responsible for any fee due to Ripco and Metro Commercial. Buyer warrants to Seller that Buyer has not taken any action in connection with this transaction which would result in any real estate broker's fee, finder's fee, or other fee being due or payable to any party, other than to Ripco and Metro Commercial. Seller and Buyer respectively agree to indemnify, defend and hold harmless the other from and against any and all claims, fees, commissions and suits of any real estate broker or agent with respect to services claimed to have been rendered for or on behalf of such party in connection with the execution of this Agreement or the transaction contemplated herein.

SECTION 18 - NOTICE. All notices, demands and requests required or permitted to be given under this Agreement (collectively the "Notices") must be in writing and must be delivered personally, or by telephone facsimile (provided that such Notice is confirmed by delivering an original copy of such Notice on the same day to a nationally recognized overnight courier for delivery to the

addressee(s) on the next business day), by nationally recognized overnight courier, or sent by United States certified mail, return receipt requested, postage prepaid and addressed to the parties at their respective addresses set forth below. Notices shall be effective upon receipt if delivered personally or by telephone facsimile, or on the next business day if sent by overnight courier, or three (3) business days after deposit in the mail if mailed. The initial addresses of the parties shall be:

To Seller: Acadia Realty Trust  
Attn: Tim Bruce  
Senior Vice President  
20 Soundview Marketplace  
Port Washington, NY 11050

copy to: Acadia Realty Trust  
Attn: Robert Masters, Esq.  
Senior Vice President and General Counsel  
20 Soundview Marketplace  
Port Washington, NY 11050

To Buyer: Target Corporation  
Target Stores - Real Estate  
Attn: Property Administration  
1000 Nicollet Mall  
Minneapolis, Minnesota 55403

copy to: Target Corporation  
Law Department  
Attn: Joseph L. Nunez  
33 S. Sixth Street  
Minneapolis, Minnesota 55402

Upon at least ten (10) days' prior written notice, each Party shall have the right to change its address to any other address within the United States of America.

SECTION 19 - CONDEMNATION. If any portion of the Property or Shopping Center Tract is condemned or access thereto is taken prior to the Closing, if Buyer reasonably concludes that the taking renders the Property or any portion thereof unsuitable for the economic development contemplated and Buyer so notifies Seller in writing within thirty (30) days after learning of such condemnation action, then this Agreement shall terminate. Upon termination, both parties shall be released from all duties and obligations contained herein. If the Agreement is not terminated pursuant to the preceding sentence and in the further event the Seller's Purchase Contract is not terminated as a result of such condemnation, the Purchase Price of the Property shall not be affected, it being agreed that if the award is paid prior to the closing of this transaction, such amount shall be held in escrow and delivered to Buyer at the Closing, and if the award has not been paid before the Closing, then at the Closing Seller shall assign to Buyer all of its right, title and interest with respect to such award and shall further execute any other instrument requested by Buyer to assure that such award is paid to Buyer. If Buyer does not terminate this Agreement, it shall have the right to contest the condemnation of the Property and/or the award resulting therefrom. Seller shall not agree to or accept any compromise or condemnation award without obtaining Buyer's prior written approval.

SECTION 20 - RISK OF LOSS. The risk of loss by fire, earthquake, flood or other casualty shall be assumed solely by Seller until Closing. In the event of loss or damage to the Property, Buyer shall have the right, at its option, by notice to Seller, given within forty-five (45) days after receipt of notice of such loss or damage, to either (i) terminate this Agreement, or (ii) and in the event the Seller's Purchase Contract is not terminated by Seller (in accordance with its terms and with Buyer's approval) as a result of such casualty loss, proceed to Closing, in which event the Purchase Price shall be abated by the amount of the insurance proceeds payable with respect to the loss or damage, or (iii) require restoration of the Property, in which event Closing shall be postponed for a reasonable period, not exceeding ninety (90) days, during which period Seller shall restore the Property substantially to the condition existing prior to the loss or damage. To the extent the proceeds of any insurance policy has not been collected but the Purchase Price has been abated in accordance with this Section 20, Buyer shall assign to Seller all of its right, title and interest in and to such proceeds.

SECTION 21 - ENTIRE AGREEMENT. All previous negotiations and understandings between Seller and Buyer or their respective agents and employees with respect to the transaction set forth herein (but not regarding the Declaration and SDA) are merged in this Agreement which alone fully and completely expresses the parties' rights, duties and obligations with respect to its subject matter and which maybe amended only by subsequent written agreement between Seller and Buyer.

SECTION 22 - NO MERGER. The warranties, representations and/or indemnities expressly made herein shall survive the Closing and shall not be merged therein.

SECTION 23 - GOVERNING LAW. This Agreement shall be deemed to be a contract made under the laws of the Commonwealth of Pennsylvania and for all purposes shall be governed and construed in accordance with the laws of said Commonwealth.

SECTION 24 - SEVERABILITY. If any provision of this Agreement is found by a court of competent jurisdiction to be illegal, invalid, or unenforceable, the remainder of this Agreement will not be affected, and in lieu of each provision that is found to be illegal, invalid, or unenforceable, a provision will be added as a part of this Agreement that is as similar to the illegal, invalid, or unenforceable provision as may be possible and be legal, valid and enforceable.

SECTION 25 - CONSTRUCTION. The rule of strict construction shall not apply to this Agreement. This Agreement has been prepared by Buyer and its professional advisors and reviewed and modified by Seller and its professional advisors. Seller, Buyer, and their separate advisors believe that this Agreement is the product of all of their efforts, that it expresses their agreement, and that it should not be interpreted in favor of or against either Seller or Buyer merely because of their efforts in preparing it.



SECTION 26 - CAPTIONS, GENDER, NUMBER, AND LANGUAGE OF INCLUSION. The captions are inserted in this Agreement only for convenience of reference and do not define, limit, or describe the scope or intent of any provisions of this Agreement. Unless the context clearly requires otherwise, the singular includes the plural, and vice versa, and the masculine, feminine, and neuter adjectives include one another. As used in this Agreement, the word "including" shall mean "including, but not limited to".

SECTION 27 - EXHIBITS. The following exhibits shall be deemed incorporated into this Agreement in their entirety:

Exhibit A-1	Legal Description of Shopping Center Tract
Exhibit A-2	Legal Description of Unit III (Property)
Exhibit B	Site Plan for Shopping Center Tract and Property
Exhibit C	Condominium Plan
Exhibit D	Declaration of Condominium
Exhibit E	Building Development Agreement
Exhibit F	Site Development Agreement
Exhibit G	Environmental Disclosures, if any
Exhibit H	Current Exclusive Provisions for Shopping Center
Exhibit I	Form of Deed

SECTION 28 - BINDING EFFECT. This Agreement, shall be binding upon and inure to the benefit of the parties hereto and their respective successors, assigns, heirs and personal representatives.

SECTION 29 - TIME. Time is of the essence of this Agreement and each and every provision hereof.

SECTION 30 - WAIVER OF TRIAL BY JURY. SELLER AND BUYER HEREBY WAIVE TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM BROUGHT BY EITHER OF THE PARTIES HERETO AGAINST THE OTHER AS TO ANY MATTER WHATSOEVER ARISING OUT OF OR IN ANY WAY CONNECTED WITH THIS AGREEMENT, THE RELATIONSHIP OF THE SELLER OR BUYER, OR ANY OTHER CLAIM OR STATUTORY REMEDY.

SECTION 31 - EXCHANGE UNDER SECTION 1031. Each party acknowledges that the other may elect to acquire/sell (as the case may be) all or a portion of the Property in connection with the completion of a tax-deferred exchange under Section 1031 of the Internal Revenue Code of 1986. Accordingly, each party hereby agrees to take such steps as the exchanging party may reasonably require in order to complete the tax-deferred exchange including, without limitation, accepting payment of all or a portion of the Purchase Price from a third party; provided, however, that the party requested to cooperate in the exchange shall not necessarily incur any cost by virtue of the requesting party's tax-deferred exchange.

SECTION 32 - SELLER'S OBLIGATIONS REGARDING THE RELOCATION OF CURRENT TENANTS; USE EXCLUSIVES.

32.1 Portions of the Main Building of the Shopping Center are currently leased to Super Fresh, T.J. Maxx, Old Country Buffet and Circuit City. In order to accomplish the "de-malling" of the Main Building pursuant to the re-development of the Shopping Center contemplated herein, Seller must terminate the Super Fresh and Circuit City leases, relocate T.J. Maxx and two other small tenants. Seller hereby covenants to effectuate such terminations and relocations prior to Closing.

32.2 Several existing tenants of the Shopping Center benefit from certain so-called "exclusive" provisions regarding the sale of certain merchandise. Seller warrants and represents that the only exclusives affecting the Shopping Center, the Property and/or Buyer's contemplated business operations thereon are listed in Exhibit H attached hereto. Buyer shall be obligated to honor such exclusives provided and only to the extent (i) the exclusive applies to the Property; (ii) the exclusive does not extend beyond the original benefiting tenant's lease term (plus original extension options), (iii) Buyer's ability to operate its prototypical Target store is not affected thereby. Seller and Buyer acknowledge and agree that none of the exclusives listed in Exhibit H affects Buyer's ability to operate its prototypical Target store. Seller shall indemnify and hold Buyer harmless from and against any and all actions, claims and demands brought against Target in connection with the listed exclusions.

32.3 Seller's obligations hereunder shall survive for a period of two (2) years after the Closing.

SECTION 33 - ESCROW AGENT'S INSTRUCTIONS AND OBLIGATIONS.

The Deposit shall be held by the Escrow Agent, in trust, on the terms and conditions hereinafter set forth:

A. Upon receipt, Escrow Agent shall hold the Deposit in an interest-bearing account and any interest accruing thereon shall be for the benefit of Buyer. The Federal Identification numbers of the parties shall be furnished to Escrow Agent upon request. The parties shall consent to the deposit of the Deposit at a national or regional financial institution selected by Escrow Agent and acknowledge that Escrow Agent shall not be liable for any loss of the Deposit on account of the deposit of the Deposit therewith.

B. The Escrow Agent shall not be responsible for any interest except for such as is actually received, nor shall the Escrow Agent be responsible for the loss of any interest arising from the closing of any account or the sale of any certificate of deposit or other instrument prior to maturity.

C. The Escrow Agent will deliver the Deposit to Seller or Buyer, as the case may be, in accordance with the terms and conditions of Section 3 of this Purchase Agreement. Upon receipt of a written notice from Seller stating that Seller is entitled under this Agreement to the Deposit and demanding payment of the same, the Escrow Agent will deliver the Deposit to Seller, provided, however, that the Escrow Agent shall not honor such demand until not less than ten (10) days after the date on which the Escrow Agent shall have mailed (by registered or certified mail, return receipt requested) a copy of such notice and demand to Buyer, nor thereafter if during such ten (10) day period the Escrow Agent shall have received written notice of objection from Buyer in accordance with the provisions of this Section. Likewise, upon receipt of a written notice from Buyer, stating that Buyer is entitled under this Agreement to the return of the Deposit and demanding payment of the same, the Escrow Agent will deliver the Down Payment to Buyer, provided, however, that, the Escrow Agent shall not honor such demand until not less than ten (10) days after the date on which the Escrow Agent shall have mailed (by registered or certified mail, return receipt requested) a copy of such notice and demand to Seller, nor thereafter if during such ten (10) day period the Escrow Agent shall have received written notice of objection from Seller in accordance with the provisions of this Section.

D. Any notice to the Escrow Agent shall be sufficient only if received by the Escrow Agent within the applicable time period set forth herein. All mailings and notices from the Escrow Agent to Seller or Buyer, or from Seller or Buyer to the Escrow Agent, provided for in this Section shall be addressed to the party to receive such notice at the address set forth in this Agreement, but those provisions of Section 18 relating to the manner of giving notices and the effective dates thereof shall have no application to the provisions of this Section.

E. Upon receipt of a written demand for the Deposit made by Seller or Buyer pursuant to this Section, the Escrow Agent shall promptly mail a copy thereof (by registered or certified mail, return receipt requested) to the other party. The other party shall have the right to object to the delivery of the Deposit or accrued interest thereon by delivery to the Escrow Agent of written notice of objection within ten (10) days after the date of the Escrow Agent's mailing of such copy to the other party, but not thereafter. Upon receipt of such notice of objection, the Escrow Agent shall promptly mail a copy thereof (by registered or certified mail, return receipt requested) to the party who made the written demand.

F. In the event that (1) the Escrow Agent shall have received a notice of objection as provided for above within the time therein prescribed, or (2) any disagreement or dispute shall arise between or among any of the parties hereto and/or any other persons resulting in adverse claims and demands being made for the Deposit or any accrued interest thereon, whether or not litigation has been instituted, then, in any such event, at the Escrow Agent's option, (i) the Escrow Agent may refuse to comply with any claims or demands on it and continue to hold the Deposit until the Escrow Agent receives written notice signed by Seller, Buyer and any other person who may have asserted a claim to or made a demand for the Deposit directing the disbursement of the

Deposit in accordance with said direction, and the Escrow Agent shall not be or become liable in any way or to any person for its refusal to comply with such claims or demand; (ii) in the event the Escrow Agent shall receive a written notice advising that a litigation over entitlement to the Deposit has been commenced, the Escrow Agent may deposit the Deposit with the clerk of the court in which said litigation is pending or (iii) the Escrow Agent may (but shall not be required to) take such affirmative steps as it may, at its option, elect in order to substitute another impartial party to hold the Deposit or to deposit the same in a court of competent jurisdiction and to commence an action for interpleader, the costs thereof to be borne by whichever of Seller and Buyer is the losing party, and thereupon the Escrow Agent shall be released of any and all liability thereunder. Seller and Buyer jointly and severally agree to reimburse the Escrow Agent for any and all expenses incurred in the discharge of its duties under this Section including, but not limited to, attorneys' fees (either paid to retained attorneys or amounts representing the fair value of legal services rendered to itself).

G. It is expressly understood that the Escrow Agent acts hereunder as an accommodation to Seller and Buyer and as a depository only and is not responsible or liable in any manner whatever for the sufficiency, correctness, genuineness or validity of any instrument deposited with it, or for the form of execution of such instruments or for the identity, authority or right of any person executing or depositing the same or for the terms and conditions of any instrument pursuant to which the Escrow Agent or the parties may act.

H. The Escrow Agent shall not have any duties or responsibilities except those set forth in this Section and shall not incur any liability in acting upon any signature, notice, request, waiver, consent, receipt or other paper or documents believed by the Escrow Agent to be genuine, and the Escrow Agent may assume that any person purporting to give it any notice on behalf of any party in accordance with the provisions hereof has been duly authorized to do so.

I. In the event of the death of any person who may be a party in interest hereunder, the Escrow Agent shall deem and treat the legal representatives of such person's estate as the successor in interest of said deceased person for all purposes of this Section.

J. The Escrow Agent may act or refrain from acting in respect of any matter referred to herein in full reliance upon and by and with the advise of counsel which may be selected by it (including any member of its firm if Escrow Agent is a law firm) and shall be fully protected in so acting or refraining from acting upon the advise of such counsel.

K. Seller and Buyer hereby jointly and severally indemnify and agree to indemnify and hold the Escrow Agent harmless from any and all loss, damage, claims, liabilities, judgments and other cost and expense of every kind and nature which may be incurred by the Escrow Agent by reason of its acceptance of, and its performance under, this instrument (including, without limitation, attorneys' fees either paid to retained attorneys or amounts representing the fair value of legal services rendered to itself).

L. The Escrow Agent shall not be responsible for any act or failure to act on its part except in the case of its own willful default or gross negligence. The Escrow Agent shall be automatically released from all responsibility and liability under this Agreement upon the Escrow Agent's delivery or deposit of the Deposit pursuant to paragraph F. of this Section, in accordance with the provisions of this Section.

M. Seller and Buyer agree that if either shall deliver to the Escrow Agent a written demand for the Deposit, the party making such demand shall, promptly after delivering such demand to the Escrow Agent, deliver a copy of such demand to the other party, together with a statement of the facts and circumstances underlying the demand; provided, however, that nothing in this part shall have any effect whatsoever upon the Escrow Agent's rights, duties and obligations under the preceding parts of this Section.

SELLER'S SIGNATURE PAGE

FOR

PURCHASE AGREEMENT

BETWEEN

TARGET CORPORATION

AND

RD ABINGTON ASSOCIATES LIMITED PARTNERSHIP

IN WITNESS WHEREOF, the parties have caused these presents to be executed intending to be legally bound by the provisions herein contained.

"SELLER"  
RD ABINGTON ASSOCIATES 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: \_\_\_\_\_

Name: Kenneth F. Bernstein

Title: President

Date of Execution: \_\_\_\_\_, 2000

"BUYER"  
TARGET CORPORATION

SEE BUYER'S SIGNATURE PAGE

BUYER'S SIGNATURE PAGE

FOR

PURCHASE AGREEMENT

BETWEEN

TARGET CORPORATION

AND

RD ABINGTON ASSOCIATES LIMITED PARTNERSHIP

IN WITNESS WHEREOF, the parties have caused these presents to be executed intending to be legally bound by the provisions herein contained.

"SELLER"

RD ABINGTON ASSOCIATES 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

SEE SELLER'S SIGNATURE PAGE

"BUYER"

TARGET CORPORATION

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date of Execution: \_\_\_\_\_, 2000



ESCROW AGENT'S SIGNATURE PAGE

FOR

PURCHASE AGREEMENT

BETWEEN

TARGET CORPORATION

AND

RD ABINGTON ASSOCIATES LIMITED PARTNERSHIP

IN WITNESS WHEREOF, the Escrow Agent hereby executes this Agreement for the sole purpose of agreeing to, and intending to be legally bound by, the terms, covenants and conditions of Section 33 hereof.

"ESCROW AGENT"

NEW YORK LAND SERVICES, INC.

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date of Execution: \_\_\_\_\_, 2000

EXHIBIT A-1

LEGAL DESCRIPTION OF SHOPPING CENTER TRACT

EXHIBIT A-2

LEGAL DESCRIPTION OF PROPERTY

EXHIBIT B

SITE PLAN

EXHIBIT C

CONDOMINIUM PLAN

EXHIBIT D

DECLARATION OF CONDOMINIUM

EXHIBIT E

BUILDING DEVELOPMENT AGREEMENT

EXHIBIT F

SITE DEVELOPMENT AGREEMENT



EXHIBIT G

ENVIRONMENTAL DISCLOSURES, IF ANY

EXHIBIT H

EXCLUSIVES

EXHIBIT I

FORM OF DEED

THIS AGREEMENT TO SELL AND PURCHASE REAL ESTATE ("Agreement") is made and entered into as of the date of the last execution hereof, which date is the \_\_\_ day of April, 2000, by and between MARK TWELVE ASSOCIATES, L.P., a Pennsylvania limited partnership, hereinafter referred to as "Seller", and LOWE'S HOME CENTERS, INC., a North Carolina corporation, hereinafter referred to as "Buyer".

W I T N E S S E T H:

THAT WHEREAS, Seller has warranted to Buyer that it is the owner of the premises described hereinafter; and

WHEREAS, Seller has offered to sell and Buyer has agreed to purchase the premises described hereinafter subject to the terms of this Agreement.

NOW, THEREFORE, for and in consideration of the mutual covenants and conditions contained herein, the sufficiency of which consideration is acknowledged by all parties hereto, IT IS HEREBY AGREED AS FOLLOWS:

1. DESCRIPTION. The premises which are to be purchased by Buyer and sold and conveyed by Seller consist of that certain tract of land containing approximately 13 acres located in Union Township, Lawrence County, Pennsylvania and generally shown outlined in red upon Exhibit A attached hereto and made by this reference a part hereof (the "Premises"), together with any improvements and personal property currently located thereon and all and singular the rights, privileges, advantages, and appurtenances belonging or in anywise appertaining to the Premises, as well as all easements appurtenant to the Premises.

2. SURVEY. Seller shall obtain and deliver or cause to be delivered to Buyer a boundary survey map of the Premises drawn in accordance with Buyer's Survey Requirements which are attached hereto and labeled Exhibit B (the "Survey"). The metes and bounds description of the Premises resulting from the Survey, if and as accepted by Buyer, shall upon such acceptance supersede and replace the description of the Premises set forth in Paragraph 1 hereof for all purposes hereunder and shall be the description of the Premises used in the special warranty deed and Owner's Policy of Title Insurance to be furnished hereunder. Seller shall be solely responsible for the cost of the Survey and shall pay the same directly either prior to closing or by a deduction from Seller's proceeds at closing.

3. TIME FOR PERFORMANCE. Seller shall convey the Premises to Buyer thirty (30) days following the earlier to occur of:

(a) One hundred twenty (120) days from the last execution of this Agreement; or

(b) Notification by Buyer that all of the requirements set forth in Paragraph 5 of this Agreement have been fulfilled, in the opinion of Buyer, unless the Agreement is terminated as otherwise provided.

Buyer shall have the option to extend the time specified in sub-paragraph (a) above for an additional one hundred twenty (120) days by giving written notice to Seller before the expiration of the one hundred twenty (120) day period set forth in subparagraph (a) above and depositing with the Title Company (as hereinafter defined) an additional deposit of TWENTY-FIVE THOUSAND DOLLARS (\$25,000.00) (the "Second Deposit").

4. PURCHASE PRICE. The purchase price for the Premises shall be for the total consideration of ONE MILLION NINE HUNDRED THOUSAND AND NO/100 (\$1,900,000.00) (the "Purchase Price").

Within five (5) business days after the full execution of this Agreement, Buyer shall deliver into escrow with the Title Company an earnest money deposit (the "First Deposit") in the amount of TWENTY-FIVE THOUSAND DOLLARS (\$25,000), which First Deposit shall be held by the Title Company in an interest-bearing escrow account and disbursed in accordance with the terms of this Agreement. The First Deposit and the Second Deposit shall hereinafter be collectively (or individually, as the case may be) referred to as the "Deposit". The Deposit shall be refunded to Buyer in the event Buyer rightfully elects to terminate this Agreement under the terms and conditions defined herein; otherwise, it shall be applied to the Purchase Price at closing or, in the event of Purchaser's default, paid over to Seller in accordance with Paragraph 14 hereof.

5. BUYER'S REQUIREMENTS. Buyer shall be under no obligation to purchase the Premises or otherwise perform under this Agreement unless Buyer determines the Premises to be suitable for its intended purposes and until each of the following requirements of Buyer is satisfied. The decision as to whether the Premises are suitable for its intended purposes and the requirements have been fulfilled shall be the sole decision of Buyer, determined in the absolute discretion of Buyer, with Buyer's decision being final and binding upon both parties. Buyer shall have one hundred twenty (120) days (or two hundred forty (240) days, if extended under the provisions of Paragraph 3 above) from the last execution of this Agreement to notify Seller of its cancellation of this Agreement due to Buyer's determination that the Premises are unsuitable or to a failure of fulfillment of any one of the requirements. If Buyer so elects to terminate and is not in material default hereunder, the Title Company shall be obligated to return the Deposit, together with all interest earned thereon, to Buyer with neither party thereafter having any other rights or obligations under this Agreement.

#### REQUIREMENTS TO BE ACCOMPLISHED

(a) Governmental Approvals: Buyer must have obtained or be able to obtain, on terms satisfactory to Buyer, all appropriate municipal, county, state and federal authorities' approvals and permits required for Buyer's intended use and development of the Premises (collectively, the "Permits and Approvals") including, but not limited to, the following: proper zoning, site plan and development plan approvals, including any required drainage or storm water management, building permits for planned improvements including approval for the construction or relocation of utilities, any necessary governmental approval for access such as curb cuts or entrances and any wetlands or environmental approvals and permits. Notwithstanding and in addition to the foregoing, Seller must have obtained and provided to Buyer all necessary variances, amendments and approvals with respect to the existing approved site plan for the Premises as provided in Paragraph 7 hereof.

(b) Utilities: The Premises must have available suitable utilities, including by way of illustration and not limitation, electricity, water, sewer or septic tank disposal facilities, telephone services and natural gas if available locally.

(c) Public Service: The Premises must have available suitable fire and police protection.

(d) Adaptability to Construction: The Premises must be adaptable to construction of the improvements envisioned by Buyer at costs satisfactory to Buyer. The Premises must not have been used as a dump and further must not contain any harmful, toxic or polluting substance.

(e) Ingress and Egress: The Premises must have suitable legal and insurable ingress to and egress from State Route 224 (via the shopping center access drives shown on Exhibit A hereto or as may otherwise be approved by Buyer).

(f) Soil Test: Any and all soil tests conducted on the Premises by Buyer, at Buyer's expense, must yield a result satisfactory to accomplish the site plan development and the construction of improvements planned by Buyer.

(g) Drainage: The Premises must be adaptable to effect drainage at an expense satisfactory to Buyer.

(h) Flood Plain: The Premises must not lie in a flood plain.

(i) Environmental Conditions: Buyer must be satisfied that the Premises is free of any pollutants, contaminants, chemical or industrial, toxic or Hazardous Substances as defined in Paragraph 16.

(j) Zoning: The zoning classification of the Premises must permit Buyer's intended use of the Premises and it is a further express condition of this Agreement for the benefit of Buyer that Buyer must have obtained all necessary Permits and Approvals, free from conditions and restrictions compliance with which would result in extraordinary costs of development or use, the determination of such being in the sole discretion of Buyer, or restrictions on Buyer's ability to use any part of the Premises for its intended use (including related uses necessary thereto).

(k) Ancillary Documents: Buyer and Seller shall have agreed to the form of a declaration of easements, covenants, conditions and restrictions or other similar instrument or an amendment to any existing reciprocal easement agreement ("REA") adding Buyer as a party thereto and providing for the unified development of the Premises and Seller's remaining property as shown on Exhibit A hereto ("Seller's Remaining Property"), which REA shall be executed and acknowledged by the parties and recorded at Closing. The Premises and Seller's Remaining Property are hereinafter collectively referred to as the "Shopping Center". The REA shall, inter alia, (i) establish a general site plan for the Shopping Center generally conforming to Exhibit A hereto, (ii) establish certain easements for the benefit of the Premises and Seller's Remaining Property including, but not limited to, utility easements and easements for access to State Route 224 as shown on Exhibit A, (iii) provide for the placement, to the maximum extent permitted by applicable law and governmental authorities, of Buyer's sign panel on the existing Shopping Center sign(s) and the construction and installation, to the maximum extent permitted by applicable law and governmental authorities, of an interstate multi-tenant pylon sign at a location behind the Sears store shown on Exhibit A and along State Route 422, with Buyer's sign panel in the top position thereon, and (iv) establish certain restrictions on the Premises and Seller's Remaining Property, as the case may be, as set forth in Exhibit C hereto.

(l) Economic Feasibility: Buyer's intended use and development of the Premises must be deemed by Buyer to be an economically feasible project in Buyer's sole discretion.

(m) Third Party Consents: Seller shall have obtained and provided to Buyer the consent or approval of any third party (including, without limitation, any tenant or occupant of any portion of Seller's Remaining Property) necessary or required in order to permit Buyer's intended development and use of the Premises ("Third Party Consents") including, without limitation, Buyer's prototypical outdoor sales and displays and the free-standing signage contemplated by the parties as set forth in subparagraph (k) above. At closing, Seller shall in writing represent and warrant unto Buyer that (i) all such Third Party Consents have been obtained by Seller (and provide true and correct copies thereof to Buyer) and (ii) no other Third Party Consents are necessary or required. Such writing shall further set forth Seller's indemnity of Buyer with respect to any breach of such representation and warranty.

(n) Exclusives Rights and Restrictions: Seller hereby represents and warrants to Buyer and Buyer acknowledges that the Premises are or may be currently encumbered by those certain exclusive rights and restrictions set forth in Exhibit D attached hereto ("Exclusive Rights and Restrictions"), which Exclusive Rights and Restrictions are imposed by certain existing leases of portions of Seller's Remaining Property. In connection therewith, Buyer and Seller shall reasonably cooperate in order to obtain waivers or releases of the Exclusive Rights and Restrictions from the appropriate tenants or occupants of Seller's Remaining Property to the extent the same encumber the Premises. In the event the parties are unable, despite the exercise of commercially reasonable efforts, to obtain such waivers or releases on terms acceptable to Buyer, Buyer shall have its rights set forth in the first paragraph of this Paragraph 5 including, without limitation, the right to waive the requirement set forth in this Paragraph 5(n) and close the transaction contemplated by this Agreement subject to such Exclusive Rights and Restrictions.

6. TITLE INSURANCE. Buyer shall be under no obligation to purchase the Premises from Seller unless Buyer shall be able to obtain at closing, at Buyer's cost, an owner's policy of title insurance (the "Policy") from Commonwealth Land Title Insurance Company, having an address at c/o Land America Financial Group, Inc., National Commercial Services, 707 East Main Street, Suite 250, Richmond, Virginia 23219-2802 (the "Title Company"), based upon a satisfactory commitment for title insurance for the Premises (the "Commitment") to be furnished to Buyer by the Title Company following execution of this Agreement by both parties. The Commitment and Policy shall identify the Premises and all easements appurtenant thereto by the legal description(s) set forth on the Survey (as defined in Paragraph 2 above) and contain endorsements (unless prohibited by law) stating (a) that all of the parcels comprising the Premises are contiguous (if the Premises is comprised of more than one parcel) and that the Premises is contiguous to any property containing easements appurtenant thereto, (b) the zoning classification of the Premises, (c) that the Premises abuts the public street(s) immediately adjacent thereto and has direct and valid full and unrestricted access thereto at the locations designated on the site plan provided by Buyer, and (d) such other endorsements as Buyer may reasonably require (the "Endorsements"). Seller hereby agrees to provide to the Title Company any abstracts of title covering the Premises and/or any other form of title evidence it may have in its possession or control, including any attorney's title opinion or any owner's title insurance policy. Buyer's decision as to whether "satisfactory" title insurance can be obtained shall be final and shall not be subject to question by Seller. Seller shall cooperate fully with Buyer in helping Buyer to eliminate such exceptions from Buyer's Commitment as Buyer may desire eliminated, and further, Seller shall cooperate fully with Buyer in order for all requirements of closing outlined in Buyer's Commitment to be accomplished in all respects.

The Commitment and Policy must only contain exceptions for liens, encumbrances, claims, easements or other matters that would not adversely affect Buyer's intended use and development of the Premises as determined in Buyer's sole discretion. Those exceptions and encumbrances which have been approved or accepted by Buyer hereunder shall be the "Permitted Encumbrances".

7. DELAYS FOR PERMITS AND APPROVALS; REA. Except as provided herein, Buyer shall promptly commence efforts to obtain any and all Permits and Approvals at its own expense; provided, however, that Seller shall promptly commence efforts to obtain and diligently pursue at its own expense any and all necessary variances and approvals with respect to the existing approved site plan in order to permit Buyer's prototypical building on the Premises in a manner and design acceptable to Buyer as well as any Third Party Consents. Buyer and Seller shall cooperate with each other in this regard and all applications and submittals to governmental authorities or third parties and all terms and conditions of any such approvals to be obtained by Seller shall be subject to the prior review and approval of Buyer. Seller shall, if requested or required to do so, execute such applications or requests as may be necessary for the owner of the Premises to execute and to provide any information privy to, known to, or in possession of Seller which may be necessary or useful in completing applications or requests. In addition, the parties acknowledge that they are in negotiations with respect to the REA and will diligently pursue same. If, while in compliance with the requirements of this Agreement, the parties shall experience delay in obtaining any necessary Permits and Approvals or Third Party Consents to use the Premises for Buyer's intended use or the REA shall not be completed within the time frames herein set forth, Buyer will by written notice to Seller elect one of the following:

(a) To waive such Permits and Approvals, Third Party Consents and/or REA and to close the transaction in accordance with the terms of this Agreement.

(b) To cancel this Agreement and to receive a complete refund of the Deposit, together with all interest earned thereon, in which event neither Seller nor Buyer will have any further rights, duties or obligations under this Agreement, except as expressly provided herein; provided, however, that if Buyer elects to terminate this Agreement and receive a refund of the Deposit as aforesaid as a result of Seller's willful breach of its obligations hereunder, Buyer's termination shall be without prejudice to Buyer's right to sue Seller for damages in the amount of the out-of-pocket costs and expenses incurred by Buyer in its investigation of the Premises.

Further, if the sale of the Premises to Buyer constitutes or requires a subdivision of the Premises owned by Seller, Seller shall pay all subdivision and platting expenses and obtain all necessary governmental approvals.

8. ENVIRONMENTAL DISCLOSURE AND INVESTIGATION. Within ten (10) business days of the last execution of this Agreement, Seller shall inform Buyer of any Hazardous Materials or Release, and of any underground structures or utilities which, to the best of Seller's actual knowledge, are or may be present on the Premises and Seller shall deliver to Buyer true, correct and complete copies of any environmental assessments and reports for the Premises in Seller's possession or control, together with any and all soils reports, surveys and other reports and information for the Premises and the Survey, and such further documentation (for example, any title evidence, surveys, reports, studies, test results, engineering drawings, permits or tank registrations) Seller has within its possession or control regarding the physical condition of the Premises and any structures or utilities thereon. Seller understands that Buyer needs this



information in order to properly evaluate the Premises, to avoid damaging underground structures and utilities and to avoid causing, contributing to or exacerbating the Release of a Hazardous Substance in the course of its investigations.

Seller hereby grants to Buyer and its employees, agents, consultants and contractors the right to enter upon the Premises and, upon at least 24 hours advance notice to Seller, Seller's Remaining Property (as necessary) in order to itself conduct any surveys, soil tests, environmental assessments and tests and other investigations as Buyer shall deem necessary. Buyer agrees to pay the costs and expenses associated with any such investigation and testing it undertakes and to repair and restore any damage to the Premises caused by Buyer's investigations or testing, at Buyer's expense. Buyer also agrees to defend and hold Seller harmless from all costs, expenses and liabilities arising out of Buyer's negligence or willful misconduct or that of its employees, agents, consultants or contractors in performing any such investigation or testing of the Premises, except that Buyer shall have no responsibility to Seller and Seller hereby releases Buyer and agrees to defend and hold Buyer harmless from all costs, expenses and liabilities arising in connection with environmental conditions, Hazardous Materials Release or underground structures or utilities that were actually known by Seller and not disclosed to Buyer as provided in this paragraph. In connection with any such on-site investigation, Buyer shall cause its contractors and/or consultants to supply Seller with certificates of insurance evidencing their respective insurance coverage.

Soil, rock, water, asbestos, and other samples taken from the Premises shall remain the property of Seller. Seller shall be solely responsible for making arrangements for the lawful disposal of any contaminated samples, to pay any related transportation or disposal fees, and to sign the manifest and any other documents required in connection with the disposal of contaminated samples.

9. POSSESSION. Buyer shall be given sole and exclusive possession of the Premises at such time as a special warranty deed satisfactory to Buyer is delivered by Seller to Buyer conveying to Buyer the Premises in fee simple and Buyer pays the remaining balance of the purchase price as described in Paragraph 4 of this Agreement.

10. CLOSING. Seller shall prepare at its cost the special warranty deed conveying the Premises to Buyer. Seller agrees that it will convey the Premises to Buyer by special warranty deed containing a covenant of title stating that Seller has not done, committed or knowingly or willingly suffered to be done or committed, any act, matter or thing whatsoever whereby the Premises, or any part thereof, is, are, shall or may be impeached, charged or encumbered in title, charge, estate or otherwise howsoever. Title to the Premises at closing shall be marketable and good of record and in fact and zoned to permit Buyer's intended use. At the closing, Seller shall convey marketable title to the Premises in fee simple, free and clear of any and all liens, mortgages, deeds of trust, security interests, covenants, conditions, restrictions, easements, rights-of-way, licenses, encroachments, judgments or encumbrances of any kind except:

- (i) the lien of real estate taxes not yet due and payable;
- (ii) the Permitted Encumbrances; and
- (iii) the REA.

In addition, Buyer and Seller shall each be responsible for paying one-half (1/2) of all state or county transfer taxes and documentary stamps, if any, occasioned by the conveyance of the Premises as well as any notary fees incurred, and Buyer shall be responsible for the premium for Buyer's owner's policy of title insurance. All unpaid ad valorem taxes due and payable within the calendar year of the closing shall be prorated between Seller and Buyer as of the closing date. Seller shall pay all rollback taxes, recoupment fees or similar taxes occasioned by a change in the use of the Premises in connection with Buyer's proposed acquisition and development thereof. Seller agrees to promptly forward to Buyer any property tax statements for the Premises received by Seller after closing.

Buyer and Seller each agree to indemnify and hold the other harmless from any claims of brokers or real estate agents claiming by, through or under the indemnifying party for fees or commissions arising out of the sale of the Premises to Buyer. Buyer and Seller each represent to the other that they have not employed nor engaged any real estate agents or brokers to be involved in this transaction other than Michael Joseph Development Corporation (hereinafter referred to as the "Broker"), for whose commission or fees Seller shall be solely responsible.

11. ASSIGNMENT BY BUYER. This Agreement and the rights, duties, interests, and obligations of Buyer hereunder may be assigned by Buyer without the consent of Seller only to an affiliate of Buyer.

12. NOTICES. Any notices, requests or other communications required or permitted to be given hereunder shall be in writing and shall be delivered by hand or a widely recognized national overnight courier service or mailed by United States registered or certified mail, return receipt requested, postage prepaid and addressed to each party at its address as set forth below:

To Seller: Mark Twelve Associates, L.P.  
20 Soundview Marketplace  
Port Washington, New York 11050  
Attention: Robert Masters, Esq.

and to Buyer: Lowe's Home Centers, Inc.  
c/o Lowe's Companies, Inc.  
P.O. Box 1111  
(Highway 268 East, N. Wilkesboro, North Carolina 28659)  
N. Wilkesboro, North Carolina 28656  
Attention: Tony Lyall, Real Estate Manager (REO)

cc: Lowe's Companies, Inc.  
P.O. Box 1111  
(Highway 268 East, N. Wilkesboro, North Carolina 28659)  
N. Wilkesboro, North Carolina 28656  
Attention: Law Dept. (REO)

Any such notice, request or other communication shall be considered given or delivered, as the case may be, on the date of hand or overnight courier delivery or upon deposit in the United States mail as provided above. Rejection or other refusal to accept or inability to deliver because of changed address of which no notice was given shall be deemed to be receipt of the notice, request or other communication. By giving at least five (5) days prior written notice thereof, any party may from time to time at any time change its mailing address hereunder.

13. DESTRUCTION, CONDEMNATION. In the event of any material damage to or destruction of the Premises or any material portion thereof or in the event of any taking or threat of taking by condemnation (or any conveyance in lieu thereof of the Premises or any portion thereof by anyone having the power of eminent domain), Buyer shall, by written notice to Seller delivered within fifteen (15) days of receiving written notice from Seller of such event, elect to: (i) terminate this Agreement and all of Buyer's obligations under this Agreement, whereupon the Deposit, together with all interest earned thereon, shall be refunded in full to Buyer by the Title Company and this Agreement shall become null and void and neither party shall thereafter have any right, duty or obligation under this Agreement, or (ii) consummate the purchase of the Premises. If Buyer does not elect to terminate this Agreement, then Seller shall on the closing date pay to Buyer all condemnation awards and compensation then received by Seller, it being understood that the Premises consists of vacant, unimproved land for which no casualty insurance coverage is provided. In addition, Seller shall transfer and assign to Buyer, in form reasonably satisfactory to Buyer, all rights and claims of Seller with respect to payment for damages and compensation on account of such damage, destruction or taking. Seller will not settle any condemnation or eminent domain proceeding or any award or payment in respect of or in connection with the Premises without obtaining Buyer's prior written consent in each case, which consent shall not be unreasonably withheld or delayed.

14. DEFAULT.

(a) Seller's Default. One of the purposes of this Agreement is to bind Seller to sell the Premises described in Paragraph 1. If the sale and purchase of the Premises contemplated by this Agreement is not consummated on account of Seller's default hereunder, the Deposit, together with all interest earned thereon, shall be refunded in full to Buyer on notice by Buyer to the Title Company holding such deposit, without prejudice to Buyer's rights to enforce specific performance of this Agreement against Seller or pursue an action at law against Seller to recover Buyer's out-of-pocket costs and expenses incurred in connection with this transaction.

(b) Buyer's Default. If the sale and purchase of the Premises contemplated by this Agreement is not consummated on account of Buyer's default hereunder, Seller shall be entitled, as its sole and exclusive remedy hereunder, to payment of the Deposit as full and complete liquidated damages for such default of Buyer, the parties hereto acknowledging that it is impossible to estimate more precisely the damages which might be suffered by Seller upon Buyer's default. Seller's entitlement and receipt of the Deposit is intended not as a penalty, but as full liquidated damages. The right to retain such sums as full liquidated damages is Seller's sole and exclusive remedy in the event of default hereunder by Buyer, and Seller hereby waives and releases any right to (and hereby covenants that it shall not) sue Buyer: (a) for specific performance of this Agreement, or (b) to recover actual damages in excess of such sums.

15. EASEMENTS AND RIGHTS-OF-WAY. Seller covenants and agrees that during the term of this Agreement it shall not grant or enter into any easements, rights-of-way, contracts for work, or other agreements affecting the

Premises, or the title thereto, without first obtaining the prior written consent of Buyer, which consent shall not be unreasonably withheld or delayed.

16. WARRANTIES, REPRESENTATIONS AND COVENANTS TO SURVIVE CLOSING. The warranties, representations and covenants made by the parties hereto shall survive the closing of the purchase of the Premises under this Agreement and the closing date and shall continue in full force and effect without termination for a period of two (2) years thereafter. Also, wherever in this Agreement Seller or Buyer shall have agreed or promised to perform certain acts or grant certain easements or other rights where the context of the Agreement would require such performance or grants to occur after the closing, then those agreements and covenants expressed herein shall survive closing and continue to bind Seller and Buyer. Each party shall indemnify, defend and hold harmless the other from and against any and all claims, demands, liabilities and expenses (including reasonable attorneys' fees) incurred by a party as a result of a breach by the other party of its covenants, warranties and representations set forth in Paragraphs 17 and 18 hereof.

17. SELLER'S WARRANTIES, REPRESENTATIONS AND COVENANTS. As an inducement to Buyer to enter into this Agreement and to purchase the Premises, Seller warrants, represents and covenants to Buyer as follows:

(a) Authority. Seller (i) is a lawfully constituted limited partnership, duly organized, validly existing, and in good standing under the laws of the Commonwealth of Pennsylvania; (ii) has the authority and power to enter into this Agreement and to consummate the transactions contemplated herein; and (iii) upon execution hereof will be legally obligated to Buyer in accordance with the terms and provisions of this Agreement.

(b) Title and Characteristics of Premises. Seller as of the date of execution of this Agreement owns the Premises in fee and has marketable title and the Premises at closing shall have the title status as described in Paragraph 9 above.

(c) Conflicts. The execution and entry into this Agreement, the execution and delivery of the documents and instruments to be executed and delivered by Seller on the closing date, and the performance by Seller of Seller's duties and obligations under this Agreement and of all other acts necessary and appropriate for the full consummation of the purchase and sale of the Premises as contemplated herein, are consistent with and not in violation of, and will not create any adverse condition under, any contract, agreement or other instrument to which Seller is a party or any judicial order or judgment of any nature by which Seller is bound. On the closing date all necessary and appropriate action will have been taken by Seller authorizing and approving the execution of and entry into this Agreement, the execution and delivery by Seller of the documents and instruments to be executed by Seller on the closing date, and the performance by Seller of Seller's duties and obligations under this Agreement and of all other acts necessary and appropriate for the consummation of the purchase and sale of the Premises as contemplated herein.

(d) Condemnation. Seller has received no notice of, nor is Seller aware of, any pending, threatened or contemplated action by any governmental authority or agency having the power of eminent domain, which might result in any part of the Premises being taken by condemnation or conveyed in lieu thereof.

(e) Litigation. There is no action, suit or proceeding pending or, to the best of Seller's actual knowledge, threatened by or against or affecting Seller or the Premises which does or will involve or affect the Premises or title thereto. Seller will, promptly upon receiving any such notice or learning of any such contemplated or threatened action, give Buyer written notice thereof.

(h) No Violations. To the best of Seller's actual knowledge, there are no violations of state or federal law, municipal or county ordinances, or any other legal requirements with respect to the Premises. Seller has received no notice (oral or written) that any municipality or governmental or quasi-governmental authority has determined that there are such violations. In the event Seller receives prior to the closing notice of any such violations affecting the Premises, Seller shall promptly notify Buyer thereof, and shall promptly and diligently defend any prosecution thereof and take any and all commercially reasonable actions to eliminate said violations.

(i) Foreign Ownership. Seller is not a "foreign person" as that term is defined in the U. S. Internal Revenue Code of 1986, as amended, and the regulations promulgated pursuant thereto, and Buyer has no obligation under Section 1445 of the U. S. Internal Revenue Code of 1986, as amended, to withhold and pay over to the U. S. Internal Revenue Service any part of the "amount realized" by Seller in the transaction contemplated hereby (as such term is defined in the regulations issued under said Section 1445).

(j) Prior Options. No prior options or rights of first refusal have been granted by Seller to any third parties to purchase or lease any interest in the Premises, or any part thereof, which are effective as of the execution date.

(k) Mechanics and Materialmen. Seller will, at Closing, provide Buyer and the Title Company with a standard Affidavit as to Liens and Parties in Possession certified to Buyer and the Title Company or such other assurances as shall be sufficient to cause the Title Company to delete the mechanics' liens and parties in possession standard exceptions from the Policy to be issued to Buyer at closing.

(l) Hazardous-Materials. Except as disclosed and delivered to Buyer pursuant to Paragraph 8 above:

(i) To the best of Seller's actual knowledge, the Premises are free from contamination by Hazardous Materials. To the best of Seller's actual knowledge, there is no evidence of Release of Hazardous Materials at the Premises.

(ii) There has been no generation, treatment or storage of any Hazardous Materials at the Premises by Seller or, to the best of Seller's actual knowledge, any third person nor has any activity been conducted by Seller or, to the best of Seller's actual knowledge, any third person at the Premises which could have produced Hazardous Materials.

(iii) To the best of Seller's actual knowledge, there are no surface impoundments, lagoons, waste piles, landfills, injection wells, underground storage areas, tanks, storage vessels, drums, containers or other man-made facilities at the Premises which may have accommodated Hazardous Materials at the Premises. Neither Seller, nor to the best of Seller's actual knowledge any third person, has stored, placed, buried or Released Hazardous Materials at the Premises, including the soil, surface water and ground water.

(iv) To the best of Seller's actual knowledge, no inspection, audit, inquiry or other investigation has been or is being conducted by any Governmental Authority (as hereinafter defined in Paragraph 16(1)(vi) below) or other third person with respect to the presence or discharge of Hazardous Materials at the Premises or the quality of the air or surface or subsurface conditions at the Premises except for Phase I environmental audits, if any, performed on behalf of Seller or any lender of Seller, if any, copies of which will be delivered to Buyer pursuant to this Agreement to the extent in Seller's possession or control. Seller has not received notice that any such inspection, audit, inquiry or investigation is pending or proposed. Seller has not received any warning, notice, notice of violation, administrative complaint, judicial complaint or other formal or informal notice or request for information alleging that Hazardous Materials have been stored or Released at the Premises or that conditions at the Premises are in violation of any Environmental Laws or requesting information regarding the use, storage, release or potential Release of Hazardous Materials at the Premises.

(vi) Definitions. For purposes of this Paragraph 17 and this Agreement: "Environmental Laws" shall mean any federal, state or local statute, regulation or ordinance or any judicial or administrative decree or decision, whether now existing or hereinafter enacted, promulgated or issued, with respect to any Hazardous Materials, drinking water, groundwater, wetlands, landfills, open dumps, storage tanks, underground storage tanks, solid waste, waste water, storm water runoff, waste emissions or wells. Without limiting the generality of the foregoing, the term shall encompass each of the following statutes, and all regulations, orders, decrees, permits, licenses and deed restrictions now or hereafter promulgated thereunder, and any amendments and successors to such statutes and regulations as may be enacted and promulgated from time to time: (i) the Comprehensive Environmental Response, Compensation and Liability Act (codified in scattered sections of 26 U.S.C., 33 U.S.C., 42 U.S.C. and 42 U.S.C. Section 9601 et seq.) ("CERCLA"); (ii) the Resource Conservation and Recovery Act (42 U.S.C. Section 6901 et seq.) ("RCRA"); (iii) the Hazardous Materials Transportation Act (49 U.S.C. Section 1801 et seq.); (iv) the Toxic Substances Control Act (15 U.S.C. Section 2061 et seq.); (v) the Clean Water Act (33 U.S.C. Section 1251 et seq.); (vi) the Clean Air Act (42 U.S.C. Section 7401 et seq.); (vii) the Safe Drinking Water Act (21 U.S.C. Section 349, 42 U.S.C. Section 201 and Section 300f et seq.); (viii) the National Environmental Policy Act (42 U.S.C. Section 4321 et seq.); (ix) the Superfund Amendments and Reauthorization Act of 1986(codified in scattered sections of 10 U.S.C., 29 U.S.C., 33 U.S.C. and 42 U.S.C.); (x) Title III of the Superfund Amendment and Reauthorization Act (40 U.S.C. Section 1101 et seq.); (xi) the Uranium Mill Tailings Radiation Control Act (42 U.S.C. Section 7901 et seq.); (xii) the Occupational Safety and Health Act (29 U.S.C. Section 655 et seq.); (xiii) the Federal Insecticide, Fungicide and Rodenticide Act (7 U.S.C. Section 136 et seq.); (xiv) the Noise Control Act (42 U.S.C. Section 4901 et seq.); and (xv) the Emergency Planning and Community Right to Know Act (42 U.S.C. Section 1100 et seq.).

"Hazardous Materials" means each and every element, compound, chemical mixture, contaminant, pollutant, material, waste or other substance which is defined, determined or identified as hazardous or toxic under any Environmental Law. Without limiting the generality of the foregoing, the term shall mean and include:

"Hazardous Substances" as defined in CERCLA, the Superfund Amendments and Reauthorization Act of 1986, or Title III of the Superfund Amendment and Reauthorization Act, each as amended, and regulations promulgated thereunder including, but not limited to, asbestos or any substance containing asbestos, polychlorinated biphenyls, any explosives, radioactive materials, chemicals known or suspected to cause cancer or reproductive toxicity, pollutants, effluents, contaminants, emissions, infectious wastes, any petroleum or petroleum-derived waste or product or related materials and any items defined as hazardous, special or toxic materials, substances or waste;

"Hazardous Waste" as defined in the Resource Conservation and Recovery Act of 1976, as amended, and regulations promulgated thereunder;

Materials defined as "Hazardous Materials" in the Hazardous Materials Transportation Act, as amended, and regulations promulgated thereunder; and

"Chemical Substance or Mixture" as defined in the Toxic Substances Control Act, as amended, and regulations promulgated thereunder.

"Governmental Authorities" means the United States, the Commonwealth of Pennsylvania and any political subdivision thereof, and any and all agencies, departments, commissions, boards, bureaus, bodies, councils, offices, or authorities, or any instrumentality of any of them, of any nature whatsoever for any governmental unit (federal, state, county, district, municipal, city or otherwise) whether now or hereafter in existence.

"Release" shall mean any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, storing, escaping, leaching, dumping, discarding, burying, abandoning, or disposing into the environment in amounts or of a magnitude that would require remediation pursuant to applicable laws, rules, statutes, ordinances and/or regulations.

18. BUYER'S WARRANTIES, REPRESENTATIONS AND COVENANTS. Purchaser represents and warrants to Seller as follows:

(a) Authority. Buyer (i) is a lawfully constituted corporation, duly organized, validly existing, and in good standing under the laws of the State of North Carolina; (ii) has the authority and power to enter into this Agreement and to consummate the transactions contemplated herein; and (iii) upon execution hereof will be legally obligated as Buyer in accordance with the terms and provisions of this Agreement.

(b) Conflicts. The execution and entry into this Agreement, the execution and delivery of the documents and instruments to be executed and delivered by Buyer on the closing date, and the performance by Buyer of Buyer's duties and obligations under this Agreement and of all other acts necessary and appropriate for the full consummation of the purchase and sale of the Premises as contemplated herein, are consistent with and not in violation of, and will not create any adverse condition under, any contract, agreement or other instrument to which Buyer is a party or any judicial order or judgment of any nature by which Buyer is bound. On the closing date all necessary and appropriate action will have been taken by Buyer authorizing and approving the execution of and entry into this Agreement, the execution and delivery by Buyer of the documents and instruments to be executed by Buyer on the closing date,

and the performance by Buyer of Buyer's duties and obligations under this Agreement and of all other acts necessary and appropriate for the consummation of the purchase and sale of the Premises as contemplated herein.

19. WAIVER. The failure to enforce any particular provision of this Agreement on any particular occasion shall not be deemed a waiver by either party of any of its rights hereunder, nor shall it be deemed to be a waiver of subsequent or continuing breaches of that provision, unless such waiver be expressed in a writing signed by the party to be bound.

20. DATE FOR PERFORMANCE. If the time period by which any right, option or election provided under this Agreement must be exercised, or by which any act required hereunder must be performed, or by which the closing must be held, expires on a Saturday, Sunday or legal or bank holiday, then such time period will be automatically extended through the close of business on the next following business day.

21. FURTHER ASSURANCES. The parties agree that they will each take such steps and execute such documents as may be reasonably required by the other party or parties to carry out the intent and purposes of this Agreement.

22. SEVERABILITY. In the event any provision or portion of this Agreement is held by any court of competent jurisdiction to be invalid or unenforceable, such holding will not effect the remainder hereof, and the remaining provisions shall continue in full force and effect to the same extent as would have been the case had such invalid or unenforceable provision or portion never been a part hereof.

23. INTENTIONALLY DELETED.

24. AUTHORITY. The undersigned officers of Seller and Buyer hereby represent, covenant and warrant that all actions necessary by their respective Boards of Directors, shareholders, general partners and partners, as the case may be, will have been obtained and that they will have been specifically authorized to enter into this Agreement and that no additional action will be necessary by them in order to make this Agreement legally binding upon them in all respects. Buyer and Seller covenant to provide written evidence of compliance with this Paragraph 22 prior to or at Closing.

25. SUCCESSORS AND ASSIGNS. The designation Seller and Buyer as used herein shall include said parties, their heirs, successors, and assigns, and shall include the singular, plural, masculine, feminine or neuter as required by context.

26. ENTIRE AGREEMENT. This Agreement constitutes the entire agreement between the parties and shall become a binding and enforceable agreement among the parties hereto upon the full and complete execution and unconditional delivery of this Agreement by all parties hereto. No prior verbal or written agreement shall survive the execution of this Agreement. In the event of an alteration of this Agreement, the alteration shall be in writing and shall be signed by all the parties in order for the same to be binding upon the parties.

27. TAX DEFERRED EXCHANGE. The sale and purchase of the Premises may, at Seller's and/or Buyer's option, be structured, in whole or part, as a like-kind or tax-free exchange under Section 1031 of the Internal Revenue Code of 1986, as amended. Each party will, at the other party's request, reasonably cooperate in structuring the method of sale and purchase and will timely take



all action necessary for the transaction to qualify as a like-kind or tax-free exchange and so as to cause no delay in the Closing hereunder. The party effecting a like-kind or tax-free exchange shall be responsible for any and all costs incurred by the other party in connection therewith (including, without limitation, reasonable attorneys' fees) and the other party shall not be obligated to take title to any exchange property.

28. AS IS.

(a) Except as otherwise expressly provided herein, Buyer hereby acknowledges that the Premises is being sold "AS-IS, WHERE-IS, AND WITH ALL FAULTS."

(b) This Agreement, as written, contains all the terms of the agreement entered into between the parties as of the date hereof, and Buyer acknowledges that, except as otherwise expressly provided and set forth in this Agreement, neither Seller nor any affiliates of Seller, nor any of their respective agents or representatives, nor Broker has made any representations or held out any inducements to Buyer, and Seller hereby specifically disclaims any representation, oral or written, past, present or future, other than those expressly set forth in this Agreement. Without limiting the generality of the foregoing, Buyer has not relied on any representations or warranties, and neither Seller nor any affiliates of Seller, nor any of their respective agents or representatives has or is willing to make any representations or warranties, express or implied, other than as may be expressly set forth herein, as to (i) the status of title to the Premises, (ii) the current or future real estate tax liability, assessment or valuation of the Premises; (iii) the potential qualification of the Premises for any and all benefits conferred by applicable law whether for subsidies, special real estate tax treatment, insurance, mortgages or any other benefits, whether similar or dissimilar to those enumerated; (iv) the nature and extent of any right-of-way, lease, possession, lien, encumbrance, license, reservation, condition or otherwise; (v) the availability of any financing for the purchase, alteration, rehabilitation or operation of the Premises from any source, including, without limitation, any government authority or any lender; or (vi) the current or future use of the Premises, including, without limitation, the premises use for commercial, manufacturing or general office purposes.

(c) Buyer acknowledges and agrees that (i) any reports or other information regarding the Premises delivered or made available to Buyer and Buyer's representatives by Seller or Seller's affiliates, or any of their respective agents or representatives, pursuant to or in accordance with Paragraph 8 hereof or this Agreement (collectively, the "Premises Information") may have been prepared by third parties and may not be the work product of Seller and/or any of Seller's affiliates; (ii) neither Seller nor any affiliate of Seller has made any independent investigation or verification of, or has any knowledge of, the accuracy or completeness of the Premises Information; (iii) the Premises Information delivered or made available to Buyer and Buyer's representatives is furnished to each of them at the request, and for the convenience of, Buyer; (iv) Buyer is relying solely on its own investigations, examinations and inspections of the Premises and those of Buyer's representatives and is not relying in any way on the Premises Information furnished by Seller or any affiliates of Seller, or any of their respective agents or representatives; and (v) Seller expressly disclaims any representations or warranties with respect to the accuracy or completeness of the Premises Information.

(d) The provisions of this Section 26 shall survive the termination of this Agreement and the Closing.

29. ESCROW INSTRUCTIONS. The Title Company shall accept the Deposit, hold the same in escrow (in an interest-bearing escrow account acceptable to Buyer and Seller) and release and deliver the same in accordance with the provisions of this Agreement. In that regard, the Title Company shall deliver the Deposit to Seller or Buyer, as the case may be, as follows:

(a) to Seller, upon Closing pursuant to this Agreement; or

(b) to Seller, after receipt of Seller's demand and notice of default given to Buyer and the Title Company in which Seller certifies either that (i) Buyer has defaulted under the Agreement, or (ii) the Agreement has been otherwise terminated or cancelled, and Seller is thereby entitled to receive the Deposit, except that the Title Company shall not honor Seller's demand until more than ten (10) days after the Title Company has given a copy of Seller's demand and notice to Buyer and the Title Company has received no notice from Buyer within such ten (10)-day period objecting to same; or

(c) to Buyer, after receipt of Buyer's demand and notice given to Seller and the Title Company in which Buyer certifies either that (i) Seller has defaulted under the Agreement, or (ii) the Agreement has been otherwise terminated or cancelled, and Buyer is thereby entitled to receive the Deposit, except that the Title Company shall not honor Buyer's demand until more than ten (10) days after the Title Company has given a copy of Buyer's demand and notice to Seller and the Title Company has received no notice from Seller within such ten (10)-day period objecting to same.

The Title Company assumes no liability under this Agreement other than that of a stakeholder. If there is any dispute as to whether the Title Company is obligated to deliver funds or as to whom such funds are to be delivered or if any notice of objection is timely delivered to the Title Company as provided in (b) and (c) above, the Title Company shall not be obligated to make any delivery thereof, but may hold the same until receipt by the Title Company of an authorization in writing signed by all parties to such dispute, directing the disposition of such funds. In the absence of such authorization, the Title Company may hold such funds until the final determination of the rights of the parties in an appropriate proceeding. If such written authorization is not given, or proceedings for such determination are not timely begun and diligently pursued, the Title Company shall not be required to, but may, bring an appropriate action or proceeding for leave to deposit such funds in Court, pending such determination. No provisions of this Agreement shall be construed to relieve the Title Company of any obligations or liabilities which may now exist or hereafter accrue by virtue of any writing other than this Paragraph 29.

30. HEADINGS. The paragraph headings are included for convenience only and shall not be used in connection with the interpretation of this Agreement.

31. GOVERNING LAW. This Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Pennsylvania.

32. BINDING EFFECT. This Agreement is binding upon and inures to the benefit of the parties hereto and their respective successors and permitted assigns.

33. COUNTERPARTS. This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original, and all of which taken together shall constitute one and the same single instrument.

34. RELAY ADMONITION. Buyer acknowledges that at the time of the execution of this Agreement, Buyer is advised by this writing that Buyer should have an abstract covering the Premises examined by an attorney of Buyer's own selection, or that Buyer should be furnished with or obtain an Owner's Policy of Title Insurance.

35. ZONING CERTIFICATION. Seller warrants that the Premises is now or will, on or prior to the Closing Date, be zoned in such manner so as to permit the commercial use of the Premises and certifies that the zoning under the Zoning Ordinance of the Township of Union is \_\_\_\_.

36. COAL NOTICE. NOTICE - THIS DOCUMENT MAY NOT SELL, CONVEY, TRANSFER, INCLUDE OR INSURE THE TITLE TO THE COAL AND RIGHT OF SUPPORT UNDERNEATH THE SURFACE LAND DESCRIBED OR REFERRED TO HEREIN, AND THE OWNER OR OWNERS OF SUCH COAL MAY HAVE THE COMPLETE LEGAL RIGHT TO REMOVE ALL OF SUCH COAL AND, IN THAT CONNECTION, DAMAGE MAY RESULT TO THE SURFACE OF THE LAND AND ANY HOUSE, BUILDING OR OTHER STRUCTURE ON OR IN SUCH LAND. THE INCLUSION OF THIS NOTICE DOES NOT ENLARGE, RESTRICT OR MODIFY ANY LEGAL RIGHTS OR ESTATES OTHERWISE CREATED, TRANSFERRED, EXCEPTED OR RESERVED BY THIS INSTRUMENT. [THIS NOTICE IS SET FORTH IN THE MANNER PROVIDED IN SECTION 1 OF THE ACT OF JULY 17, 1957, P.L. 984, AS AMENDED, AND IS NOT INTENDED AS NOTICE OF UNRECORDED INSTRUMENTS, IF ANY.]

37. SEWERAGE CERTIFICATION. The Pennsylvania Sewage Facilities Act of January 24, 1966, No. 537 P.L. 1535, as amended, requires that there be a statement regarding the availability of a community sewage provision:

- \_\_\_\_\_ (a) The Premises is serviced by a community sewage system  
(If the Premises is not so serviced check (b) or (c)  
below.)
- \_\_\_\_\_ (b) Buyer is hereby advised that there is no currently  
existing community sewage system available to the  
Premises. There is a permit for the operation of an  
individual sewage system for the Premises, and said permit  
has been exhibited by Seller to Buyer.
- \_\_\_\_\_ (c) Buyer is hereby advised that there is no currently  
existing community sewage system available to the Premises  
and that a permit for an individual sewage system will  
have to be obtained from the appropriate local agency  
pursuant to the Pennsylvania Sewage Facilities Act. Buyer  
should contact the appropriate local agency which  
administers the Pennsylvania Sewage Facilities Act, which  
is the Union Township sewage officer, before signing this  
Agreement to determine the procedures and requirements for  
obtaining a permit for an individual sewage system.

[Signatures Appear on Following Page]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement under seal as of the date first above written.

ATTEST:  
  
-----  
Name: Robert Masters  
Title: Secretary

SELLER:  
MARK TWELVE ASSOCIATES, L.P., a  
Pennsylvania limited partnership  
  
By: New Castle Fifty Realty Corp., a  
Pennsylvania corporation, its  
General Partner  
  
By: -----  
Name: Kenneth F. Bernstein  
Title: President

ATTEST:  
  
\_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
  
(CORPORATE SEAL)

BUYER:  
  
LOWE'S HOME CENTERS, INC.  
  
By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

The undersigned joins in the execution of this Agreement to Sell and Purchase Real Estate solely for the purpose of agreeing to act as escrow agent pursuant to Paragraph 29 hereof and to abide by the provisions thereof and of Paragraph 3 hereof.

COMMONWEALTH LAND TITLE INSURANCE COMPANY  
(Title Company)

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

EXHIBIT "A"

SITE PLAN

18

EXHIBIT "B"

SURVEY REQUIREMENTS

I. BOUNDARY SURVEY AND SEPARATE LEGAL DESCRIPTION

Lowe's requires an ALTA land survey, accompanied by the attached Schedule B Surveyor's Report Form. The survey should be certified and sealed according to Schedule C, entitled "Minimum Standard Detail Requirements For ALTA/ACSM Land Title Surveys" as per the most currently adopted requirements. The survey should be an Urban Class Survey as defined in these requirements and should include Items 1 - 11 and Item 13 of Table A thereof.

The certification shown below, should appear on the face of all survey prints with both an original signature and seal. The surveyor must fill in, sign and certify four (4) copies of the enclosed Surveyor's Report Form, together with the survey prints.

- A. Entitle the survey and description "Survey for Lowe's Home Centers, Inc."
- B. Use scale of one (1) inch equals one hundred (100) feet (if applicable).
- C. Reference description and plat, to a clearly definable point away from the property. Example: Intersection of two right-of-ways, etc.
- D. Clearly mark the property corner designated as the point-of-beginning using "P.O.B."
- E. Clearly show all adjacent property owners on Boundary Survey.
- F. Clearly show acreage within the confines of the property to the nearest one hundredth of an acre.
- G. Regarding adjacent right-of-ways:
  - 1. Clearly define right-of-ways on Boundary Survey. Example: "North right-of-way", "East right-of-way", etc.
  - 2. Clearly mark centerlines as "CL".
  - 3. Clearly show right-of-way widths, both from centerline and total width.
- H. Show all easements crossing property and:
  - 1. Clearly define type of easement. Example: Electrical, sewer, etc.
  - 2. Clearly mark centerlines as "CL" (if applicable).
  - 3. Clearly show easement widths, both from centerline and total width.

4. Within or directly adjacent to each easement, show the recording information. Example: Book 285, Page 163.

- I. Prepare Metes and Bounds description on a separate sheet of paper from Boundary Survey.
- J. Forward a mylar sepia or other reproducible copy and four (4) copies of the Boundary Survey, all signed and sealed.
- K. Forward four (4) copies of the Metes and Bounds description, all signed and sealed.
- L. Forward four (4) copies of the Surveyor's Report, all signed and sealed.
- M. All surveys and descriptions must be prepared in recordable form.

NOTE: Any bearing, distance, lot line, section or township number, County or State name, street name, recording data, etc., included in the Metes and Bounds description must also be shown on the Boundary Survey itself. In short, any items included in the Metes and Bounds description must be clearly shown on the Boundary Survey.

- N. Our title insurance company will forward to you a copy of the title insurance commitment and the exceptions. Please prepare an index on the face of the survey itemizing each exception listed on Schedule B-Section 2 in the commitment. The index should be prepared with the following guidelines:

INDEXING THE EXCEPTIONS ON THE SURVEY:

- 1. State if the exception affects or does not affect the property surveyed;
- 2. State if the exception cannot be described;
- 3. State if the exception is a blanket easement; and
- 4. When indexing the exception, state to whom the exception is to (with the recording Book and Page).

EXAMPLE:

- 1. Blanket easement granted unto XYZ Power Company affecting all parcels (or be specific as to which parcel it does affect), D.B. 29, Page 89 (unplottable).
- 2. Twenty foot access easement to John and Mary Jones affecting Parcel B, D.B. 31, Page 90 (Drawn).

DRAWING THE EXCEPTIONS ON THE SURVEY:

- o Draw every exception in the title commitment and reference it with the Deed Book and Page, and the number where it is itemized in the index.

EXAMPLE:

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20' Access Easement  
D.B. 31, Page 90  
See Index Note 2

II. We will notify you of the attorney examining the title and you should provide four (4) copies of the Boundary Survey and the Surveyor's Report to that attorney.

III. You should certify the four (4) copies of the Survey with an original seal to the following entities:

- A. Lowe's Home Centers, Inc.
- B. Title company

The following certifications should be provided in addition to the required ALTA/ACSM certification in the format below:

The undersigned hereby certifies to \_\_\_\_\_ that this survey was actually made upon the ground; that it and the information, courses, angles and distances shown thereon are correct; that this survey correctly shows the location of all buildings, structures and other improvements on the Premises, including, without limitation, all streets, easements, rights-of-way and utility lines; and that, except as shown, there are no (a) easements or rights-of-way across the Premises; (b) party walls, (c) encroachments on adjoining premises, streets or alleys of any of said buildings, structures or improvements, or (d) encroachments upon the Premises by any building, structure or other improvements situated on any adjoining premises; physical evidence of boundary lines on all sides of the Premises is as stated on the survey; and that the improvements do not violate any set-back or other building lines.

I hereby certify that this survey has been made using the latest recorded plat or deed, that there are no encroachments other than those shown, and that the survey is correct to the best of my knowledge and belief.

In addition, the surveys provided pursuant to this paragraph must contain a Flood Zone Certification. Those surveys should be sent directly to the Lowe's.

I hereby certify that the \_\_\_\_\_ project, shown hereon does or does not lie within a special flood hazard zone according to \_\_\_\_\_ of the Flood Insurance Rate Map of \_\_\_\_\_ dated \_\_\_\_\_ and noted as zone \_\_\_\_\_ (also include year flood) to the best of my knowledge and belief.



EXHIBIT "C"  
RESTRICTIONS

Use Restrictions.

(a) During the term of this Declaration no portion of the Properties may be used for any of the following purposes without the written consent of Seller and Lowe's:

(i) A tavern, bar, nightclub, discotheque or any other establishment selling alcoholic beverages for on-premises consumption; provided, however, that the foregoing shall not preclude the operation of a restaurant where the sale of alcoholic beverages therein comprises less than fifty percent (50%) of the restaurant's gross revenue.

(ii) A bowling alley or game room.

(iii) A theater (motion picture or live performance).

(iv) A health club or spa, except that a health club or spa of no more than 10,000 square feet shall be permitted so long as it is located at least 400 feet from the Premises.

(v) A gas station, service station or truck stop, except that a convenience store selling gasoline and oil products shall be permitted on the Outparcels only; provided, however, that such convenience store shall be operated by a national or regional operator and shall not offer automotive services or repairs; and, provided further, that the Owner of the Outparcel shall at all times keep and maintain the Outparcel and the improvements thereon in a neat, clean, orderly and first-class condition.

(vi) A flea market, auction house, or second hand or surplus store.

(vii) A church, meeting hall, school or employee training facility, except that a Sylva or comparable learning center of no more than 5,000 square feet shall be permitted so long as it is located at least 400 feet from the Premises and does not provide or permit bus service on the Properties.

(viii) A car wash, except that a full-service car wash shall be permitted on an Outparcel so long as the improvements on such Outparcel are designed in a manner which shall not permit any stacking of vehicles on the access drives and roads adjacent to said Outparcel or otherwise on property outside of said Outparcel.

(ix) A dry cleaning plant or central laundry or laundromat.

(x) A facility used for the sale, rental, repair, storage or service of new or used cars, trucks, motorcycles, trailers, mobile homes or recreational vehicles or other motor vehicles.

(b) During the term of this Declaration no portion of the Properties may ever be used for any of the following uses whatsoever:

(i) An adult type bookstore or other establishment selling, displaying or exhibiting pornographic materials or providing adult type entertainment or displays of a variety involving or depicting nudity or lewd acts.

(ii) A massage parlor.

(iii) A skating rink.

(iv) A mortuary or funeral parlor.

(v) A mobile home or trailer court, labor camp, junkyard or stockyard.

(vi) A land fill, garbage dump or for the dumping, disposing, incineration or reduction of garbage.

(vii) An off-track betting parlor, carnival or amusement park.

(viii) A manufacturing, distillation, smelting, refining, industrial, agricultural, drilling, mining or quarrying operation (provided, however, that assembling or manufacturing incidental to a permitted retail use shall be permitted).

(ix) A plasma center or a center for medical procedures, counseling or activities primarily relating to abortion, birth control or euthanasia (except that this prohibition shall not be applicable to a general medical office or facility which may include, but is not primarily related to, such activities or any dental office or facility as the same may be found in similar regional shopping centers); or

(x) A warehouse (other than indoor storage incidental to a permitted retail use operating on the Shopping Center) or "mini-storage" use or operation.

(xi) Living quarters, sleeping apartments or lodging rooms.

(xii) A veterinary hospital or animal raising facility.

Use Restrictions on the Seller Property. No portion of Seller Property shown on the Site Plan may be used for the following purposes (provided that such restrictions shall only apply to Seller Property for a period of time not to exceed two (2) years after the Lowe's Property is no longer used by Lowe's as a retail and/or warehouse home improvement center, home improvement service center, lumber yard or building materials supply center):

(a) A hardware store containing more than 5,000 square feet of useable floor area.

(b) A lawn and garden store containing more than 5,000 square feet of useable floor area.

(c) A paint and/or decor center containing more than 5,000 square feet of useable floor area.

(d) A retail and/or warehouse home improvement center, lumber yard, building materials supply center, home improvement service center and other stores or centers similar to those operated by Lowe's, Home Depot, Home Owner's Warehouse, Home Quarters, Hechinger's, Builders Square, 84 Lumber, Wickes, Hughes Lumber, McCoys, Home Base, Eagle, Menard's, Sears Hardware, Sutherlands, Orchard Supply and Payless Cashways.

These restrictions shall not apply to any tenants existing on Seller's Property as of the date hereof nor their successors and assigns in interest to such leases.

These restrictions or exclusive rights shall also apply to prohibit a larger business having space in its store devoted to selling the merchandise described in subparagraphs (a) through (c) when such space exceeds the limitations of subparagraphs (a) through (c). Subject to these restrictions, Seller reserves the right to subdivide, convey, lease or assign the Seller Property or any portion thereof through any means including, but not limited to, subdivision, lease, ground lease, condominium declaration or air-lot condominium declaration.

Outparcel Development. Any Outparcel sold or developed on the Properties will only be developed under the following guidelines:

(a) Any building constructed on any of the Outparcels shall not exceed 10,000 square feet, shall be self-supporting with respect to parking and shall contain not less than five (5) paved full size automobile parking spaces for each 1,000 square feet of Building floor area constructed thereon (or the number of parking spaces required by applicable law, whichever is greater); provided, however, that ten (10) paved full size automobile parking spaces for each 1,000 square feet of Building floor area constructed thereon (or the number of parking spaces required by applicable law, whichever is greater) will be required for restaurants; and, provided further, that twelve (12) paved full size automobile parking spaces for each 1,000 square feet of Building floor area constructed thereon (or the number of parking spaces required by applicable law, whichever is greater) will be required for restaurants serving alcohol.

(b) Any building constructed on any of the Outparcels shall not exceed one (1) story and 24 feet in height, as measured from the finished elevation of the parking area of the Properties, except that the prototypical architectural features of a national or regional occupant may extend above such height limitation provided that such building and architectural features do not exceed an aggregate height of 33 feet as measured from the finished elevation of the parking area of the Properties.

(c) Any rooftop equipment installed on any Outparcel shall be screened in a manner reasonably satisfactory to Seller and Lowe's;

(d) No rooftop signs shall be erected on any building constructed on any Outparcel.

(e) No more than two (2) freestanding signs may be erected on each Outparcel, but in no event shall such freestanding signage exceed five feet in height or block the visibility of the Lowe's building or signs.

(f) Any Outparcel shall be kept neat, orderly, planted in grass and trimmed until improved and constructed.

(g) Any building, structure, or improvement constructed on any of the Outparcels shall be used for retail, restaurant, medical or office purposes only. Banks and financial institutions shall be deemed retail purposes subject to the further limitations set forth in Section \_\_\_.

(h) Any party or independent owner purchasing or leasing from Seller and having an ownership or leasehold interest in an Outparcel shall repair any damage caused to any of the utility facilities, as described in this Section of this Declaration, serving the Properties and the Outparcel caused by such party, or a lessee or user of the Outparcel, to the extent the Outparcel benefits from any of the utility facilities serving the Properties and the Outparcel.

(i) Any of the restrictions set forth in this Section may be waived, amended, modified, released, or terminated in writing at any time and from time to time by Seller and Lowe's; provided that either Party shall not waive, amend, modify, release, or terminate this Declaration without the prior written consent of the other Party. However, Seller and/or Lowe's, as the case may be, shall not amend or modify any of the foregoing restrictions if any such amendment or modification would impose additional restrictions on an Outparcel without the prior written consent of the fee owner of the Outparcel. The fee owner of such Outparcel, however, may impose additional, restrictions on an Outparcel as such fee owner deems appropriate, subject to any exceptions thereto imposed on said fee owner at the time of conveyance of said Outparcel by Seller to said fee owner.

(j) Seller may subdivide, convey, lease or assign any Outparcel or any portion thereof through any means including, but not limited to, subdivision, lease, ground lease, condominium declaration or air-lot condominium declaration.

(k) The foregoing restrictions and agreements are imposed on each of the Outparcels for the benefit of the Properties. The agreements, restrictions and covenants herein made shall be deemed restrictive covenants running with the land and shall be binding upon each of the Outparcels and any person who may from time to time own, lease, or otherwise have an interest in any of the Outparcels.

EXHIBIT "D"

EXCLUSIVE RIGHTS AND RESTRICTIONS

Hills Lease:

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1. No discount department store containing 30,000 square feet or more or no deep discount drug store containing 30,000 square feet or more.
2. No supermarket shall devote more than 30,000 square feet to general merchandise categories.
3. No supermarket shall have a sit-down restaurant.
4. Only one pylon sign for the Shopping Center.

Peebles Lease:

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1. No outdoor sales area or kiosk.
2. No store larger than Peebles to be in full line department store, such as those operated by Belk, Legget, J. C. Penney, Dillard's of The May Company or any store larger than 15,000 square feet as a so-called "of-price" retail store (a store selling at retail brand name merchandise at less than the full retail price on a regular basis) such as T> J. Maxx, Stein Mart, Lochmann, Kohl's, Burlington Coat Factory or Goody's.

Sears Lease:

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1. No pylon signs except as shown on Exhibit A to the Sears Lease.

## AMENDED AND RESTATED MORTGAGE NOTE

Date of Note: July 19, 2000

FOR VALUE RECEIVED, Port Bay Associates, LLC, a New York limited liability company ("Maker"), does hereby covenant and promise to pay to the order of Fleet Bank, National Association, a national banking association ("Payee"), at 1133 Avenue of the Americas, New York, New York 10036, or at such other place as Payee may designate to Maker in writing from time to time, in lawful money of the United States of America and in immediately available funds, the lesser of the principal sum of Ten Million and 00/100 (\$10,000,000.00) Dollars (the "Principal Amount") or the Principal Amount from time to time outstanding hereunder and to pay interest on the Principal Amount from time to time outstanding hereunder and such other charges, costs and fees set forth under the Loan Documents in like money and funds as hereinafter provided.

1. Definitions. The following terms, as used in this Note, shall have the meanings indicated opposite them and terms capitalized herein and not otherwise defined herein but defined in the Mortgage shall have the meaning set forth in the Mortgage:

"Acadia" shall mean Acadia Realty Trust, a Maryland real estate investment trust with offices at 20 Soundview Marketplace, Port Washington, New York 11050, and its successors and/or assigns.

"Accounting Principles" shall mean the accounting principles utilized in the preparation of the operating statements for the Mortgaged Premises heretofore delivered to Payee.

"Additional Advance" or "Earn-Out" shall have the meaning assigned to such term in PARAGRAPH 5 of this Note.

"Applicable Rate" either the Floating Rate Option or the LIBOR Option in effect at any given time.

"Appraised Value" shall mean the appraised value of the Mortgaged Premises, as determined by an independent appraiser selected by Payee and reasonably acceptable to Maker. Payee may require that such an appraisal be performed at any time. Appraised Value shall be determined utilizing an appraisal method consistent with that used in determining the Appraised Value for Payee in connection with this Loan. Maker shall solely be responsible for the cost of up to one appraisal per annum if requested by Payee.

"Authorized Representative" - shall mean Perry Kamerman, Arnold Wachsberger, Maggie Hui, Robert Masters or any other person or persons designated by Maker, in a writing delivered to Payee, as an Authorized Representative.

"Business Day" -As used herein the "Modified Following Business Day Convention" shall mean the convention for adjusting any relevant date if it would otherwise fall on a day that is not a Business Day. The following terms, when used in conjunction with the term "Modified Following Business Day Convention", and a date, shall mean that an adjustment will be made if that date would otherwise fall on a day that is not a Business Day so that date will be the first following day that is a Business Day. A "Business Day" means, in respect of any date that is specified in this Note to be subject to adjustment in accordance with applicable Business Day Convention, a day on which commercial banks settle payments in (i) London if the payment obligation is calculated by reference to any LIBOR rate, or (ii) New York, if the payment obligation is calculated by reference to any prime rate.

"Change in Control" shall mean and include any of the following:

(i) the full time active employment of Ross Dworman as chief executive officer of Acadia and of Kenneth F. Bernstein, as President of Acadia, shall be voluntarily terminated by Acadia or shall otherwise cease, unless a successor acceptable to Payee shall have been appointed or elected and actually taken office within three months following any such termination or cessation, in which case the name of such successor shall be substituted for the name of the person he or she replaces for purposes of this clause (i);

(ii) the shareholders of Acadia approve a plan of complete liquidation of Acadia or an agreement or agreements for the sale or disposition by Acadia of all or substantially all of Acadia's assets; and/or

(iii) any "change in control" or any similar term as defined in any of the indentures, credit agreements or other instruments governing any indebtedness of Acadia or any of its affiliates.

"Default" - shall mean any act or condition which with the giving of notice or the lapse of time, or both, could become an Event of Default.

"Extended Maturity Date" shall mean the then applicable extended maturity date pursuant to PARAGRAPH 3 of this Note.

"Event of Default" shall have the meaning assigned to such term in SECTION 6.1 of the Mortgage and PARAGRAPH 33 of this Note.

"Floating Rate Option" shall mean the Prime Rate, floating plus fifty basis points (.50%).

"Full Force and Effect" shall mean, as to any lease, that such lease shall be in full force and effect, there shall be no material default by the tenant thereunder or default by the landlord thereunder or other act or condition or circumstance giving or which may give, without the giving of any further notice, the tenant or the landlord the right to terminate any lease and, if requested by Payee and required by its lease, the tenant shall have delivered to Payee an estoppel certificate in form and substance reasonably satisfactory to Payee.

"Guarantor" shall mean, individually, jointly, severally and collectively, the Maker and Managing Member.

"Guaranty" or "Indemnity" means, individually, jointly, severally and collectively, (i) that certain indemnity agreement dated of even date hereof by the Indemnitor in favor of Payee, as the same may be extended and or otherwise modified from time to time, (ii) that certain hazardous material guaranty and indemnity agreement dated of even date hereof by the Indemnitor in favor of Payee, as the same may be extended and or otherwise modified from time to time, (iii) that certain ADA guaranty and indemnity agreement dated of even date hereof by the Indemnitor in favor of Payee, as the same may be extended and or otherwise modified from time to time.

"Interest Period" with respect to LIBOR Advances, a period of 30, 60, 90, 120 or 180 days (or such other periods as Payee may elect to make available); provided, however, that no such period shall extend beyond the Maturity Date. Any Interest Period which terminates on a non-Business Day shall be deemed, for purposes hereof, to terminate on the next succeeding Business Day.

"LIBOR Advance" an advance with respect to which the Principal Amount bears interest at the LIBOR Option.

"LIBOR Option" shall mean a rate per annum equal to one hundred seventy-five basis points (1.75%) plus the LIBOR Rate with respect to the applicable Interest Period. The term "LIBOR" shall mean, as applicable to any LIBOR Advance, the rate per annum (rounded upward, if necessary, to the nearest 1/32 of one percent) as determined on the basis of the offered rates for deposits in U.S. dollars, for a period of time comparable to such LIBOR Advance which appears on the Telerate page 3750 as of 11:00 a.m. London time on the day that is two (2) London Banking Days preceding the first day of such LIBOR Advance; provided, however, if the

rate described above does not appear on the Telerate System on any applicable interest determination date, the LIBOR rate shall be the rate (rounded upwards as described above, if necessary) for deposits in dollars for a period substantially equal to the interest period on the Reuters Page "LIBO" (or such other page as may replace the LIBO Page on that service for the purpose of displaying such rates) as of 11:00 a.m. (London Time) on the day that is two (2) London Banking Days prior to the beginning of such interest period. "Banking Day" shall mean, in respect of any city, any date on which commercial banks are open for business in that city.

If both the Telerate and Reuters system are available Telerate and Reuters system are available, then the rate for that date will be determination the basis of the offered rates for deposits in U.S. dollars for a period of time comparable to such LIBOR advance which are offered by four major banks in the London interbank market at approximately 11:00 a.m. London time, on the day that is two (2) London Banking Days preceding the first day of such LIBOR Advance as selected by the calculation agent. The principal London office of each of the four major London banks will be requested to provide a quotation of its U.S. dollar deposit offered rate. If at least two such quotations are provided, the rate for that date will be the arithmetic mean of the quotations. If fewer than two quotations are provided as requested, the rate for that date will be determined on the basis of the rated quoted for loans in U.S. dollars to leading European banks for a period of time comparable to such LIBOR Advance offered by major banks in New York City at approximately 11:00 a.m. New York City time, on the day that is two (2) London Banking Days preceding the first day of such LIBOR Advance. In the event that Payee is unable to obtain any such quotations as provided above, it will be deemed that LIBOR pursuant to a LIBOR Advance cannot be determined. In the event that the Board of Governors of the Federal Reserve System shall impose a Reserve Percentage with respect to LIBOR deposits of Bank then for any period during which such Reserve Percentage shall apply, LIBOR shall be equal to the amount determined above divided by an amount equal to 1 minus the Reserve Percentage. "Reserve Percentage" shall mean the maximum aggregate reserve requirement (including all basic, supplemental, marginal and other reserves) which is imposed on member banks of the Federal Reserve System against "Euro-currency Liabilities as defined in Regulation D.

"LIBOR Acceptance Notice" shall have the meaning assigned to such term in PARAGRAPH 4(b) hereof.

"LIBOR Notice" Maker's telephonic notice immediately confirmed in writing, which writing may be delivered by telecopier, stating that Maker,



subject to delivery by it of a LIBOR Acceptance Notice, elects to pay interest on the whole or a portion of the Principal Amount at the LIBOR Rate, as specified in such Notice, and specifying the applicable Interest Period for the LIBOR Advance and the Business Day on which such Interest Period is to begin.

"Loan" loans of up to the Principal Amount made and/or to be made to Maker by Payee and evidenced hereby.

"Loan Documents" means the Demand Note, the Note Modification Agreement, this Note, the Demand Mortgage, the Agreement of Consolidation of Notes and Mortgages and Modification of the Consolidated Mortgage, the Guaranty, the Assignment of Leases and Rents and all other documents, including, without limitation, collateral documents, security agreements, UCC financing statements, assignments of leases and rents, guaranties, indemnities and any other document, mortgage, agreement, assignment or other instrument executed by Maker and/or Indemnitior, as the case may be, or any other third party pursuant hereto or thereto or in connection herewith or in connection with the loan evidenced by this Note and secured by this Mortgage, as the same may be extended and or otherwise modified from time to time.

"Managing Member" shall mean Acadia Realty Limited Partnership, a Delaware limited partnership having an office at 20 Soundview Marketplace, Port Washington, New York 11050, and its successors and/or assigns.

"Maturity Date" shall mean the then applicable maturity date pursuant to PARAGRAPH 3 of this Note.

"Mortgage" that certain Agreement of Consolidation of Notes and Mortgages and Modification of the Consolidated Mortgage dated as of even date hereof, including all exhibits thereto, by and between Maker and Payee in the principal sum of \$10,000,000, as the same may be amended or modified from time to time. Whenever a section of the Mortgage is referred to herein, it shall mean the sections contained in the Exhibit C to the Mortgage.

"Mortgaged Premises" or "Mortgaged Property" shall have the meaning assigned to such term in the Mortgage.

"Net Operating Income" shall mean, with respect to the applicable period, the aggregate rental and other receipts (unless excluded pursuant hereto) of the Mortgaged Premises (actual results with respect to the preceding six-months and pro forma with respect to the following six-months during

such period less the aggregate amount of all operating expenses of the Mortgaged Premises during such period, in each case determined in accordance with the Accounting Principles. For purposes of the determination of Net Operating Income, operating expenses shall include, without limitation, all real estate taxes (but not in excess of the pro rata portion of such real estate taxes applicable to the applicable period covered by the statement), water and sewer charges, utility charges, insurance premiums (but not in excess of the amounts applicable to the applicable period covered by the statement), salaries and benefits of all employees engaged in the operation, maintenance or management of Mortgaged Premises, all costs of ordinary and necessary maintenance, cleaning and repair, costs of snow and rubbish removal and security services. Net Operating Income shall, however, (a) exclude from receipts all amounts paid to the Maker for tenant alterations in connection with the leasing of space at the Mortgaged Premises, all amounts payable to the Maker under leases with Affiliates of the Maker, as tenant, or with Maker, as tenant (unless the Payee otherwise agrees) and, with respect to any lease providing for a reduction in the rentals payable under such lease at any time during the term thereof, base rentals in excess of the lowest base rentals payable under such lease (other than during any period of rent concessions made with respect to consecutive monthly periods commencing with the first month of the term of such lease), and (b) exclude from expenses payments of principal and interest on this Note, capital expenditures, leasing commissions, and other expenses payable to the Payee pursuant to this Note or any of the other Loan Documents. Net Operating Income shall be determined without regard to extraordinary items of income and of expense. Each lease, the rental or other income from which was included in the calculations of Net Operating Income, must be in Full Force and Effect as of the date Net Operating Income is being determined

"Note" shall mean this Amended and Restated Mortgage Note, as the same may be amended or otherwise modified from time to time.

"Person" shall mean and include any individual corporation, partnership unincorporated association, trust, governmental agency or authority or other entity.

"Prime Rate" shall mean the variable rate per annum so designated from time to time by the Payee as its Prime Rate. The Prime Rate is a reference rate and does not necessarily represent the lowest or best rate being charged to any customer. Changes in the rate of interest resulting from changes in the Prime Rate shall take place immediately without notice or demand of any kind.

"Prime Rate Advance" an advance with respect to which the Principal Amount or a portion thereof bears interest at the Floating Rate Option.

"Regulation D" - Regulation D of the Board of Governors of the Federal Reserve System from time to time in effect, including any successor or other regulation or official interpretation of said Board of Governors relating to reserve requirements applicable to member banks of the Federal Reserve System.

2. Amortization and Interest; Facility Fee. (a) The Principal Amount of this Note shall be payable in accordance with the following provisions: Commencing on September 1, 2000 and on the first day of each calendar month thereafter, Maker will pay, on account of the Principal Amount, the amount which would be payable on a self-liquidating mortgage-style amortization schedule based on the Principal Amount then outstanding, a loan maturity of twenty-five (25) years and an assumed interest rate of 8.5% per annum. Upon the making of the Additional Advance, the amortization schedule shall be recalculated such that immediately upon the making of the Additional Advance the monthly principal payments shall be recalculated based on the Principal Amount outstanding after the making of the Additional Advance, a loan maturity of twenty-five years less the number of months which have elapsed since the first amortization payment pursuant to this PARAGRAPH 2 and an assumed interest rate of 8.5% per annum and such revised amortization schedule shall be applicable to the payment due on the first day of the month immediately following the making of the Additional Advance and each month thereafter, unless and until such schedule is revised in accordance herewith. The prepayment premium provided for in PARAGRAPH 10 hereof shall not be applicable to any such scheduled monthly payments. Any voluntary prepayments applied to principal shall be applied in the inverse order of maturity.

(b) Interest on the outstanding Principal Amount shall accrue from and including the date of the advance to but excluding the date of any repayment or prepayment thereof and shall be payable in arrears (i) on the first day of each calendar month, commencing August 1, 2000, (ii) on the date of any prepayment (on the amount prepaid), (iii) on the Maturity Date, or the Extended Maturity Date, as the case may be (iv) after maturity (whether by acceleration or otherwise) on demand. Interest shall be calculated on the basis of 1/360 of the annual interest at the applicable rate on the outstanding principal balance for each date such balance is outstanding and shall be paid for the actual number of days elapsed, which will result in a higher effective annual rate.

(c) Concurrently with the execution and delivery of this Note, Maker shall pay Payee a non-refundable facility fee of \$75,000.00.

### 3. Maturity Date; Extended Maturity Date

(a) The outstanding Principal Amount and all accrued and unpaid interest thereon shall be due and payable on August 1, 2003 (the "Maturity Date").

(b) Provided that the Maker shall have notified the Payee sixty (60) days prior to the Maturity Date (as defined in the Note) that the Maker wishes to extend the term of the Note and Mortgage for an additional two (2) year period ("Extended Term"), and provided that the Maker shall have paid to the Payee thirty (30) days prior to the Maturity Date the Extension Fee equal to one quarter of one (.25%) percent of the outstanding balance of the Note due on the Maturity Date, and provided further that the Maker shall have complied with all of the conditions precedent as hereinafter set forth in the next paragraphs, this Note shall be extended for an additional two (2) year period (the "Extended Term") so that this Note shall mature on the Extended Maturity Date, at which time the Principal Amount and interest at the applicable Interest Rate accrued and unpaid herein shall be due and payable. During the Extended Term, monthly payments of interest and principal shall continue to be due and payable as set forth in this Note.

Notwithstanding anything to the contrary contained herein, the Payee's obligation to extend the term of the Note and Mortgage for the Extended Term so that this Note shall mature on the Extended Maturity Date, rather than the Maturity Date, is conditioned upon the following:

(i) The Payee shall have received a recently dated appraisal of the Mortgaged Property by an independent appraiser selected by the Payee and paid for by the Maker, in form and substance satisfactory to the Payee, which appraisal and results thereof must indicate a loan to value ratio of not greater than sixty-five (65%) percent.

(ii) No default shall have occurred and be continuing under the Loan Documents evidencing, securing, or guaranteeing payment of, the Note.

(iii) The "Debt Service Coverage Ratio" must be at least 1.50 to 1. For purposes herein, Debt Service Coverage Ratio shall mean the ratio, as of any date of calculation, for the immediately preceding six (6) month period and the immediately succeeding six (6) month period, calculated by dividing: (a) the Net Operating Income for the preceding six (6) month period and the immediately six (6) month period; by (b) principal and interest payments based on a 25 year self liquidating mortgage amortization schedule, and the 10-year treasury rate plus 2.00% with a floor rate of 8.50%.

(iv) All representations and warranties contained herein, or otherwise made in writing in connection herewith or in any of the Loan Documents, by or on behalf of Maker or any other Person to Payee, shall be true and correct, in all material respects, with the same force and effect as if made on and as of the date of the initial date of the Extended Term.

#### 4. Selection of Rate.

(a) Except as provided in PARAGRAPHS 4(b), the outstanding Principal Amount shall bear interest at a rate per annum equal to the Prime Rate Option.

(b) Provided there is no Default and/or Event of Default under this Note, the Loan Document(s) or any other document or instrument delivered as additional security for this Note, Maker may elect to pay interest on the entire or any portion of the outstanding Principal Amount (subject to the minimum amount limitations set forth herein and the requirements set forth below) at a rate per annum equal to the LIBOR Option for the Interest Period elected by Maker from (and including) the first day of each Interest Period to (but not including) the last day of such Interest Period. Maker shall, subject to delivery by it of a LIBOR Acceptance Notice, elect that the entire or any portion of the outstanding Principal Amount be treated as a LIBOR Advance pursuant to a LIBOR Notice. Payee must receive such LIBOR Notice prior to 11:00 A.M., New York City time, on a Business Day at least three (3) Business Days prior to:

(1) the last day of an Interest Period (in the case of an outstanding LIBOR Advance); or

(2) any Business Day elected by Maker in its LIBOR Notice (in the case of a conversion of a Prime Rate Advance to a LIBOR Advance) for the commencement of the applicable Interest Period.

If Maker fails to give a LIBOR Notice at least three (3) Business Days prior to the end of an Interest Period, then, on the last day of the Interest Period, the outstanding LIBOR Advance shall convert to a Prime Rate Advance. On the date specified in the LIBOR Notice as the date on which the applicable Interest Period is to begin, Payee shall notify Maker's Authorized Representative by telephone (such notice to be promptly confirmed in writing) or by telex, which notice shall specify the date, the proposed LIBOR Rate and the period of time on such date during which such rate is to be available. If Payee fails to specify the period for which such quoted rate is available, then such rate shall be deemed to be available only for thirty minutes from the time Payee, orally or in writing, notifies Maker's Authorized Representative of such rate. If Maker then wishes to obtain such Loan at such LIBOR Rate, it shall promptly give notice to Payee to such effect (the "LIBOR Acceptance Notice"), which notice shall be irrevocable and may be by telephone, promptly confirmed in writing.

(c) Without in any way limiting Maker's obligation to confirm in writing any telephonic LIBOR Rate Notice or LIBOR Acceptance Notice, Payee may, prior to receipt of written confirmation, act without liability on the basis of telephonic notice which it believes in good faith to be from Maker and, in any event, Payee may act without liability on the basis of telephonic or written notice which it believes in good faith to be from Maker.

5. Conditions to Additional Advance. Maker shall have the option, subject to the terms and conditions of this Note, of requesting from Payee an additional advances in increments of \$200,000 each, or any integral multiple thereof, with the aggregate amount of all such additional advances not to exceed \$1,000,000 (each, every and any one of such additional advances shall be referred to herein as the "Additional Advance"). The obligation of Payee to make the Additional Advance hereunder is subject to the satisfaction of each of the following conditions precedent:

(a) An Authorized Representative shall give Payee at least ten (10) Business Days prior written notice, specifying the date of the proposed borrowing. Any such notice which is oral shall promptly be confirmed in a writing signed by an Authorized Representative and delivered to Payee. Payee may rely on any oral or written request for a Loan which Payee believes to be genuine and shall be fully protected in doing so without any requirement to make further inquiry.

(b) After giving effect to the Additional Advance, there shall exist no Default and/or Event of Default, including, without limitation, default of the provisions set forth in SUBPARAGRAPH 9(a) or 9(b) of this Note, and, for this purpose, compliance with such covenants shall, prior to the making of the proposed Additional Advance, be recalculated (using the most recently available Appraised Value and Net Operating Income) as if the Additional Advance has been made.

(c) All representations and warranties contained herein, or otherwise made in writing in connection herewith or in any of the Loan Documents, by or on behalf of Maker or any other Person to Payee, shall be true and correct, in all respects, with the same force and effect as if made on and as of the date of the Additional Advance.

(d) The Payee shall have received a recently dated appraisal of the Mortgaged Property (less than one year old, or if older, accompanied by an updated limited appraisal report) by an independent appraiser selected by the Payee and paid for by the Maker, in form and substance satisfactory to the Payee, which appraisal and results thereof must indicate a loan to value ratio of not greater than sixty-five (65%) percent.

(e) The "Debt Service Coverage Ratio" must be at least 1.35 to 1. For purposes herein, Debt Service Coverage Ratio shall mean the ratio, as of any date of calculation, for the immediately preceding six (6) month period and the immediately succeeding six (6) month period, calculated by dividing: (a) the Net Operating Income for the preceding six (6) month period and the immediately six (6) month period; by (b) principal and interest payments based on a 25 year self liquidating mortgage amortization schedule, and the 10-year treasury rate plus 2.00% with a floor rate of 8.50%.

(f) At the time of the payment of the Earn-out or a part thereof (with the Earn-out funding capped at 18 months), a continuation of title shall demonstrate that there are no encumbrances, unpaid Impositions or liens assessed against the Mortgaged Premises except for Permitted Encumbrances (such title continuations shall be at Maker's sole cost and expense)..

6. Payment of Interest on and Number of LIBOR Advances. If a LIBOR Advance is outstanding, then in addition to the monthly payments of interest required under PARAGRAPH 2(b) hereof, all accrued and unpaid interest, if any, on such LIBOR Advance shall be due and payable on the last day of the Interest Period. In no event may there be more than three (3) Interest Periods in effect at any one time, and the entire Principal Amount outstanding need not bear interest at the same Applicable Rate.

7. Suspension of the LIBOR. If Payee determines that Payee's making or maintaining LIBOR Advances is unlawful for any reason, then Payee may suspend the availability of the LIBOR Rate and immediately convert any outstanding LIBOR Advance to a Prime Rate Advance. Payee shall immediately notify Maker of any such conversion and Maker shall pay to Payee, on demand, (i) all accrued and unpaid interest on the LIBOR Advance to the date of such conversion, plus (ii) such amounts as Payee shall require to compensate it for the costs of converting any such LIBOR Advance to a Prime Rate Advance. The certificate of Payee as to any amounts payable pursuant to this PARAGRAPH shall, absent manifest error, be final, conclusive and binding on Maker. No LIBOR Notices electing the LIBOR Rate shall be given by Maker thereafter until Payee determines that LIBOR Advances would be lawful.

8. Increases in Cost. In the event that at any time or from time to time any domestic or foreign requirement of law, regulation, order or decree or any change therein or in the interpretation or application thereof or compliance by Payee with any request or directive (whether or not having the force of law) from any governmental, fiscal, monetary or other authority (i) does or shall subject Payee to any tax, duty, charge or withholding on or from payments due from Maker (excluding taxation of the income of Payee); or (ii) does or shall impose, modify or hold applicable or change any reserve (including, without limitation, basic, supplemental, marginal, special or emergency reserves but not including reserve requirements already taken into account in calculating the LIBOR Rate), special deposit, compulsory deposit or similar requirement with respect to assets of, deposits with or for the account of, advances or loans by, or other credit extended by, or any other acquisition of funds by Payee; or (iii) does or shall impose on Payee any other condition or change therein and the result of any of the foregoing is to increase the cost to Payee of making available to Maker, converting from or to, or maintaining LIBOR Advances, then, and in any such event, Payee shall notify Maker in writing of such occurrence setting forth in reasonable detail the basis for and amounts of such increased costs, and Maker shall pay to Payee, on demand, such amounts as will compensate Payee for such increased costs. The certificate of Payee as to any amounts payable pursuant to this PARAGRAPH shall, absent manifest error, be final, conclusive and binding on Maker.

#### 9. Loan Covenants

(a) At all times while the indebtedness remains outstanding, the outstanding Principal Amount shall not exceed 65% of the Appraised Value of the Mortgaged Property, based upon the then most recent Appraised Value of the Mortgaged Property reviewed and found acceptable by the Maker.

(b) At all times while the indebtedness remains outstanding, the Maker shall maintain a "Debt Service Coverage Ratio" (as hereinafter defined) of not less than 1.35 to 1, to be tested semi-annually, as of June 30, 2000 and each subsequent December 31 and June 30 (the "Accounting Date"). Debt Service Coverage Ratio shall mean, for purposes herein, the ratio, as of any date of calculation, for the immediately preceding six (6) month period and

the immediately succeeding six (6) month period, calculated by dividing: (a) the Net Operating Income for the preceding six (6) month period and the immediately succeeding six (6) month period; by (b) principal and interest payments based on a 25 year self liquidating mortgage amortization schedule, and the 10-year treasury rate plus 2.00% with a floor rate of 8.50%.

(c) At all times while the Indebtedness remains outstanding, Acadia shall maintain a minimum "Net Worth" of at least \$50,000,000.00, to be determined by Maker based upon the financial statements required to be submitted to Maker pursuant to SECTION 2.10.6 hereof.

(d) At all times while the Indebtedness remains outstanding, Acadia shall maintain minimum liquidity of at least \$3,000,000.00, to be determined by Maker based upon the financial statements required to be submitted to Maker pursuant to SECTION 2.10.6 hereof.

(e) In the event of the Maker's failure to comply with SUBPARAGRAPHS' (a), (b) (c) or (d) directly hereinabove, the Maker shall have the following options prior to the Maker's non-compliance resulting in an Event of Default under the Mortgage:

(i) Within 45 days of notice by the Maker to the Maker that the Maker has breached the applicable covenant(s), the Maker shall provide additional collateral in the form of cash collateral, marketable securities, real estate, and/or letter(s) of credit, acceptable in form, quality, value and amounts to the Maker in its sole discretion so that after the delivery of such collateral, the applicable covenant violation shall have been cured, to the satisfaction of Lender, in its sole discretion, or

(ii) Within 45 days of notice by the Maker to the Maker that the Maker has breached the applicable covenant(s), the Maker shall reduce the Principal Amount so that after such prepayment, the applicable covenant violation shall have been cured, to the satisfaction of the Maker, in its sole discretion.

(f) Within ninety (90) days after the Accounting Date, Maker shall furnish to Payee detailed calculations of Net Operating Income and Debt Service Coverage Ratio for the current accounting period and upon which satisfaction of the provisions of PARAGRAPH 9(b) are to be determined, and certified as true and accurate, in a manner acceptable to Payee, by the chief financial officer of the Guarantor as having been prepared under his supervision in accordance with the Accounting Principles consistently applied and with the definitions of Net Operating Income and Debt Service Coverage Ratio and that he knows of no facts inconsistent with such calculations.



10. Prepayment.

(a) On any Business Day during the term hereof that the Applicable Rate is based upon the Prime Rate or on a date which is the last day of an Interest Period, upon not less than three Business Days written notice to Payee specifying the date on which prepayment is to be made, Maker shall have the privilege of prepaying, without payment of a premium or penalty, that portion of the unpaid balance of the Principal Amount, in whole or in part, as to which the Applicable Rate is based upon the Prime Rate or as to which an Interest Period is ending, which parts shall be in integral multiples of \$50,000 together with all accrued and unpaid interest on the Principal Amount so prepaid to the date of prepayment, and together also with accrued and unpaid interest or other sums or charges, if any, then due and owing hereunder or under the Loan Document(s), provided that any such prepayment shall be in a minimum amount of not less than \$250,000.

(b) At any time during the term hereof that the Applicable Rate is based upon LIBOR upon not less than three Business Days prior written notice to Payee (which notice shall be irrevocable), Maker shall have the privilege of prepaying the unpaid balance of the Principal Amount, in whole or in part, which parts shall be in integral multiples of \$50,000, prior to the last day of an Interest Period upon the required notice as aforesaid, provided that any such prepayment shall be in a minimum amount of not less than \$250,000 and provided further that in addition to the payment of the whole or portion of the Principal Amount so to be prepaid, all accrued and unpaid interest thereon and all other sums due hereunder or under the Loan Document(s), Maker shall pay Payee such amount or amounts as shall be sufficient (in the reasonable opinion of Payee) to compensate Payee for any loss, costs or expenses Payee incurs with respect to the termination of any LIBOR contract and/or Hedge Agreement (as such term is defined in the Mortgage) that Payee or its designee has entered into to borrow funds in order to fund the Loan plus the following yield maintenance premium: Maker shall pay to Payee, upon request of Payee, such amount or amounts as shall be sufficient (in the reasonable opinion of Payee) to compensate it for any loss, cost or expense incurred as a result of: (i) any payment of a LIBOR Loan on a date other than the last day of the Interest Period for such Loan; (ii) any failure by Maker to borrow a LIBOR Loan on the date specified by Maker's written notice; (iii) any failure by Maker to pay a LIBOR Loan on the date for payment specified in Maker's written notice. Without limiting the foregoing, Maker shall pay to Payee a "yield maintenance fee" in an amount computed as follows: 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 term chosen pursuant to the Fixed Rate Election as to which the prepayment is made, shall be subtracted from the LIBOR in effect at the time of prepayment. If the result is zero or a negative number, there shall be no yield maintenance fee. If the result is a positive number, then the resulting percentage shall be multiplied by the amount of the principal balance being prepaid. The resulting amount shall be divided by 360 and multiplied by the number of days remaining in the term chosen pursuant to the Fixed Rate Elections as to which the prepayment is made. Said amount shall be reduced to present value calculated by using the above referenced United States Treasury securities rate and the number of days remaining in the term chosen pursuant to the Fixed Rate Election as to which prepayment is made. The resulting amount shall be the yield maintenance fee due to Payee upon the payment of a LIBOR Loan. Each reference in this

paragraph to "Fixed Rate Election" shall mean the election by Maker of the LIBOR Rate. If by reason of an Event of Default Payee elects to declare the Note to be immediately due and payable, then any yield maintenance fee with respect to a LIBOR Loan shall become due and payable in the same manner as though the Maker had exercised such right of prepayment.

(c) Any payment required of Maker of the Principal Amount or any portion thereof after acceleration of the Maturity Date pursuant to any provisions hereof or of the Loan Document(s) shall be deemed a voluntary prepayment for the purposes hereof, and if a LIBOR Advance is then outstanding, Maker shall be required, on demand, to pay the prepayment premium, if any, calculated as aforesaid.

(d) Any payments of the Principal Amount received by Payee pursuant to the terms of this PARAGRAPH 10 shall be applied in the following order of priority: (i) first, to any accrued interest which is due and unpaid as of the date of such payment; and (ii) second, to the outstanding Principal Amount in the inverse order of maturity.

11. Involuntary Rate. Upon a default or after maturity or after judgment has been rendered on this Note, Maker's right to select pricing options shall cease. Overdue principal and, to the extent permitted by law, overdue interest and all other overdue amounts owing hereunder, whether at maturity, upon a Default, upon acceleration or otherwise, shall bear interest for each day that such amounts are overdue (whether or not any required notice of default shall have been given) at a rate per annum equal to four percent (4%) per annum in excess of the Prime Rate in effect from time to time; provided, however, that no overdue principal shall bear interest at a rate per annum less than four percent (4%) in excess of the rate of interest applicable thereto immediately prior to maturity (such rate, the "Involuntary Rate"). Interest shall continue to accrue at the Involuntary Rate upon a default or upon maturity of this Note, whether by expiration of its term, acceleration or otherwise, until this Note is paid in full, including the period following entry of any judgment on or relating to this Note or the Loan Documents. Interest on any such judgment shall accrue and be payable at the Involuntary Rate, and not at the statutory rate of interest, after judgment, any execution thereon, and until actual receipt by Payee of payment in full of this Note and said judgment. Interest at the Involuntary Rate shall be collectible as part of any judgment hereunder and shall be secured by the Mortgage and the other Loan Documents. Payee's right to receive interest at the Involuntary Rate shall be in addition to all other rights and remedies provided herein or by law for the benefit of the holder hereof upon a default; and the acceptance of the same by the holder hereof shall not restrict such holder in any respect in the exercise of any other or further right or remedy, nor shall the same be deemed to be, as to the holder hereof, a waiver or release of Maker from any of its obligations herein contained or constitute an extension of the time for payments due hereunder.

12. Late Fee. If the entire amount of any required principal and/or interest under this Note is not paid in full within ten (10) days after the same is due, Maker shall pay to the Payee a late fee equal to five (5%) percent of the required payment, and such charge shall be deemed to be part of the indebtedness evidenced herein.

13. Security. This Note is secured by the Mortgage and all of the Loan Documents

(including any amendment, modification, extension or renewal thereof now or hereafter executed in connection therewith or herewith). Document(s)." This Note is entitled to the benefits of the Loan Documents.

14. Acceleration. It is hereby expressly agreed that the entire unpaid balance of the Principal Amount shall, at the option of the holder hereof and upon such notice as may be required by this Note or by the Mortgage, become immediately due and payable without necessity for presentment and demand, notice of protest, demand and dishonor or nonpayment of this Note, all of which are hereby expressly waived, upon the happening of any Event of Default or any event by which, under the terms of the Loan Document(s), said unpaid balance may or shall become due and payable. Failure to exercise any such option at any time shall not constitute a waiver of the right of the holder hereof to exercise the same in the event of any subsequent default or acceleration event.

15. Notices. Except as otherwise provided herein, any notice to be given hereunder shall be in writing and shall be either delivered or sent by first-class registered or certified mail, return receipt requested postage prepaid, addressed (a) if to Maker, to Maker's address set forth on the signature page or (b) if to Payee, at Payee's address set forth above, Attention: Denise M. Smyth, Vice President or, as to any party, at such other address as shall be designated by such party by notice to the other party given in the manner set forth in this PARAGRAPH and each such notice shall be effective (i) if delivered by hand, at the time of delivery to the address specified in this PARAGRAPH, or (ii) if given by mail, on the fourth Business Day following the time of mailing in the manner aforesaid, or (iii) on the Business Day immediately following the delivery of such notice to an overnight delivery service.

16. Funding Sources. Nothing contained herein shall be deemed to obligate Payee to fund advances hereunder in any particular place or manner; and nothing contained herein shall be deemed to constitute a representation by Payee that it has funded or will fund advances in any particular place or manner.

17. Taxes and Attorneys' Fees. Maker shall pay to Payee, immediately upon demand, any and all taxes assessed against Payee by reason of its holding of this Note and the receipt by it of interest payments hereunder (other than income, franchise and other similar taxes assessed by the United States Government, any state or any political subdivision of either thereof on such interest payments), and any and all other sums and charges that may at any time become due and payable under the Loan Document(s). Maker also promises to pay, on demand, all costs, title insurance premiums, mortgage recording taxes, disbursements and reasonable attorneys' fees (including allocated costs of internal counsel of Payee) and disbursements incurred in connection with the negotiation, preparation, and execution of this Note and/or the Loan Documents and any other documents and instruments prepared in connection herewith or therewith and the consummation of the transactions contemplated hereby or thereby and the administration of this Loan and in the preservation of rights under, enforcement of, this Note and the Loan Document(s), any modification, amendment, or consent related thereto and in any suit, action or proceeding to protect or sustain the security interest of the holder of the Loan Document(s) and

any refinancing or renegotiation of this Note and the Loan Document(s).

18. No Partnership or Joint Venture. Nothing contained in this Note or elsewhere shall be deemed or construed as creating a partnership or joint venture between Payee and Maker or between Payee and any other person, or cause the holder hereof to be responsible in any way for the debts or obligations of Maker or any other person.

19. Waiver. Maker hereby waives diligence, presentment, protest and demand, notice of protest, dishonor and nonpayment of this Note, and expressly agrees that, without in any way affecting the liability of Maker hereunder, Payee may extend the Maturity Date or the time for payment of any amount due hereunder, accept additional security, release any party liable hereunder and release any security now or hereafter securing this Note without in any other way affecting the liability and obligation of Maker or any other Person. Maker further waives, to the full extent permitted by law, the right to plead any and all statutes of limitations as a defense to any demand on this Note, under the Loan Document(s), or on any guaranty or other agreement now or hereafter securing this Note.

20. Interest Rate Limitation. Notwithstanding anything contained herein to the contrary, the holder hereof shall never be entitled to receive, collect or apply as interest on the obligation evidenced hereby any amount in excess of the maximum rate of interest permitted to be charged by applicable law; and in the event the holder hereof ever receives, collects or applies as interest any such excess, such amount which would be excessive interest shall be applied to the reduction of the Principal Amount; and if the Principal Amount is paid in full, any remaining excess shall forthwith be paid to Maker. In determining whether the interest paid or payable in any specific case exceeds the highest lawful rate, the holder hereof and Maker shall to the maximum extent permitted under applicable law (i) characterize any non-principal payment as an expense, fee or premium rather than as interest; (ii) exclude voluntary prepayments and the effects thereof; and (iii) "spread" the total amount of interest throughout the entire contemplated term of the obligation so that the interest rate is uniform throughout said entire term.

21. Severability. Every provision of this Note is intended to be severable. In the event any term or provision hereof is declared by a court of competent jurisdiction to be illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the balance of the terms and provision hereof, which terms and provisions shall remain binding and enforceable.

22. Number and Gender. In this Note the singular shall include the plural and the masculine shall include the feminine and neuter gender, and vice versa, if the context so requires.

23. Headings. Headings at the beginning of each numbered paragraph of this Note are intended solely for convenience of reference and are not to be deemed or construed to be a part of this Note.

24. Governing Law; Submission to Jurisdiction; Waivers, Etc.

(a) This Note, which, together with the Loan Documents, sets forth the

entire understanding of Maker and Payee with respect to the subject matter hereof, shall be governed by and construed and enforced in accordance with the laws (without giving effect to the conflict of law principles thereof) of the State of New York.

(b) Any legal action or proceeding with respect to this Note or any of the Loan Documents may be brought in the courts of the State of New York or, if the requisites of jurisdiction obtain, of the United States of America for the Southern or Eastern District of New York, and, by execution and delivery hereof, Maker hereby accepts for itself and in respect of its property, generally and unconditionally, the jurisdiction of the aforesaid courts. Nothing herein, however, shall affect the right of Payee to commence legal proceedings or otherwise proceed against Maker in any other jurisdiction. MAKER KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVE THE RIGHT TO A TRIAL BY JURY IN RESPECT OF ANY CLAIM BASED HEREON, ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS NOTE OR ANY OTHER LOAN DOCUMENTS CONTEMPLATED TO BE EXECUTED IN CONNECTION HEREWITH OR ANY COURSE OF CONDUCT, COURSE OF DEALINGS, STATEMENTS (WHETHER VERBAL OR WRITTEN) OR ACTIONS OF ANY PARTY. THIS WAIVER CONSTITUTES A MATERIAL INDUCEMENT FOR PAYEE TO ACCEPT THIS NOTE AND MAKE THE LOAN. ACCEPTANCE OF THIS NOTE BY PAYEE BY THE PAYEE SHALL BE DEEMED TO CONSTITUTE A WAIVER BY THE PAYEE OF THE RIGHT TO TRIAL BY JURY IN THE EVENT OF ANY LITIGATION IN RESPECT OF WHICH THE MAKER HAS WAIVED THE RIGHT TO TRIAL BY JURY HEREUNDER

(c) No delay on the part of Payee in exercising any of its options, powers or rights, or partial or single exercise thereof, whether arising hereunder, under the Loan Documents or otherwise, shall constitute a waiver thereof or affect any right hereunder or thereunder. No waiver of any of such rights and no modification, amendment or discharge of this Note shall be deemed to be made unless the same shall be in writing, duly signed by Payee and Maker. Each such waiver (if any) shall apply only with respect to the specific instance involved and shall in no way impair the rights of Payee or the obligations of Maker hereunder in any other respect at any other time.

25. Brokerage. Payee and Maker each hereby represents to the other that it did not deal with any broker or similar person in connection with this financing.

26. Set-off. Maker hereby grants to Payee, a lien, security interest and right of setoff as security for all liabilities and obligations to Payee, whether now existing or hereafter arising, upon and against all deposits, credits, collateral and property, now or hereafter in the possession, custody, safekeeping or control of Payee or any entity under the control of FleetBoston Financial Corporation, or in transit to any of them. At any time after an Event of Default, without demand or notice, Payee may set off the same or any part thereof and apply the same to any liability or obligation of Maker regardless of the adequacy of any other collateral securing the Loan. ANY AND ALL RIGHTS TO REQUIRE PAYEE TO EXERCISE ITS RIGHTS OR REMEDIES WITH RESPECT TO ANY OTHER COLLATERAL WHICH

SECURES THE LOAN, PRIOR TO EXERCISING ITS RIGHTS OF SETOFF WITH RESPECT TO SUCH DEPOSITS, CREDITS OR OTHER PROPERTY OF MAKER ARE HEREBY KNOWINGLY, VOLUNTARILY AND IRREVOCABLY WAIVED.

27. Miscellaneous. (a) This Note may not be changed orally but only by an agreement in writing signed by Maker and Payee.

(b) 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 others sums due and payable hereon, all costs of collecting or attempting to collect this Note, including reasonable attorneys' fees and expenses.

(c) This Note may be signed in counterparts.

28. Replacement Documents. Upon receipt of an affidavit of an officer of Payee as to the loss, theft, destruction or mutilation of this Note or any other Loan Document which is not of public record, and, in the case of any such loss, theft, destruction or mutilation, upon cancellation of this Note or such other Loan Document, Maker will issue, in lieu thereof, a replacement Note or such other Loan Document in the same principal amount thereof and otherwise of like tenor.

29. Sell a Loan to a Third Party Provider Payee shall have the unrestricted right at any time or from time to time, and without Maker's or Guarantor's consent, to assign all or any portion of its rights and obligations hereunder to one or more banks or other financial institutions (each, an "Assignee"), and a Maker (and each guarantor, as applicable) agrees that it shall execute, or cause to be executed, such documents, including, without limitation, amendments to this Agreement and to any other documents, instruments and agreements instituted in connection herewith as Payee shall deem necessary to effect the foregoing. In addition, at the request of Payee and any such Assignee, Maker shall issue one or more new promissory notes, as applicable, to any such Assignee and, if Payee has retained any of its rights and obligations hereunder following such assignment to Payee, which new promissory notes shall be issued in replacement of, but not in discharge of, the liability evidenced by the promissory note held by Payee prior to such assignment and shall reflect the amount of the respective commitments and loans held by such appropriate assignment documentation, amendments and any other documentation required by Payee in connection with such assignment, and the payment by Assignee of the purchase price agreed to by Payee and such Assignee, such Assignee shall be a party to this Agreement and shall have all of the rights and obligations of Payee hereunder (and under any and all other guaranties, documents, instruments and agreements executed in connection herewith) to the extent that such rights and obligations have been assigned by Payee pursuant to the assignment documentation between Payee and such Assignee and Payee shall be released from its obligations hereunder and thereunder to a corresponding extent.

30. Sell a Loan to a Prospective Participant. Payee shall have the unrestricted right at any time and from time to time and without the consent of or notice to Maker (or any guarantor, if any) to grant to one or more banks or other financial institutions (each, a "Participant") participating interests in Payee's obligation to lend hereunder and/or any or all of the loans held by Payee hereunder. In the event of any such grant by Payee of a participating interest to a Participant, whether or not upon notice to Maker, Payee shall remain responsible for the performance of its obligations hereunder and Maker shall continue to deal solely and directly with Payee in connection with Payee's rights and obligations hereunder.

31. Furnishing of Information to Prospective Participants and Assignees. Payee may furnish any information concerning Maker in its possession from time to time to prospective Assignees and Participants provided that Payee shall require any such prospective Assignee or Participant to agree in writing to maintain the confidentiality of such information.

32. Limited Recourse.

Payee expressly agrees that the extent of liability of the Maker for any sums due or obligations to perform under this Note (except for the indemnities and/or guarantees delivered to Payee by the Maker and/or the other Indemnitor dated as of this date in connection with the loan evidenced by this Note, and secured, in part, by the Mortgage) is limited to the Maker's estate, right, title and interest in, to and under the Mortgaged Property, the Maker's right, title and interest to the leases and all interest of undersigned thereto (the "Leases"), as described in the Mortgage and/or any other document evidencing or securing this Note, as the same may be amended from time to time (individually, herein referred to as the "Instrument" and collectively, as "Instruments" or "Loan Documents") and the assignment of leases in rents dated of even date hereof by the Maker in favor of Payee, as the same may be amended from time to time (the "Assignment"), Payee agreeing not to look personally to the Maker or to the other Indemnitor or to any principals, trustees members, partners, shareholders, officers, directors, employees or agents of the Maker (collectively, the "Affiliates") but to look solely to the Mortgaged Property, the Leases and the Collateral and no other assets of the Maker, Indemnitor or the Affiliates for payment of any of such sums; provided that the foregoing shall not (i) constitute a waiver of any obligation evidenced by the Note, this Mortgage, the Assignment and/or any other Instrument, (ii) limit the right of the holder of the Note, this Mortgage, the Assignment, and/or any other Instrument to name the Maker as a party defendant in any action or suit for judicial or non-judicial foreclosure and sale under the Note, the Mortgage, the Assignment and/or any other Instrument in any action or proceeding hereunder so long as no judgment in the nature of a deficiency judgment or any other personal or money judgment shall be asked for or taken against the Maker or the Affiliates, (iii) affect in any way the validity of any guaranty or indemnity from the Maker, the other Indemnitors and/or any other person of all or any of the obligations evidenced and secured by the Note and/or the any of the other Instruments, or the rights of the Payee in connection with such guaranties and/or indemnities to look to the property and assets of the Maker, the other Indemnitor, any guarantor, and/or any Affiliates, but only to the extent provided in such guaranty and/or indemnity, as the case may be (iv) release or impair this Note or the lien of the Mortgage, the Assignment, and/or other Instrument, (v) prevent or in any way

hinder the Payee from exercising or constitute a defense, an affirmative defense, a counterclaim or other basis for relief in respect of the exercise of, any other remedy against the Mortgaged Property, the Leases and/or the Collateral and/or the Mortgage, Assignment, Instrument and/or any other instrument securing the Note including the other Loan Documents executed and delivered to the Payee in connection with the transactions contemplated herein or as prescribed by law or in equity in case of default, except that Payee shall in no event seek any deficiency or other personal or money judgment against the Maker or any Affiliates except to the extent provided for in such guarantees and/or indemnities, (vi) prevent or in any way hinder the Payee from exercising, or constitute a defense, an affirmative defense, a counterclaim or other basis for relief in respect of the exercise of, its remedies in respect of any deposits, insurance proceeds, condemnation awards or other monies or other collateral or letters of credit securing this Note, or (vii) be applicable to the responsible Person in the event of and to the extent of fraud, misappropriation of funds or other property, or intentional damage to any of the Mortgaged Premises or any other collateral securing this Note or any part thereof intentionally inflicted in bad faith by Maker or any partner, principal, shareholder, officer, director, agent or employee of Maker or any partner or principal of any of the foregoing or (viii) be applicable to the liability arising in respect of hazardous materials or ADA compliance.

Nothing herein shall be deemed to be a waiver of any right which the Payee may have under Section 506(a), 506(b), 1111(b) or any other provision of the Bankruptcy Reform Act of 1978 or any successor thereto or similar provisions under applicable state law to file a claim for the full amount of the debt owing to the Payee by the Maker or to require that all of the Mortgaged Property shall continue to secure all of the indebtedness owing to the Payee in accordance with this Note, this Mortgage, and the other Loan Documents.

### 33. Events of Default.

The occurrence of any one or more of the following events shall constitute an event of default (an "Event of Default") hereunder and under the Loan Documents:

(a) failure of Maker (x) to comply with any of the provisions of PARAGRAPH 9 herein; or

(b) except as otherwise provided in SUBPARAGRAPH (a) directly hereinabove, if Maker shall fail to perform or observe, or cause to be performed or observed, any other term, obligation, covenant, condition or agreement contained in this Note on its part to be performed and such failure shall have continued for a period of thirty (30) days after notice thereof; provided, however, if such default shall not have been occasioned by any willful act of Maker, and if such default cannot with due diligence be cured within such thirty (30) days period, the time within which to cure the same shall be extended for such period as may be necessary to cure the same with due diligence if Maker commences within such thirty (30) days and proceeds diligently to cure the same; or

(c) if the Managing Member ceases (x) to own at least 49.9% of the issued and outstanding equity interests in Maker or (y) to control (i.e., power to direct or cause



the direction of the management and policies of a person, corporation, partnership or other entity) Guarantor or (ii) if there is a Change in Control.

34. Distributions. During the continuance of an Event of Default, the Maker shall be prohibited from making distributions to its members, and if no Events of Default shall exist, the Maker may make distributions to its members.

IN WITNESS WHEREOF, Maker and Payee have executed and delivered this Note on the day and year first above written.

Address of Maker:

20 Soundview Marketplace  
Port Washington, New York 11050

Port Bay Associates, LLC  
By: Acadia Realty Limited Partnership,  
its Managing Member

By: Acadia Realty Trust, its General  
Partner

By:

-----  
Robert Masters  
Senior Vice President

Witness:

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Agreed and Accepted:

FLEET BANK, NATIONAL ASSOCIATION

By:

-----  
Name: Denise M. Smyth  
Title: Vice President

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MORTGAGE  
AND  
SECURITY AGREEMENT

Dated: July 19, 2000

in the amount of  
\$2,940,159.79  
(the "Mortgage Amount")

From

PORT BAY ASSOCIATES, LLC, a New York limited liability company, having an office  
at c/o Acadia Realty Trust, 20 Soundview Marketplace, Port Washington,  
New York 11050

(the "Mortgagor")

To

FLEET BANK, NATIONAL ASSOCIATION, a National Banking Association having an  
office at 1133 Avenue of the Americas New York, New York 10036  
(the "Mortgagee")

LOCATION OF PREMISES

Soundview Marketplace, Port Washington, New York 11050, in the County of Nassau,  
State of New York, as more particularly described in the Mortgage

TAX MAP DESIGNATION

	Parcel One	Parcel Two	Parcel Three
State :	New York	New York	New York
County :	Nassau	Nassau	Nassau
Town :	North Hempstead	North Hempstead	North Hempstead
District:	N/A	N/A	N/A
Section :	4	4	4
Block :	129	129	129
Lots :	10,14B,14C	12	1, 15A, 15C

Leasehold Mortgage as to Parcel One and Parcel Two and a Mortgage on the Fee as  
to Parcel Three

After recording, please return to:

BERKMAN, HENoch, PETERSON & PEDDY, P.C.  
100 Garden City Plaza  
Garden City, New York 11530  
Attn: Miriam R. Milgrom, Esq.

MORTGAGE AND  
SECURITY AGREEMENT

Recital

MORTGAGE AND SECURITY AGREEMENT, made as of the 19th day of July, 2000 (as the same may be amended or otherwise modified from time to time, this "Mortgage") made by Port Bay Associates, LLC, a limited liability company organized under the laws of the State of New York (the "Mortgagor"), having an office at 20 Soundview Marketplace, Port Washington, New York 11050, to Fleet Bank, National Association, a national banking association (the "Mortgagee"), having an office at 1133 Avenue of the Americas, New York, New York 10036.

W I T N E S S E T H:

WHEREAS, the Mortgagor is the lawful owner of a leasehold estate in the premises described as Parcel One and Parcel Two in Schedule A hereto under and pursuant to the provisions of the Ground Lease (as hereinafter defined), and the owner of a fee estate in the premises described as Parcel Three in Schedule A hereto; and

WHEREAS, the Mortgagor is, concurrently herewith, delivering to the Mortgagee the Mortgagor's note of even date herewith, obligating it to pay the Mortgage Amount, together with interest thereon at variable rates of interest and other charges thereunder which note provides for. The note, together with any extensions, modifications and/or amendments thereof, is hereinafter referred to as the "Note"; and

WHEREAS, the Mortgagor, in order to induce the Mortgagee to accept the Note and make the loan evidenced thereby, and in order to secure the payment of the Note, the Mortgagor has duly authorized the execution and delivery of this Mortgage to the Mortgagee.

NOW, THEREFORE, in consideration of the premises and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Mortgagor hereby agrees as follows:

The Mortgagor, to secure the payment of the liabilities and obligations of the Mortgagor to the Mortgagee evidenced by the Note plus interest thereon, all sums necessary to protect the Mortgagee under this Mortgage or under the other Loan Documents (as hereinafter defined), all other sums due and payable under the ADA Guaranty, the Hazardous Material Guaranty, and the other Loan Documents, any and all sums due and payable pursuant to any Hedge Agreement, if any, (as such term is defined in SECTION 9.2) and all other Obligations, does hereby grant, bargain, sell, mortgage, convey, warrant, grant a lien upon, demise, release, assign, transfer, and set over, with covenants, unto the Mortgagee:

All those certain lots, pieces or parcels of land, described in EXHIBIT A annexed hereto and made a part hereof, including the premises identified as Parcel Three in EXHIBIT A

hereto, including all of the air space, easements, rights, privileges, royalties and appurtenances thereunto belonging or in anywise appertaining, and all of the estate, right, title, interest, claim or demand whatsoever of the Mortgagor therein and in the streets, alleys and ways adjacent thereto, either at law or in equity, in possession or expectancy, now or hereafter acquired; and the leasehold estate being demised pursuant to the Ground Lease, and as premises identified in EXHIBIT A hereto as Parcel One and Parcel Two; and including all of the air space, easements, rights, privileges, royalties and appurtenances thereunto belonging or in anywise appertaining; and all of the estate, right, title, interest, claim or demand whatsoever of the Mortgagor therein and in and to any land lying in the bed of any street, road or avenue, open or proposed, in front of, or adjoining or adjacent to the premises, to the centerline thereof, either in law or in possession or expectancy, now or hereafter acquired; and all of the estate, right, title, interest, claim or demand whatsoever of the Mortgagor therein and in the streets, alleys and ways adjacent thereto, either at law or in equity, in possession or expectancy, now or hereafter acquired (collectively, the "Premises").

TOGETHER with all and singular the air rights, reservations thereunto belonging or in anywise appertaining thereto, including, without limitation, all off-street parking rights and spaces, if any, and the reversion and remainder of any or all of the foregoing; and all of the estate, right, title, interest, claim or demand whatsoever of the Mortgagor therein and in and to the Premises and/or the improvements thereon, and in and to all strips and gores, and all alleys adjoining the Premises;

TOGETHER with all of the right, title and interest of the Mortgagor in and to (i) all buildings, vaults, and other improvements and additions thereto now erected or hereafter constructed or placed upon the Premises or any part thereof (the "Improvements"); (ii) to the extent permitted by law, the name or names, if any, as may now or hereafter be used for each Improvement and the good will associated therewith, as well as the trade names of the Improvements; and (iii) all machinery, devices, fixtures, apparatus, interior improvements, appurtenances and equipment of every kind and nature whatsoever now or hereafter attached to or placed in or upon the Premises or the Improvements, or any part thereof, or used or procured for use in connection with the operation of the Premises or any business conducted thereon (except for fixtures and personal property that are at any time the property of Space Tenants, as defined in SECTION 1.15, or independent contractors employed at the Premises), all of the foregoing, except as aforesaid, hereinafter collectively called "Building Service Equipment";

TOGETHER with the estate, right, title and interest of the Mortgagor, as Tenant, in and to the Ground Lease, (including the leasehold interest created and granted thereby), the Premises, the leasehold estate created thereunder and all of the right, title and interest of Mortgagor in and to the building and equipment on the Premises, including without limitation (a) all rights of the Mortgagor to exercise any election or option to make any decision or determination or to give any notice, consent, waiver or approval, or to take any other action under or in respect of the Ground Lease and (b) all modifications, extensions, and renewals of the Ground Lease, and all credits, deposits of the Mortgagor as tenant thereunder, including but not limited to, the options and rights of the Mortgagor to renew the Ground Lease for any succeeding term or

terms thereof, and (c) and credits, deposits, options, purchase options, privileges and rights of the Mortgagor under the Ground Lease, including but not limited to the right, if any, to renew or extend the Ground Lease for succeeding term or terms or to acquire fee title to or other interest in all or any portion of the Premises or the Improvements, and (d) all of the Mortgagor's rights and remedies at any time arising under or pursuant to Section 365(h) of the Bankruptcy Code, 11 U.S.C. ss.101 et seq. (the "Bankruptcy Code"), including, without limitation, all of the Mortgagor's right thereunder to remain in possession of the Premises and the Improvements;

TOGETHER with all the right, title and interest of the Mortgagor in and to all furniture, furnishings, decorations, chattels and other personal property now or hereafter in, on or at said Premises (except for trade fixtures and personal property that are at any time the property of Space Tenants), all of the foregoing, except as aforesaid, hereinafter collectively called "Furnishings";

TOGETHER with all right, title and interest of the Mortgagor in and to all insurance or other proceeds for damage done to the Improvements, Building Service Equipment or Furnishings and all awards heretofore made or hereafter to be made to or for the account of the Mortgagor for the permanent or temporary taking by eminent domain of the whole or any part of the Premises, the Improvements, the Building Service Equipment and the Furnishings or any lesser estate in, or easement appurtenant to, the Premises (including, without limitation, any awards for change of grade of streets), all of which proceeds and awards are hereby assigned to the Mortgagee, subject to the further provisions of this Mortgage;

TOGETHER with all of the rents, issues, benefits and profits of the Mortgaged Premises (as hereinafter defined), including amounts payable under all Space Leases now in effect or hereafter entered into covering any part of the Mortgaged Premises, as well as all rights and interest of the Mortgagor as landlord thereunder, all of which are hereby assigned to the Mortgagee, subject, however, to the right of the Mortgagor, as licensee, to receive and use the same unless and until an Event of Default shall occur;

TOGETHER with all of the records and books of account now or hereafter maintained by the Mortgagor in connection with the operation of the Mortgaged Premises;

TOGETHER with all water, water rights, mineral rights, ditches, ditch rights, reservoirs and reservoir rights appurtenant to, located on or used in connection with the Premises or the Improvements, whether existing now or hereafter acquired; and

TOGETHER with all proceeds and products of the foregoing.

All of the foregoing estates, rights, privileges, interests and franchises hereby granted and released, assigned, transferred, set over and mortgaged, or intended so to be, being hereinafter collectively referred to as the "Mortgaged Premises" or "Mortgaged Property". TO HAVE AND TO HOLD the Mortgaged Premises, and any greater estate therein now or hereafter owned absolutely or in fee by the Mortgagor, unto the Mortgagee, for the benefit of its successors and assigns, forever for the uses set forth herein. And furthermore, the Mortgagor does by these

presents bind itself and its successors and assigns forever to warrant and defend the Premises described in EXHIBIT A to the Mortgagee, its successors and assigns, against all claims and demands whatsoever except as mentioned herein.

#### ARTICLE I.

##### Certain Definitions

The Mortgagor and the Mortgagee agree that, unless the context otherwise specifies or requires, the following terms shall have the meanings herein specified, such definitions to be applicable equally to the singular and to the plural forms of such terms.

"Acadia" shall mean Acadia Realty Trust, a Maryland real estate investment trust with offices at 20 Soundview Marketplace, Port Washington, New York 11050, and its successors and/or assigns.

"Accounting Principles" shall mean the accounting principles utilized in the preparation of the operating statements for the Mortgaged Premises heretofore delivered to the Mortgagee or income tax basis of accounting.

"Affiliate" - shall mean (a) if with respect to a corporation, (i) any officer or director thereof and any person or entity who or which is, directly or indirectly, the legal or beneficial owner of more than ten (10%) percent of any class of shares or other equity security of such corporation, or (ii) any person or entity who or which, directly or indirectly, controls or is controlled by or is under common control with such corporation; (b) if with respect to a partnership or venture, any (i) general partner, (ii) general partner of a general partner, (iii) partnership with a common general partner, (iv) coventurer thereof, or (v) any person, trust, corporation, partnership, venture or other entity who or which, directly or indirectly, controls or is controlled by or is under common control with such partnership; and if any general partner or general partner of a general partner or coventurer is a corporation, any person or entity which is an Affiliate as defined in clause (a) above of such corporation; and (c) if with respect to a limited liability company, (i) any manager thereof and any person or entity who or which is, directly or indirectly, the legal or beneficial owner of more than ten (10%) percent of any class of the membership interests of such limited liability company, or (ii) any person or entity who or which, directly or indirectly, controls or is controlled by or is under common control with such limited liability company and if any member which is the legal or beneficial owner of more than 10% of any class of membership interests is a corporation, any person or entity which is an Affiliate (as defined in clause (a) above) of such corporation. "Controls" (including the correlative meanings of "controlled by" and "under common control with") means effective power, directly or indirectly, to direct or cause the direction of the management and policies of such person or entity.

"Appraised Value" shall mean the appraised value of the Mortgaged Premises, as determined by an independent appraiser selected by the Mortgagee and reasonably acceptable to the Mortgagor. The Mortgagee may require that such an appraisal be performed at any time.

Appraised Value shall be determined utilizing an appraisal method consistent with that used in determining the Appraised Value in connection with entering into the Note and Mortgage. The Mortgagors shall be responsible for the cost of up to one appraisal per annum if requested by Mortgagee.

"Authorized Representative" - shall mean Perry Kamerman, Arnold Wachsberger, Robert Masters, Maggie Hui or any other person or persons designated by Mortgagor, in a writing delivered to Mortgagee, as an Authorized Representative.

"Default Rate" shall mean the Involuntary Rate (as such term is defined in the Note).

"Due and payable" when used with reference to the principal of, or premium or interest on, or when referring to any and all other sums secured by this Mortgage or any other of the Loan Documents shall mean due and payable, whether at the monthly or other date of payment or at the date of maturity specified in the Note, this Mortgage or the other Loan Documents; or by acceleration or call for payment as provided in the Note, hereunder or in the other Loan Documents, or, in the case of Impositions, the last day upon which any charge may be paid without penalty and/or interest.

"Events of Default" shall have the meaning assigned to such term in SECTION 6.1 of this Mortgage.

"Full Force and Effect" shall mean, as to any lease, that such lease shall be in full force and effect, there shall be no material default by the tenant thereunder or default by the landlord thereunder or other act or condition or circumstance giving or which may give, without the giving of any further notice, the tenant or the landlord the right to terminate any lease and, if requested by the Mortgagor and required by its lease, the tenant shall have delivered to the Mortgagor an estoppel certificate in form and substance reasonably satisfactory to the Mortgagee.

"GAAP" shall mean Generally Accepted Accounting Principles set forth in the opinions and pronouncements of the Accounting Principles Board and the American Institute of certified Public Accountants and statements and pronouncements of the Financial Accounting Standards Board or such other statements by such other entity as may be approved by a significant segment of the accounting profession, which are applicable in the circumstances as of the date in question, consistently applied within a period and from period to period, provided, however, that if employment of more than one principle shall be permissible at such time in respect to a particular accounting matter, "GAAP" shall refer to the principle which is then employed by Acadia, the Managing Member or Mortgagor, as the case may be, with the concurrence of the independent certified public accountants of Debtor.

"Governmental Authorities" shall mean all federal, state, county, municipal and local governments and all departments, commissions, boards, bureaus and offices thereof, having or claiming jurisdiction over the Mortgage Premises or any part thereof.



"Ground Lease" or "Lease" means that certain agreement of lease by and between Soundview Shopping Center, a general partnership having an office at Soundview Shopping Center, c/o Mr. B.V. Brooks, 542 Westport Avenue, Norwalk, Connecticut 06851 ("Landlord"), Port Bay Associates, as tenant, dated as of December 19, 1985, a Memorandum of Lease with respect thereto was recorded in the Office of the Clerk of County of Nassau February 3, 1986 in Liber 9702 at Page 404, as amended by that certain First Amendment to Agreement of Lease, dated as of January 1999 by and between Landlord and Mortgagor(the "First Amendment").

"Guaranty" or "Indemnity" means, individually, jointly, severally and collectively, (i) that certain loan guaranty dated of even date hereof by the Indemnitor in favor of Mortgagee, as the same may be extended and or otherwise modified from time to time (the "Loan Guaranty"), (ii) that certain hazardous material guaranty and indemnity agreement dated of even date hereof by the Indemnitor in favor of Mortgagee, as the same may be extended and or otherwise modified from time to time (the "Hazardous Material Guaranty"), (iii) that certain ADA guaranty and indemnity agreement dated of even date hereof by the Indemnitor in favor of Mortgagee, as the same may be extended and or otherwise modified from time to time (the "ADA Guaranty").

"Impositions" shall mean all duties, taxes (other than income taxes), water and sewer rents, rates and charges, assessments (including, but not limited to, all assessments for public improvements or benefit), charges for public utilities, excises, levies, license and permit fees and other charges, ordinary or extraordinary, whether foreseen or unforeseen, of any kind and nature whatsoever, which prior to or during the term of this Mortgage will have been or may be laid, levied, assessed or imposed upon or become due and payable out of or in respect of, and become a lien on the Premises, the Improvements, Building Service Equipment, Furnishings or any other property or rights included in the Mortgaged Premises, or any part thereof or appurtenances thereto, or which are levied or assessed against the rent and income received by the Mortgagor from the Space Leases (as defined in SECTION 1.15) by virtue of any present or future law, order or ordinance of the United States of America or of any state, county or local government or of any department, office or bureau thereof or of any other Governmental Authority.

"Indemnitor", "Guarantor", "Guarantors" or "Indemnitors" means individually, jointly, severally and collectively, the Mortgagor and the Managing Member.

"Legal Requirements" shall mean all present and future laws, ordinances, rules, regulations and requirements of all Governmental Authorities, and all orders, rules and regulations of any national or local board of fire underwriters or other body exercising similar functions, foreseen or unforeseen, ordinary or extraordinary, which may be applicable to the Mortgaged Premises or any part thereof, or to the sidewalks, alleyways, passageways, curbs and vaults adjoining the same, or to the use or manner of use of any of the foregoing, or to the owners, tenants, or occupants thereof, whether or not any such law, ordinance, order, rule, regulation or requirement shall necessitate structural changes or improvements or shall interfere with the use or enjoyment of any of the foregoing, and shall also mean and include all

requirements of the policies of public liability, fire and all other insurance at any time in force with respect to any of the foregoing.

"Loan Documents" means the Demand Note, the Note Modification Agreement, the Amended and Restated Note, this Mortgage, the Agreement of Consolidation of Notes and Mortgages and Modification of the Consolidated Mortgage, the Guaranty, the Security Agreement, the Assignment of Leases and Rents and all other documents, including, without limitation, collateral documents, security agreements, UCC financing statements, assignments of leases and rents, guaranties, indemnities, title insurance, assignments, subordination agreements, non-disturbance agreements, leases affecting the property encumbered by the Mortgage, and any other document, mortgage, agreement, assignment or other instrument executed by Mortgagor and/or Indemnitor, as the case may be, or any other third party pursuant hereto or thereto or in connection herewith or in connection with the loan evidenced by the Note and secured by this Mortgage, as the same may be extended and or otherwise modified from time to time.

"Managing Member" shall mean Acadia Realty Limited Partnership, a Delaware limited partnership having an office at 20 Soundview Marketplace, Port Washington, New York 11050, and its successors and/or assigns.

"Mortgagor" shall mean the Mortgagor herein named, any subsequent owner or owners of the Mortgaged Premises, and its or their respective successors and assigns; provided, however, that this definition shall not be construed to limit the provisions of SECTION 2.8.1 hereof.

"Net Operating Income" shall mean, with respect to the applicable period, the aggregate rental and other receipts (unless excluded pursuant hereto) of the Mortgaged Premises (actual results with respect to the preceding six-months and pro forma with respect to the following six-months during such period less the aggregate amount of all operating expenses of the Mortgaged Premises during such period, in each case determined in accordance with the Accounting Principles. For purposes of the determination of Net Operating Income, operating expenses shall include, without limitation, all real estate taxes (but not in excess of the pro rata portion of such real estate taxes applicable to the applicable period covered by the statement), water and sewer charges, utility charges, insurance premiums (but not in excess of the amounts applicable to the applicable period covered by the statement), salaries and benefits of all employees engaged in the operation, maintenance or management of Mortgaged Premises, all costs of ordinary and necessary maintenance, cleaning and repair, costs of snow and rubbish removal and security services. Net Operating Income shall, however, (a) exclude from receipts all amounts paid to the Mortgagor for tenant alterations in connection with the leasing of space at the Mortgaged Premises, all amounts payable to the Mortgagor under leases with Affiliates of the Mortgagor, as tenant, or with Mortgagor, as tenant (unless the Mortgagee otherwise agrees) and, with respect to any lease providing for a reduction in the rentals payable under such lease at any time during the term thereof, base rentals in excess of the lowest base rentals payable under such lease (other than during any period of rent concessions made with respect to consecutive monthly periods commencing with the first month of the term of such lease), and (b) exclude from

expenses payments of principal and interest on the Note, capital expenditures, leasing commissions, and other expenses payable to the Mortgagee pursuant to the Note or any of the other Loan Documents. Net Operating Income shall be determined without regard to extraordinary items of income and of expense. Each lease, the rental or other income from which was included in the calculations of Net Operating Income, must in Full Force and Effect as of the date Net Operating Income is being determined.

"Net Worth" shall mean the net worth of Acadia as shown on its financial statements, and as subsequently determined in accordance with GAAP, used in Acadia's statements as of March 31, 2000.

"Obligations" or "Indebtedness" shall mean (a) the aggregate unpaid principal amount of, and accrued and unpaid interest on, the Note, plus (b) any and all indebtedness, obligations and other liabilities of the Mortgagor to the Mortgagee arising out of or in connection with or otherwise relating to the Note or any of the Loan Documents, and/or any agreement(s) of the Mortgagor with the Mortgagee pertaining thereto, including, without limitation, any Hedge Agreement; in each case whether now or hereafter existing, direct or indirect, absolute or contingent, joint, several or independent, due or to become due, liquidated or unliquidated, held or to be held by the Mortgagee and whether created directly or acquired by assignment or otherwise.

"Permitted Encumbrances" shall mean each of the exceptions to coverage set forth in SCHEDULE B, PART I (other than the so-called standard exceptions set forth therein as items 1-7, inclusive) of the title policy insuring the lien of this Mortgage issued by Commonwealth Land Title Insurance Company of New York and accepted by the Mortgagee with respect to the Premises, and such other items as the Mortgagee, in its sole discretion, may approve in writing.

"Person" shall mean and include any individual, corporation, partnership, unincorporated association, trust, governmental agency or authority or other entity.

"Prime Rate" shall have the meaning assigned to such term in the Note.

"Space Lease" shall mean any and all leases, subleases, licenses, concession agreements or any other form of agreement, however denominated (written or verbal, now or hereafter in effect), in which the Mortgagor (or its predecessor in interest as owner of the Mortgaged Premises in the case of existing Space Leases) now or hereafter grants a possessory interest in and to, or the right to use and occupy the Mortgaged Premises, or any portion thereof, and all renewals, extensions, modifications, amendments and other agreements affecting the same.

"Space Tenant" shall mean the tenant or other user or occupant of part or all of the Mortgaged Premises under any Space Lease.

"State" or "New York" shall mean the State of New York.

ARTICLE II.

Particular Covenants of the Mortgagor

The Mortgagor covenants and agrees as follows:

2.1. Payment of Obligations. The Mortgagor shall duly and punctually pay to the Mortgagee, as and when due and payable, the Obligations; provided, however, that the maximum principal amount which is, or under any contingency may be, secured hereby is the Mortgage Amount plus protective advances under SECTION 7.3 and any amounts due under any Hedge Agreement.

2.2. General Representations, Covenants and Warranties

2.2.1. The Mortgagor represents and warrants that: (a) it has a good and marketable title to an indefeasible fee estate in Parcel Three and it has a good and marketable title to a leasehold estate in Parcel One and Parcel Two, subject to no lien, charge or encumbrance, except for Permitted Encumbrances; (b) it owns the Building Service Equipment and Furnishings free and clear of all liens and claims other than in favor of the Mortgagee; (c) this Mortgage is and will remain a valid and enforceable first lien on the Mortgaged Property subject only to the exceptions referred to above; (d) the execution and delivery of this Mortgage and the Note has been duly authorized by the Mortgagor, the Managing Member and Acadia, the Managing Member's general partner, and that there is no provision in any document that evidences or establishes the existence of the Mortgagor, Managing Member or Acadia requiring further consent for such action by any other entity or person; (e) Mortgagor is a limited liability company duly formed, validly existing and in good standing under the laws of the State of New York; Managing Member is a limited partnership duly formed, validly existing and in good standing under the laws of the State of Delaware, and is in good standing in the State of New York, and is authorized to conduct business in the State of New York; and the General Partner is a trust duly formed, validly existing and in good standing under the laws of the State of Maryland, and is in good standing in the State of New York, and is authorized to conduct business in the State of New York; (f) Mortgagor and Indemnitor each has (i) all necessary licenses, authorizations, registrations, permits and/or approvals and (ii) full power and authority to own its properties and carry on its business as presently conducted and the execution and delivery by it of and performance of its obligations under, this Mortgage, the Note and the other Loan Documents to which it is a party will not result in the Mortgagor and/or Indemnitor being in default under any provisions of any document which evidences or establishes the existence of the Mortgagor and/or the Indemnitor or of any mortgage, credit or other agreement to which Mortgagor and/or Indemnitor is a party or which affects the Mortgagor and/or Indemnitor or the Premises, or any part thereof; (g) it will preserve such title, and forever warrant and defend the same and the Ground Lease to the Mortgagee, and will forever warrant and defend the validity and priority of the lien hereof against the claims of all persons and parties whomsoever; (h) the Mortgagor and Indemnitor each is now able to meet their respective debts as they mature, the fair market value of their respective assets exceeds their respective liabilities, and no bankruptcy or

insolvency proceedings are pending or contemplated by or against the Mortgagor and/or Indemnitor; (i) all reports, statements and other data furnished by the Mortgagor and/or Indemnitor in connection with the loan evidenced by the Note are true and correct and complete in all material respects and do not omit to state any fact or circumstance necessary to make the statements contained therein not materially misleading; and (j) to the knowledge of Mortgagor, there are no actions, suits, or proceedings pending against or affecting the Mortgagor or the Mortgaged Property.

2.3. To Maintain Priority of Lien and Preserve Existence .

2.3.1. This Mortgage is and will be maintained as a valid first mortgage lien on the Mortgaged Premises, and the Mortgagor will not, directly or indirectly, create or suffer or permit to be created, or to stand against the Mortgaged Premises or any portion thereof, or against the rents, issues and profits therefrom, and will promptly discharge, any lien or charge prior to or upon a parity with or junior to the lien of this Mortgage other than the Permitted Encumbrances; provided, however, that the Mortgagor shall not be required to pay any Imposition prior to the time it shall become due and payable subject to the provisions of SECTION 2.4.1 hereof, and nothing herein contained shall prevent the Mortgagor from contesting the validity of any such Imposition in accordance with the provisions of SECTION 2.4.4. The Mortgagor will keep and maintain the Mortgaged Premises, and every part thereof, free from all liens or lien notices, of Persons supplying labor and/or materials in connection with any construction, alteration, repair, improvement or replacement of the Improvements or of the Building Service Equipment and Furnishings. If any such lien shall be filed against the Mortgaged Premises, or any part thereof, the Mortgagor promptly (but in any event within thirty (30) days of receiving notice of such lien) shall discharge the lien of record, by bonding or otherwise. The Mortgagor shall exhibit to the Mortgagee, upon request, appropriate receipts or other satisfactory evidence of the payment of the Impositions or any other item which may, if not paid, give rise to a lien against the Mortgaged Premises.

2.3.2. The Mortgagor will, so long as it is owner of the Mortgaged Property or any part thereof, do all things necessary to preserve and keep in full force and effect its existence, rights and privileges as a limited liability company under the laws of the state of New York and will comply with all regulations, rules, ordinances, statutes, orders and decrees of any governmental authority or court applicable to the Mortgagor or to the Mortgaged Property or any part thereof.

2.4. To Pay Impositions.

2.4.1. The Mortgagor will pay or cause to be paid, as and when due and payable, all Impositions levied upon the Mortgaged Premises or any part thereof. However, if by law, any Imposition may at the option of the taxpayer be paid in installments (whether or not interest shall accrue on the unpaid balance thereof), the Mortgagor shall have the right to exercise such option and to pay such Imposition, or cause it to be paid (together with any accrued interest on the unpaid balance) in installments as they fall due and before any fine, penalty, further interest or cost may be added thereto.

2.4.2. Upon demand of the Mortgagee in the case of Impositions and, if an Event of Default shall exist, upon demand of the Mortgagee in the case of insurance premiums, the Mortgagor shall deposit with the Mortgagee a sum which bears the same relation to the annual insurance premiums for all insurance required by the terms hereof and real estate taxes and assessments assessed against the Mortgaged Premises for the insurance period or tax year then in effect, as the case may be, as the number of months elapsed as of the date of such demand since the last preceding installment of said premiums or taxes or assessments shall have become due and payable bears to twelve (12). For the purpose of this computation, the month in which such last preceding installment of premiums or real estate taxes or assessments became due and payable and the month in which such demand is given shall be included and deemed to have elapsed. On the first day of the month next succeeding the month in which such demand is given, and thereafter on the first day of each and every month during the term of this Mortgage, the Mortgagor shall deposit with the Mortgagee a sum equal to one-twelfth of such insurance premiums and such taxes and assessments for the then-current insurance period and tax year, so that as each installment of such premiums and taxes and assessments shall become due and payable, the Mortgagor shall have deposited with the Mortgagee a sum sufficient to pay the same. All such deposits shall be received and held as part of such deposit by the Mortgagee (all such deposits to be held in an account without interest thereon) and shall be applied to the payment of each installment of such premiums and taxes and assessments as they shall become due and payable. The Mortgagee shall, upon demand, furnish evidence to the Mortgagor of the making of each such payment. If the amount of such premiums and taxes and assessments has not been definitely ascertained at the time when any such monthly deposits are required to be made, the Mortgagor shall make such deposits based upon the amount of such premiums and taxes and assessments for the preceding year, subject to adjustment as and when the amount of such premiums and taxes and assessments are ascertained. If at any time when any installment of such premiums and such taxes and assessments becomes due and payable the Mortgagor shall not have deposited a sum sufficient to pay the same, the Mortgagor shall, within five (5) days after demand, deposit any deficiency with the Mortgagee. Upon payment in full of the Obligations, any remaining amount on deposit with the Mortgagee shall be repaid to the Mortgagor or Person lawfully entitled thereto. If an Event of Default shall occur and be continuing, the Mortgagee may, at its option, apply all or any portion of the amounts then on deposit with the Mortgagee pursuant to this SECTION 2.4.2 to payment of the Obligations. The Mortgagor shall deliver to the Mortgagee all insurance and tax bills promptly following receipt during any period when such monthly deposits are to be made with the Mortgagee.

2.4.3. The Mortgagor will pay all taxes and other governmental charges (including, without limitation, stamp taxes), except income or franchise taxes or similar taxes based upon or measured by income, assessed by the United States government or any state or local governmental authority and imposed on the Mortgagee by reason of the ownership of this Mortgage or the Note, or the receipt of the interest or other sums payable thereunder or payable by the Mortgagor or the Mortgagee upon any increase in the Obligations secured hereby, or any modification, amendment, extension or consolidation of this Mortgage. Without limiting the foregoing and subject to the limitations set forth above, the Mortgagor will also pay the whole of

any tax imposed, directly or indirectly, on this Mortgage or the Note or the receipt of any portion of the Obligations in lieu of a tax on the Mortgaged Premises or the Improvements and Building Service Equipment, whether by reason of (a) the passage after the date of this Mortgage of any law of the State deducting from the value of real property for the purposes of taxation any lien thereon; (b) any change in the laws for the taxation of mortgages or debts secured by mortgages for state or local purposes; (c) a change in the means of collection of any such tax or otherwise; or (d) any tax, whether or not now existing, assessed against, or withheld from, interest or other payments made by the Mortgagor or assessed against the Mortgagee and which are assessed or levied by the government of any foreign nation or political subdivision thereof, provided such tax liability shall not result from the ownership of this Mortgage by a Person not a citizen of, or an entity not formed under the laws of, the United States or any state. Within a reasonable time after payment of any such tax or governmental charge, the Mortgagor will deliver to the Mortgagee satisfactory proof of payment thereof, subject, however, to the right of the Mortgagor to contest Impositions as hereinafter set forth. If the Mortgagor shall fail to pay such tax or charge within fifteen (15) days after notice, or if under applicable law the Mortgagor's payment or agreement to pay the same shall be unenforceable, the Mortgagee shall have the right to declare all of the unpaid Obligations and all accrued and unpaid interest thereon due and payable on a date specified by the Mortgagee, but, in any event, not less than thirty (30) days after notice to the Mortgagor.

2.4.4. The Mortgagor shall have the right to contest the amount or validity, in whole or in part, of any Imposition, or to seek a reduction in the valuation of the Mortgaged Premises, or any part thereof, as assessed for real estate or personal property tax purposes by appropriate proceedings diligently conducted in good faith, but only after payment of such Imposition, unless such payment would operate as a bar to such contest or materially adversely interfere with the prosecution thereof, in which event the Mortgagor may postpone or defer payment of such Imposition (but not the payment of any monthly deposits pursuant to SECTION 2.4.2 hereof); and upon request by the Mortgagor, the Mortgagee shall postpone or defer payment of such Imposition; provided, however, that if at any time the Mortgaged Premises, the Building Service Equipment, the Furnishings, or any part thereof would, in the Mortgagee's reasonable judgment, by reason of such postponement or deferment be in imminent danger of being forfeited or lost, or if the Mortgagee might be subjected to any civil or criminal liability or other sanction, then the Mortgagor, on demand, shall immediately pay or cause to be paid the amount so contested and unpaid, together with all interest and penalties in connection therewith.

2.4.5. The certificate, advice or bill of the appropriate official designated by law to make or issue the same or to receive payment of any Imposition indicating the nonpayment of such Imposition shall be prima facie evidence that such Imposition is due and payable but unpaid at the time of the making or issuance thereof.

## 2.5. Insurance; Restoration Following Casualty.

2.5.1. Until the Obligations are paid in full, the Mortgagor shall at its own expense at all times maintain or cause to be maintained on all of the Mortgaged Premises (a) comprehensive

general liability insurance, including umbrella liability insurance, covering all claims for bodily injury, including death, and property damage occurring on, in or about the Mortgaged Premises in an amount not less than \$10,000,000 combined single limit per person and per occurrence for personal injury, bodily injury and property damage; the policy limits of such insurance, if requested by the Mortgagee, shall be increased from time to time to reflect what a reasonably prudent owner or lessee of buildings or improvements similar in type and locality to the Mortgaged Premises would carry; during any period of substantial alterations or improvements in, on or to the Mortgaged Premises, the Mortgagor will cause the comprehensive general liability insurance, including umbrella liability insurance, endorsed to provide owners' and contractors' protective liability coverage, including completed operations liability coverage; (b) physical damage insurance covering the Mortgaged Premises for loss or damages resulting from the perils of fire, lightning and such other risks and hazards as are provided under the current standard "Extended Coverage Endorsement" and vandalism and malicious mischief coverage, for the full replacement value of the Mortgaged Premises on a stipulated and agreed-amount basis; (c) if the Mortgaged Premises is in an area identified as a flood hazard area by the Secretary of Housing and Urban Development, flood insurance, to the extent obtainable, in an amount equal to the lesser of the full replacement value of the Mortgaged Premises or the maximum amount available under the Federal flood insurance program; (d) boiler and machinery insurance covering all boilers, machinery, air conditioning, pressure vessels, and similar type equipment commonly covered under a broad-form boiler and machinery policy, in an amount satisfactory to the Mortgagee; (e) insurance against such other risks of damage, hazards, casualties and contingencies in such amounts as the Mortgagee shall from time to time reasonably require, provided that insurance against such other risks, hazards, casualties or contingencies shall then be commonly carried by prudent owners or lessees of building or improvements in the locality similar in character, construction, use and occupancy to the Improvements, Building Service Equipment and Furnishings on, or constituting a part of, the Mortgaged Premises; and (f) loss of rents/business interruption coverage in an amount sufficient to pay all Impositions, insurance premiums, interest and principal installments and all other amounts due under the Obligations and the normal operating expenses of the Mortgaged Premises, all for a period of one (1) year. Furthermore, the Mortgagee reserves the right to require additional insurance and/or higher policy limits than heretofore specified if such additional insurance and/or higher policy limits are commercially reasonable for similar properties, which right may be exercised by written notice to the Mortgagor, and, as soon thereafter as practicable, but in any event within thirty (30) days of the receipt thereof, the Mortgagor agrees to obtain insurance coverage complying with such notice. The proceeds of all such insurance (except the insurance specified in SECTION 2.5.1(a)) shall be paid solely to the Mortgagee and be held, applied or disbursed by the Mortgagee as provided in SECTIONS 2.5.7 and 2.5.8.

2.5.2. All insurance required in SECTION 2.5.1 shall be evidenced by valid and enforceable policies, in form and substance, and issued by and distributed among insurers of recognized responsibility having a Best's rating of A or better and a financial size category of Class IX or above, as shall be required by the Mortgagee from time to time. Such insurers shall be authorized to do business in the State and in all other respects shall be reasonably satisfactory



to the Mortgagee. The originals of all such policies, or duplicate copies or certificates thereof, shall be delivered to the Mortgagee concurrently with the execution and delivery of this Mortgage. Thereafter, all renewal or replacement policies, or duplicate copies or certificates thereof, shall be delivered to the Mortgagee not less than thirty (30) days prior to the expiration date of the policy or policies to be renewed or replaced, in each case accompanied by evidence reasonably satisfactory to the Mortgagee that all premiums currently payable with respect to such policies have been paid in full by or at the direction of the Mortgagor.

2.5.3. All such insurance policies shall (a) except for any liability policy required hereunder, contain a standard noncontributory form of mortgagee clause (in favor of and entitling the Mortgagee to collect any and all proceeds payable under such insurance), as well as a standard waiver of subrogation endorsement, all to be in form and substance reasonably satisfactory to the Mortgagee; (b) provide that such policies may not be cancelled or amended without at least thirty (30) days prior written notice to the Mortgagee; and (c) provide that no act, omission or negligence of the Mortgagor, or its agents, servants or employees, or of any Space Tenant under any Space Lease, which might otherwise result in a forfeiture of such insurance or any part thereof, shall in any way affect the validity or enforceability of such insurance insofar as the Mortgagee is concerned. The Mortgagor shall not carry separate insurance, concurrent in kind or form or contributing in the event of loss with any insurance required under this SECTION 2.5. All losses under such insurance policies shall be adjusted by the Mortgagor in the case of any single instance of such damage or destruction not exceeding \$300,000, by Mortgagor and Mortgagee in the case of any such single instance of damage or destruction exceeding such amount, provided that in no event shall the Mortgagor approve or consent to any final adjustment in any amount exceeding the amount specified above in this sentence without obtaining the Mortgagee's prior approval (which approval shall not be unreasonably withheld) of the amount of such adjustment, and solely by the Mortgagee in the case when an Event of Default exists and is continuing.

2.5.4. Intentionally Deleted.

2.5.5. If the Mortgagee shall, by any means, acquire the title or estate of the Mortgagor in or to any portion of the Mortgaged Premises, it shall thereupon become the sole and absolute owner of all insurance policies to the extent affecting such portion of the Mortgaged Premises held by, or required hereunder to be delivered to, the Mortgagee, with the sole right to collect and retain all unearned premiums thereon; and the Mortgagor shall be entitled only to a credit in reduction of the then outstanding Obligations in the amount of the short rate cancellation refund, when and if received by Mortgagee. The Mortgagor agrees, immediately upon demand, to execute and deliver such assignments or other authorizations or instruments as may, in the opinion of the Mortgagee, be necessary or desirable to effectuate any of the provisions of this SECTION 2.5.5.

2.5.6. If any of the Improvements, Building Service Equipment or Furnishings shall be damaged or destroyed, in whole or in part, by fire or other casualty, the Mortgagor shall give prompt notice thereof to the Mortgagee, and, without regard to the availability or adequacy of

insurance proceeds, shall promptly following receipt of any insurance proceeds or the date when any such proceeds are made available to the Mortgagor in accordance with the terms hereof, commence to restore, replace, rebuild or alter the same as nearly as possible to the condition, character and value thereof existing immediately prior to such damage or destruction. Any insurance proceeds in respect of such damage or destruction, or any Award (as defined in SECTION 3.2) for a partial taking which is not a substantial or total taking, as such terms are referred to in ARTICLE III hereof, at the option of the Mortgagee, may either (i) be applied as a prepayment of the Obligations, or (ii) be made available to pay or reimburse costs incurred for restoration, replacement or rebuilding necessitated as a result of such damage or destruction, or as a result of such taking, as the case may be, or (iii) be used for any other purpose or object deemed appropriate by the Mortgagee in connection with the Mortgaged Premises, provided, however, that the Mortgagee shall not elect either option (i) or (iii) above if, and for so long as, (a) no Default and/or Event of Default has occurred and is continuing or would occur as a result of such casualty or taking; (b) the balance of the insurance proceeds or such Award either initially paid to the Mortgagee or deposited with the Depository (as hereinafter defined) or remaining from time to time, shall be sufficient, in the Mortgagee's reasonable judgment, to complete the restoration, replacement or rebuilding, or the Mortgagor shall have deposited such sufficient funds with the Mortgagee or the Depository; (c) the cost of such restoration, replacement or rebuilding is equal to or less than 25% of the then aggregate outstanding principal balance remaining under the Note; and (d) in the Mortgagee's reasonable judgment, six months after completion of the restoration, there will be no Default.

2.5.7. Any such insurance proceeds (other than the proceeds of the rent insurance policy, which shall be paid as provided in SECTION 2.5.8 below) or Award which are to be applied to restoration, replacement or rebuilding of the Mortgaged Premises shall, after payment or reimbursement to the Mortgagee of all reasonable costs and expenses of the Mortgagee in collecting such proceeds or Award, be applied upon satisfaction of the following provisions and conditions:

(a) If the damage be of such nature as to require the Mortgagor to construct a replacement for, or to alter in any material or substantial way, the damaged or destroyed items, the Mortgagor shall, before commencing any such work, submit copies of the plans and specifications therefor to the Mortgagee for the Mortgagee's approval, such approval to not be unreasonably withheld or delayed.

(b) If after payment or reimbursement to the Mortgagee of all costs and expenses of the Mortgagee in collecting such insurance proceeds or Award, the aggregate insurance proceeds or Award received by reason of any single instance of such damage or destruction or condemnation, as the case may be, shall be \$300,000 or less such insurance proceeds or Award shall be paid to the Mortgagor, which shall hold all amounts so received in trust for application first to pay the entire cost of restoring, repairing, rebuilding or replacing the damaged or destroyed items, before any portion of such proceeds may be used or applied for any other purpose. If the aggregate net insurance proceeds or Award by reason of any single instance of such damage or

destruction or condemnation, as the case may be, shall be more than \$300,000 such sums shall be held and disbursed by Fleet Bank, National Association or, if this Mortgage is held by a financial institution, by such financial institution or, if this Mortgage is not held by a financial institution, by a financial institution selected by the then Mortgagee (the holder of such monies, the "Depository") in accordance with the following provisions of this SECTION 2.5.7.

(c) The Mortgagee shall have received as to each such disbursement a certificate of the Mortgagor (i) requesting the payment of a specified amount of such insurance or condemnation proceeds; (ii) describing in reasonable detail the work and materials applied to the restoration, replacement or rebuilding of the damaged, destroyed or taken Improvement, or Building Service Equipment and/or Furnishings located therein, since the date of the last such certificate; (iii) stating that the requested amount does not exceed the cost of such work and materials; and (iv) stating that a request for payment for such work and materials has not previously been made; accompanied by

(d) a certificate of an independent engineer or architect designated by the Mortgagor, who shall have been approved in writing by the Mortgagee, stating (i) that the work and materials described in the accompanying certificate of the Mortgagor were satisfactorily performed and furnished and were necessary, appropriate or desirable to the restoration, replacement or rebuilding of the damaged, destroyed or taken Improvement, or Building Service Equipment and/or Furnishings; (ii) that the amount specified in such certificate of the Mortgagor does not exceed the reasonable cost of such work and materials; and (iii) the additional amount, if any, required to complete the restoration, replacement or rebuilding of the damaged, destroyed or taken Improvement, Building Service Equipment and/or Furnishings; accompanied by

(e) evidence reasonably satisfactory to the Mortgagee (i) that there exists no filed or recorded lien, or lien notice, or encumbrance or charge in respect of all or any part of the Mortgaged Premises that is prior to or on a parity with the lien of this Mortgage, except as may be permitted in the Permitted Encumbrances; (ii) that neither the Mortgaged Premises nor any part thereof is subject to any recorded or filed mechanic's, laborer's, materialman's or any similar lien, encumbrance or charge; and (iii) that none of the Building Service Equipment and Furnishings provided in connection with such restoration, replacement or rebuilding is subject to any security interest other than in favor of the Mortgagee; then, the Mortgagee shall pay to the Mortgagor the amount of such insurance or condemnation proceeds requested in such certificate of the Mortgagor or consent to the Depository's payment thereof, as the case may be; provided, however, that in no event shall the balance of insurance or condemnation proceeds held by the Mortgagee and the Depository be reduced below the amount specified in such certificate of the independent engineer or architect as the amount required to complete the restoration, replacement or rebuilding of the damaged, destroyed or taken Improvement, Building Service Equipment and/or Furnishings. Each such payment, whether made by the Mortgagee or the Depository, shall be held by the Mortgagor in trust and shall be used solely for the payment

of the cost of the work and materials described in the certificate of the Mortgagor, or if such cost or any part thereof has theretofore been paid by the Mortgagor out of its own funds, then for the reimbursement to the Mortgagor of any such cost or part thereof paid by it. Any balance of insurance or condemnation proceeds held by the Mortgagee after the completion of the restoration, replacement or rebuilding and payment of all costs incurred in connection therewith, to be evidenced by a certificate to such effect of such independent engineer or architect delivered to the Mortgagee, shall, if no Event of Default shall have occurred and be continuing, be released to the Mortgagor or any other party entitled thereto. Notwithstanding the foregoing, if the Mortgagor needs to make deposits with or payments to contractors prior to the work being performed, if the Mortgagee is otherwise obligated to allow funds to be used to rebuild or restore, the Mortgagee agrees that it will not unreasonably withhold or delay the Mortgagor's request that such deposits or advances payments be allowed.

2.5.8. All proceeds of rent insurance payable as a result of the occurrence of any fire or other casualty which affects the Mortgaged Premises, or any part thereof, shall be paid to the Mortgagee or, if the Mortgagee is not a financial institution, the Depository. The Mortgagee or the Depository, as the case may be, if it shall receive such proceeds, shall hold such proceeds in trust if permitted under law, and in an account bearing interest (payable to or for account of the Mortgagor), and shall apply or cause such proceeds (including any net interest thereon) to be applied to the payment of those items referred to in SECTION 2.5.1(f) which become, and as they become, due and payable from and after the date of the occurrence of such damage or loss, until the completion of the necessary restoration or replacement by the Mortgagor or until the exhaustion of such proceeds (including any interest thereon), whichever first occurs. Upon completion of such restoration or replacement, any balance of such rent insurance proceeds, together with the interest thereon, if any, not theretofore applied as provided herein, in the hands of the Mortgagee or the Depository, as the case may be, shall, provided that no Event of Default shall have occurred and be continuing, be paid to the Mortgagor or any other party entitled thereto.

2.5.9. Nothing in this SECTION 2.5 contained shall (i) relieve the Mortgagor of its duty to repair, restore, rebuild or replace the Improvements, Building Service Equipment and/or Furnishings following damage or destruction by fire or other casualty or taking in the event that no Award or an inadequate Award or that no or inadequate proceeds of insurance are available to defray the cost of such repairing, restoring, rebuilding or replacement, or (ii) relieve the Mortgagor of its obligation to pay principal and interest and to make all other required payments in respect of the Obligations and this Mortgage subsequent to the occurrence of any fire or other casualty, or taking, except if, and to the extent that, any proceeds of rent insurance are applied by the Mortgagee in accordance with SECTION 2.5.8 to such required payments.

2.5.10. If, while any insurance proceeds or Award is being held by the Mortgagee or the Depository, an Event of Default shall occur and be continuing, the Mortgagee shall be entitled to receive and apply all such insurance proceeds or Award in reduction of the Obligations, in such order and respective amounts, as the Mortgagee in its sole discretion shall determine.

2.6. To Comply with Laws.

2.6.1. The Mortgagor, at its own expense, will promptly cure all violations of law affecting the Mortgaged Premises, or any part thereof, and/or the use and operation thereof and will promptly comply, or cause to be complied with, all present and future Legal Requirements. However, the Mortgagor shall have the right, after prior notice to the Mortgagee, to contest by appropriate legal proceedings, diligently conducted in good faith, the validity or application of any Legal Requirement if and so long as the Mortgagor shall promptly furnish to the Mortgagee a certificate to such effect showing the steps taken to comply with such provisions, provided that:

(a) if by the terms of any such Legal Requirement, compliance therewith pending the prosecution of any such proceeding may be delayed legally without incurring any lien, charge or liability of any kind against the Mortgaged Premises, or any part thereof, and without subjecting the Mortgagor or the Mortgagee to any liability, civil or criminal, for failure so to comply therewith, the Mortgagor may delay compliance therewith until the final determination of any such proceeding; and

(b) if any lien, charge or civil liability would be incurred by reason of any such delay, the Mortgagor nevertheless, on the prior written consent of the Mortgagee, such consent not to be unreasonably withheld, may contest and delay compliance with the Legal Requirement, provided that such delay would not subject the Mortgagee to criminal liability and the Mortgagor (i) furnishes to the Mortgagee security reasonably satisfactory to the Mortgagee against loss or injury by reason of such contest or delay and (ii) prosecutes the contest with due diligence.

2.6.2. Notwithstanding the provisions of SECTION 2.6.1, if any delay in compliance with any Legal Requirement shall, in the reasonable judgment of the Mortgagee, place all or any part of the Mortgaged Premises in imminent danger of being forfeited or lost, the Mortgagor shall, upon notice from the Mortgagee, immediately comply with such Legal Requirement.

2.6.3. The Mortgagor will use and permit the use of the Mortgaged Premises only in accordance with the material requirements of any applicable licenses and permits issued by Governmental Authorities.

2.6.4. The Mortgagor will procure, pay for and maintain (or cause to be procured, paid and maintained) all permits, licenses and other authorizations required to be procured and maintained by the owners and operators of the Mortgaged Premises for any then use of all or any part of the Mortgaged Premises then being made and for the lawful and proper operation and maintenance thereof.

2.6.5. If the Mortgagor receives notice from any Governmental Authority that it is not in compliance with any Legal Requirement, the Mortgagor will provide the Mortgagee with a copy of such notice promptly.

2.6.6 Without limiting the provisions of this Article II, Mortgagor agrees to the indemnification and guaranty provisions set forth in the ADA Guaranty, the provisions of which are incorporated herein by this reference. The indemnification and guaranty provisions set forth in the ADA Guaranty shall be a debt secured by the lien of this Mortgage.

2.6.7 Without limiting the provisions of this Article II, Mortgagor agrees to the indemnification and guaranty provisions set forth in the Hazardous Material Guaranty, the provisions of which are incorporated herein by this reference. The indemnification and guaranty provisions set forth in the Hazardous Material Guaranty shall be an obligation secured by the lien of this Mortgage.

2.7. Limitation on Alterations and Demolition.

2.7.1. The Mortgagor shall not voluntarily demolish, replace or alter the Mortgaged Premises, or any part thereof, or voluntarily make any addition thereto, or voluntarily construct any additional improvements thereon, or suffer any of the same to occur, whether structural or otherwise (collectively, "change"), without the prior written consent of the Mortgagee; provided,

however, that if no Event of Default is continuing and such change involves an estimated cost of less than \$500,000 and is non-structural or if no Event of Default is continuing and such change is non-structural and is being made to prepare space for a Space Tenant pursuant to a Space Lease entered into in accordance with the Note, then, in either of such events, the Mortgagee's consent shall not be required; provided, further, however, that if any such change is required by law, the Mortgagor may make such change with the prior written consent of the Mortgagee, which consent the Mortgagee will not unreasonably withhold or delay. As a condition to any consent under this SECTION 2.7.1, the Mortgagee may require (a) that plans and specifications for the proposed work, prepared by a reputable architect reasonably satisfactory to the Mortgagee, be submitted to the Mortgagee for approval, (b) that the Mortgagor obtain a payment and performance bond or other security reasonably satisfactory to the Mortgagee in form and amount reasonably satisfactory to the Mortgagee from the contractor or subcontractor performing the work unless such work amounts to less than \$500,000 in aggregate total cost and (c) that the contractor(s) deliver and file, prior to commencing any work, a waiver of mechanics lien. Notwithstanding the above, the Mortgagee hereby consents to the Mortgagor's demolition of the Pastibilities building and King Kullen Grocery Co., Inc. addition. All work performed by or on behalf of the Mortgagor shall be completed with all reasonable diligence and continuity, in a good and workmanlike manner, and in compliance with all applicable Legal Requirements. Unless, and to the extent that, the provisions of SECTION 2.7.2 be applicable, no Building Service Equipment or Furnishings shall be removed from the Mortgaged Premises during the course of any such work without prior notification to the Mortgagee and unless provision is made for return or replacement on or prior to the completion of the work. The provisions of this SECTION 2.7.1. shall apply to any change made or required to be made by the Mortgagor in the course of complying with any other of the provisions of this Mortgage. A duplicate set of all plans and specifications required to be filed with any Governmental Authority prior to, or at any time in connection with, any such alteration, demolition or new construction shall be furnished to the Mortgagee. The Mortgagor will pay on demand the reasonable expenses incurred by the Mortgagee in the review of plans and specifications provided for in this Mortgage.

2.7.2. The Mortgagor shall have the right, at any time and from time to time, to remove and dispose of any item of Building Service Equipment or Furnishings which may have become obsolete or unfit for use or which is no longer useful in the operation of the Improvements, provided that the Mortgagor promptly replaces such item with other Building Service Equipment or Furnishings, free of superior title, liens or claims (other than in favor of the Mortgagee) unless consent of the Mortgagee is first obtained, not necessarily of the same character but of at least equal quality, value and usefulness in connection with the operation and maintenance of the Mortgaged Premises, provided, further, however, no removal of any item of Building Service Equipment or Furnishings then having a fair market value of \$50,000 or more shall be made without the prior written consent of the Mortgagee, which consent will not be unreasonably withheld. However, if by reason of technological or other developments in the operation and maintenance of buildings and other improvements of the general character of the Improvements or a change in the use of the Mortgaged Premises or any part thereof, no replacement of the Building Service Equipment or Furnishings so removed would be necessary or desirable for

the proper operation or maintenance of the Improvements, the Mortgagor shall not be required to replace the item so removed.

2.8. Limitation on Disposition of the Mortgaged Premises.

2.8.1. Any sale, assignment, mortgage, pledge or other transfer or encumbrance of the Mortgaged Premises or any part thereof or any interest therein or in any of the rents, profits or income generated thereby (in any case, either beneficially or of record) is herein a "Transfer"; any lease entered into by the Mortgagor in compliance with PARAGRAPH 11 of the Note is not a Transfer. Any Transfer is an Event of Default.

2.8.2. If there shall be a violation of the terms and provisions of SECTION 2.8.1, whether by the Mortgagor or any other Person, in addition to all other rights and remedies available to the Mortgagee under this Mortgage, the Mortgagee shall have the option, by the giving of notice to the Mortgagor, of declaring the entire unpaid principal balance of the Note, together with all accrued and unpaid interest and all other sums and charges evidenced thereby, immediately due and payable. 2.9. Maintenance of Mortgaged Premises; Covenant Against Waste; Inspection by the Mortgagee. The Mortgagor will not commit or permit waste on the Mortgaged Premises and, at its expense, will keep and maintain the Improvements, the Building Service Equipment and Furnishings in its (or their) present state of repair and condition and, if improved, in such improved state of repair and condition; provided, that this shall not limit the Mortgagor's other obligations hereunder, such as compliance with laws. The Mortgagor shall do or cause to be done all maintenance and make or cause to be made all repairs as may be required by the landlord under any Space Lease. The Mortgagor will neither do nor permit to be done anything to the Mortgaged Premises that may materially impair the value thereof or which may violate any covenant, condition or restriction affecting the Mortgaged Premises, or any part thereof, or which would effect any material change therein or in the condition thereof that would increase the danger of fire or other hazard arising out of the operation of the Mortgaged Premises. Subject to the rights of Space Tenants, the Mortgagee, and its representatives and agents, may enter and inspect the Mortgaged Premises at any time after reasonable notice (which may be oral) during usual business hours, and the Mortgagor shall, within thirty (30) days after demand by the Mortgagee (or immediately upon demand in case of emergency), make such repairs, replacements, renewals or additions, or perform such items of maintenance, to the Mortgaged Premises as the Mortgagee may reasonably require in order to cause the Mortgaged Premises to comply with the standards established in this SECTION 2.9.

2.10. To Furnish Certificates; Other Reporting Requirements.

2.10.1. The Mortgagor will, at its own expense, deliver to the Mortgagee, within fifteen (15) days after request, a written statement executed by the Mortgagor, in recordable form, setting forth the amount then unpaid upon the Obligations and secured by this Mortgage and stating whether any offsets or defenses exist against the Obligations; and, if any such offsets or defenses are alleged to exist, then the factual basis and amount of such claimed offsets or defenses.



2.10.2. The Mortgagor will, if requested by the Mortgagee, deliver to the Mortgagee a certificate of an officer of the member of the Mortgagor or of such member's general partner, to the effect that he is familiar with this Mortgage and the other Loan Documents, has reviewed the affairs of the Mortgagor, and to the best of his knowledge and belief there exists no Event of Default and no act or event has occurred or exists which with notice or lapse of time or both could become such an Event of Default, or if any such incipient default or Event of Default exists, specifying it and what action the Mortgagor is taking to cause it to be remedied.

2.10.3. The Mortgagor further covenants and agrees that it will, at its own expense, deliver to the Mortgagee as soon as available, and in any event within ninety (90) days after the end of each fiscal year of the Mortgagor, an annual balance sheet, a statement of profit and loss, one-year projections, and a cash-flow statement, prepared in accordance with Accounting Principles acceptable to the Mortgagee, consistently applied, together with a schedule of Space Leases. Such statements shall show the income and expenses of the Mortgagor for such fiscal year, all in reasonable detail, shall be prepared in accordance with such accounting principles, consistently applied, and shall state in comparative form the figures at the end of such fiscal year and for the preceding fiscal year. Such statements shall be certified to be true and correct by the chief financial officer of the Mortgagor.

2.10.4. The Mortgagor further covenants and agrees that it will, at its own expense, deliver to the Mortgagee semi-annually, as soon as available, and in any event within ninety (90) days after the end of each second quarter end of the Mortgagor, copies of Mortgagor's financial statements (inclusive of a detailed balance sheet, income statement and cash flow statement) prepared internally, in accordance with Accounting Principles, in its reasonable discretion, and certified to be true and correct by the chief financial officer of the Mortgagor.

2.10.5. In addition, the Mortgagor shall furnish to the Mortgagee: (a) within ninety (90) days after the end of the Mortgagor's fiscal year, and within forty-five (45) days after the end of each six month period, commencing with the period ended June 30, 2000, a statement of income and expenses with respect to the Mortgaged Premises, in such form as may be required by the Mortgagee; (b) within ninety (90) days after the end of the Mortgagor's fiscal year, statements of financial condition of the Mortgagor in such form as may be required by the Mortgagee; (c) within one hundred and fifty (150) days after the end of the Mortgagor's fiscal year, the Mortgagor's federal and state tax filings; and (d) such interim unaudited financial statements and other information as the Mortgagee may reasonably require.

2.10.6. The Mortgagor shall furnish to the Mortgagee, within ten (10) days after the same are filed, copies of each Form 10-K of Acadia and Form 10-Q of Acadia filed with the Securities and Exchange Commission;

2.10.7. The Mortgagor shall furnish to Mortgagee, upon request by Mortgagee, but in any event not more frequently than quarterly, a complete rent roll listing tenants, unit numbers, square feet occupied and leased, rents, delinquencies, vacancies, other income received and expenses.

2.10.8. The Mortgagor further covenants and agrees that it will, at its own expense, promptly upon receipt by Mortgagor, deliver to Mortgagee copies of all reports of the Key Tenants' gross revenue from sales merchandise during the preceding fiscal year which are delivered by the applicable Key Tenant in accordance with the provisions of the applicable Key Tenant's lease. "Key Tenants" shall mean, collectively, King Kullen Grocery Co., Inc., West Marine Products, Inc., Genovese Drug Stores, Inc., and Pergament Home Centers, Inc; with "Key Tenant" meaning each, every and any one of the Key Tenants.

2.11. After-Acquired Property. All right, title and interest of the Mortgagor in and to all improvements, betterments, renewals, substitutes and replacements of, and all additions and appurtenances to, the Mortgaged Premises hereafter acquired, constructed, assembled or placed by the Mortgagor on the Mortgaged Premises, immediately upon such acquisition, construction, assembly or placement, as the case may be, and in each such case without any further mortgage, conveyance or assignment or other act of the Mortgagor, shall become subject to the lien of this Mortgage as fully and completely, and with the same effect, as though now owned by the Mortgagor and specifically described in the granting clauses of this Mortgage; and at any time and from time to time the Mortgagor, on demand, will execute, acknowledge and deliver to the Mortgagee any and all such further assurances, mortgages, conveyances or assignments as the Mortgagee may reasonably require to further evidence, confirm and perfect the provisions of this SECTION 2.11.

2.12. Further Assurances. The Mortgagor shall, at its sole cost and without expense to the Mortgagee, on demand, do, execute, acknowledge and deliver all and every such further acts, deeds, conveyances, mortgages, assignments, notices of assignment, transfers and assurances as the Mortgagee shall from time to time reasonably require for better assuring, conveying, assigning, transferring and confirming unto the Mortgagee the property and rights hereby mortgaged or assigned or intended now or hereafter so to be, or which the Mortgagor may be or may hereafter become bound to convey, mortgage or assign to the Mortgagee, or for carrying out the intention or facilitating the performance of the terms of this Mortgage, or for filing, registering or recording this Mortgage.

2.13. Recorded Instruments. The Mortgagor will promptly perform and observe, or cause to be performed and observed, all of the terms, covenants and conditions of all instruments of record affecting the Mortgaged Premises (other than non-consensual encumbrances hereafter affecting the Mortgaged Premises, the validity or enforceability of which the Mortgagor is contesting in accordance with this Mortgage) where non-compliance therewith affects the security of this Mortgage or imposes any duty or obligation upon the Mortgagor or any Space Tenant. The Mortgagor shall do or cause to be done all things reasonably required to preserve intact and unimpaired and to renew any and all rights-of-way, easements, grants, appurtenances, privileges, licenses, franchises and other interests and rights in favor of or constituting any portion of the Mortgaged Premises. The Mortgagor will not, without the prior written consent of the Mortgagee, initiate, join in or consent to any private restrictive covenant or other public or private restriction as to the use of all or any portion of the Mortgaged Premises. The Mortgagor will, however, comply with all lawful restrictive covenants and zoning ordinances and other public or private restrictions affecting all or any portion of the Mortgaged Premises.

2.14. Leasing Standards. Notwithstanding anything to the contrary contained herein or in the other Loan Documents, the Mortgagor covenants and agrees that no Space Lease will be consummated without the prior written approval thereof by the Mortgagee unless such Space Lease (i) is prepared and executed on Mortgagor's standard lease form submitted to and approved, in writing, by the Mortgagee, with such approval not to be unreasonably withheld or delayed, and the Mortgagee's approval of immaterial changes to the form approved by the Mortgagee shall not be required; and (ii) (x) provides for terms and conditions, including as to rentals and other economic terms and the creditworthiness of the tenant, which are approved by Mortgagee, with such approval not to be unreasonably withheld or delayed, or (y) is of less than 10,000 leaseable square feet and is on commercially reasonable terms and conditions, including as to rentals and other economic terms and creditworthiness of the tenant. Notwithstanding the foregoing, if a Default and/or Event of Default shall be continuing, the Mortgagor will not enter into Space Leases without the Mortgagee's prior written approval thereof, which approval the Mortgagee may withhold in its sole discretion.

2.15. Intentionally Deleted Prior to Execution..

2.16. Late Charges. If the entire amount of any required principal and/or interest under the Note is not paid in full within ten (10) days after the same is due, Mortgagor shall pay to the Mortgagee a late fee equal to five (5%) percent of the required payment, and such charge shall be deemed to be part of the Indebtedness and therefore secured by the lien of this Mortgage.

2.16. Trust Funds The Mortgagor, in compliance with Section 13 of the Lien Law, will receive the advances secured by this Mortgage and will hold the right to receive such advances as a trust fund to be applied first for the purpose of paying the cost of improvement and will apply the same first to the payment of the cost of improvement before using any part of the total of the same for any other purposes. The Mortgagor agrees that it shall indemnify and hold the Mortgagee harmless against any loss or liability, cost or expense, including, without limitation, any judgments, attorneys' fees, costs of appeal bonds and printing costs arising out of or relating to any proceeding instituted by any claimant alleging priority over the lien of this Mortgage, and/or by any claimant alleging a violation by the Mortgagor or the Mortgagee of any section of Article 3-A of the Lien Law of the State of New York.

2.17. The Ground Lease

2.17.1. The Mortgagor shall: (i) pay all rents, additional rents and other sums required to be paid by the Mortgagor as lessee under and pursuant to the provisions of the Ground Lease, (ii) diligently perform and observe all of the terms, covenants and conditions of the Ground Lease on the part of the Mortgagor, as lessee thereunder, to be performed and observed, unless such performance or observance shall be waived or not required in writing by the lessor under the Ground Lease, to the end that all things shall be done which are necessary to keep unimpaired the rights of the Mortgagor, as lessee, under the Ground Lease, (iii) promptly

notify the Mortgagee in writing of any default by the Mortgagor under the Ground Lease in the performance or observance of any of the terms, covenants or conditions on the part of, respectively, the Mortgagor to be performed or observed under the Ground Lease, (iv) promptly notify the Mortgagee of the giving of any notice by the lessor under the Ground Lease to the Mortgagor (other than notices customarily sent on a regular basis) and of any notice noting or claiming any default by the Mortgagor in the performance or observance of any of the terms, covenants or conditions of the Ground Lease on the part of the Mortgagor, as lessee thereunder, to be performed or observed and deliver to the Mortgagee a true copy of each such notice (v) promptly notify the Mortgagee in writing of any request made by either party to the Ground Lease, as the case may be, for arbitration proceedings pursuant to the Ground Lease and of the institution of any arbitration proceedings, as well as of all proceedings thereunder, and promptly deliver to the Mortgagee a copy of the determination of the arbitrators in each such arbitration proceeding, it being acknowledged and agreed that the Mortgagee shall have the right to participate in such arbitration proceedings in association with the Mortgagor or on its own behalf as an interested party, and (vi) furnish to the Mortgagee, within ten (10) days after demand, proof of payment of all items which are required to be paid by the Mortgagor pursuant to the Ground Lease.

2.17.2. The Mortgagor, shall not without the prior written consent of the Mortgagee, surrender the leasehold estate created by the Ground Lease or terminate or cancel the Ground Lease or modify, change, supplement, alter or amend the Ground Lease, or consent to a modification change, supplement alteration or amendment to the Ground Lease, in any material respect, either orally or in writing, and the Mortgagor hereby assigns to the Mortgagee, as further security for the payment of the Indebtedness and for the performance and observance of the terms, covenants and conditions of this Mortgage, all of the rights, privileges and prerogatives of the Mortgagor, as lessee under the Ground Lease, to surrender the leasehold estate created by the Ground Lease or to terminate, cancel, modify, change, supplement, alter or amend the Ground Lease, and any such surrender of the leasehold estate created by the Ground Lease or termination, cancellation, modification, change, supplement, alteration or amendment of the Ground Lease without the prior written consent of the Mortgagee shall be void and of no force and effect. The Mortgagee will not unreasonably withhold or delay its consent to a modification, change, supplement, alteration or amendment to the same.

2.17.3. Supplementing the provisions of subparagraph (b) above, it is understood and agreed that the Mortgagor shall not, without the Mortgagee's prior written consent, elect to treat the Ground Lease as terminated under Section 365(h)(1)(A)(i) of the Bankruptcy Code. Any such election made without the Mortgagee's prior written consent shall be void. The Mortgagor hereby unconditionally assigns, transfers and set over to the Mortgagee all of the Mortgagor's claims and rights to the payment of damages arising under the Bankruptcy Code from any rejection by the lessor under the Ground Lease. The Mortgagee shall have the right to proceed in its own name on behalf of the Mortgagor in respect of any claim, suit, action or proceeding relating to the rejection of the Ground Lease, including, without limitation, the right to file and prosecute, to the exclusion of the Mortgagor, any proofs of claim,

complaints, motions, applications, notices and other documents, in any case in respect of such lessor under the Bankruptcy Code. This assignment constitutes a present, irrevocable and unconditional assignment of the foregoing claims, rights and remedies, and shall continue in effect until all of the Indebtedness secured by the Mortgage shall have been satisfied and discharged in full. Any amounts received by the Mortgagee as damages arising out of the rejection of the Ground Lease as aforesaid shall be applied first to all costs and expenses of the Mortgagee (including, without limitation, attorneys' fees) incurred in connection with the exercise of any of its rights or remedies under this Paragraph and then shall be applied against the Indebtedness in such order, priority and proportion as the Mortgagee shall determine. If any action, motion or notice shall be commenced or filed in respect of the Mortgagor, as lessee under the Ground Lease, or all or any portion of the Mortgaged Property in connection with any case under the Bankruptcy Code, the Mortgagor shall give the Mortgagee prompt written notice thereof. Other than during the existence of an Event of Default, the Mortgagor may commence any action, suit, proceeding or case, or file any application or make any motion, in respect of the Ground Lease in any such case under the Bankruptcy Code without the prior written consent of the Mortgagee but will not settle or compromise any of the foregoing without the consent of the Mortgagee, which consent will not be unreasonably withheld or delayed by Mortgagee. During the existence of an Event of Default, the Mortgagor shall not commence any action, suit, proceeding or case, or file any application or make any motion, in respect of the Ground Lease in any such case under the Bankruptcy Code without the prior written consent of the Mortgagee, and the Mortgagee, during the existence of an Event of Default, may proceed in its own name, in connection with any such litigation. The Mortgagor shall, immediately after obtaining knowledge thereof, notify the Mortgagee and its counsel, by telecopy or by hand of any filing by or against the lessor under the Ground Lease of a petition under the Bankruptcy Code. The Mortgagor shall thereafter forthwith give written notice of such filing to the Mortgagee, setting forth the date of such filing, the court in which the petition was filed and the relief sought therein. The Mortgagor shall promptly deliver to the Mortgagee, following receipt, any and all notices, summonses, pleadings, applications and other written documents received by the Mortgagor in connection with any such petition and any proceedings relating thereto.

2.17.4. If the Mortgagor shall default in the performance or observance of any term, covenant or condition of the Ground Lease on the part of the Mortgagor, as lessee thereunder, to be performed or observed, then, without limiting the generality of the other provisions of this Mortgage, and without waiving or releasing the Mortgagor from any of its obligations hereunder, the Mortgagee shall have the right, but shall be under no obligation, to pay any sums and to perform any act or take any action as may be appropriate to cause all of the terms, covenants and conditions of the Ground Lease on the part of the Mortgagor, as lessee thereunder, to be performed or observed to be promptly performed or observed on behalf of the Mortgagor, to the end that the rights of the Mortgagee in, to and under the Ground Lease shall be kept unimpaired and free from default. If the Mortgagee shall make any payment or perform any act or take action in accordance with the preceding sentence, the Mortgagee will notify the Mortgagor of the making of any such payment, the performance of any such act, or the taking of any such action. All sums so paid by the Mortgagee and all costs and expenses incurred by the

Mortgagee in connection with the performance of any such act shall be paid by the Mortgagor to the Mortgagee upon demand with interest, from the date so advanced by Mortgagee until thirty (30) days after demand by the Mortgagee to the Mortgagor, at the Interest Rate set forth in the Note and thereafter at the Involuntary Rate, and the same shall be deemed to be secured by this Mortgage and shall be a lien on the Mortgaged Property prior to any right, title to, interest in or claim upon the Mortgaged Property attaching subsequent to the lien of this Mortgage. In any such event, subject to the rights, if any, of lessees and other occupants under the Ground Lease, the Mortgagee and any person designated by the Mortgagee shall have, and are hereby granted, the right to enter upon the Mortgaged Property at any time and from time to time for the purpose of taking any such action. If the lessor under the Ground Lease shall deliver to the Mortgagee a copy of any notice of default sent by said lessor to the Mortgagor, as lessee under the Ground Lease, such notice shall constitute full protection to the Mortgagee for any action taken or omitted to be taken by the Mortgagee, in good faith, in reliance thereon.

2.17.5. Mortgagor hereby delegates irrevocably, coupled with an interest, to Mortgagee the authority to exercise any and all of Mortgagor's rights under the Ground Lease, including, but not limited to, the right of the Mortgagee to participate (to the exclusion of Mortgagor) in any proceeding, arbitration or settlement involving condemnation or eminent domain affecting Mortgagor's leasehold interest in the Mortgaged Property. However, Mortgagee agrees not to exercise such power, except during the existence of an Event of Default and/or upon acceleration of the Indebtedness pursuant to the terms of this Mortgage.

2.17.6. The generality of the provisions of this Paragraph relating to the Ground Lease shall not be limited by other provisions of this Mortgage or any other agreement between the Mortgagee and the Mortgagor, setting forth particular obligations of the Mortgagor which are also required of the Mortgagor as tenant under the Ground Lease.

2.17.7. Should there be a conflict between the terms of the Mortgage or any other Loan Document on the one hand, and the terms of the Ground Lease, on the other, the terms of the Mortgage shall prevail and control.

2.17.8. In accordance with the provisions of Section 10.02 of the Ground Lease, the Mortgagee and Mortgagor agree to be bound by the following provisions:

(a) This Mortgage is executed upon the condition that no purchaser at any foreclosure sale shall acquire any right, title or interest in or to the Lease hereby mortgaged, unless the said purchaser, or the person, firm or corporation to whom or to which such purchaser's right has been assigned, shall, in the instrument transferring to such purchaser or assignee the Tenant's interest under the said Lease, assume and agree to perform all of the terms, covenants and conditions of said Lease to be observed or performed on the part of the Tenant subsequent to the date of the assumption agreement, and moreover, that no further or additional mortgage or assignment or said Lease shall be made, except subject to the provisions contained in Articles 9 and 10 of said Lease, and that a duplicate original of said assumption

agreement, in form reasonably satisfactory to Landlord's counsel and duly executed and acknowledged by such purchaser or such assignee, is delivered to Landlord immediately after the consummation of such sale, or, in any event, prior to taking possession of the premises.

(b) This Mortgage and all rights of the Mortgagee hereunder are, without the necessity for the execution of any further documents, subject and subordinate to any Fee Mortgages now or hereafter made, as said terms are defined in the Lease hereby mortgaged, provided that Tenant and leasehold Mortgagee shall receive a non-disturbance agreement from the Fee Mortgagee in recordable form and reasonably satisfactory to the Leasehold Mortgagee. Subject to the receipt of such a non-disturbance agreement, the holder of this mortgage agrees from time to time upon request and without charge, to execute, acknowledge and deliver any instruments requested by the Landlord under the Lease hereby mortgaged to evidence the foregoing subordination.

#### ARTICLE III.

##### Condemnation

3.1. Notice of Taking. The Mortgagor shall promptly notify the Mortgagee if the Mortgagor receives notice of the institution of any proceeding or negotiations for the taking of the Mortgaged Premises, or any part thereof, whether for permanent or temporary use and occupancy in condemnation or by the exercise of the power of eminent domain or by agreement of interested parties in lieu of such condemnation (all the foregoing called a "taking"); shall keep the Mortgagee currently advised, in detail, as to the status of such proceedings or negotiations and will promptly give to the Mortgagee copies of all notices, pleadings, judgments, determinations and other papers received or delivered by the Mortgagor in connection with any such proceedings. The Mortgagee shall have the right to appear and participate in such proceedings and may be represented by counsel. The Mortgagor will not, without the Mortgagee's consent, enter into any agreement for the taking of the Mortgaged Premises, or any part thereof, with anyone authorized to acquire the Mortgaged Premises by eminent domain or in condemnation.

3.2. Condemnation Award. If the Mortgaged Premises shall be the subject of a taking the Mortgagee shall be entitled to and shall receive the total of such portion of all awards made that shall be allowed to the Mortgagor with respect to all the right, title and interest of the Mortgagor in and to the Mortgaged Premises (the award made in any total, partial or temporary taking is herein called the "Award"), provided that the obligations of the Mortgagor to perform the terms, covenants and conditions of this Mortgage, if any, affected by such taking shall continue unimpaired until the actual vesting of title in such proceeding and the actual receipt by the Mortgagee of Mortgagor's share of the entire Award resulting from such taking.

3.3. Application of Award. The Mortgagee shall have the option of treating a total taking or a substantial taking (as hereinafter defined) as an Event of Default and of accelerating the entire Obligations, in which event it shall apply the Mortgagor's entire Award in reduction of such Obligations (including principal, interest and other sums secured hereby, in such order as the Mortgagee may determine) and shall turn over any balance remaining, if any, to the Mortgagor; or if the Mortgagee shall not so elect to accelerate the Obligations and apply the Award thereto, then the total Award shall, regardless of amount, be deposited with the Mortgagee or with the Depository, the Mortgagor hereby agreeing to elect that such proceeds be held and disbursed by the Depository in accordance with SECTIONS 2.5.6, 2.5.7, 2.5.8, 2.5.9 and 2.5.10 hereof for restoration required to be made by the Mortgagor. If there be a partial taking, the net proceeds of the Award shall be deposited with the Mortgagee and applied by the Mortgagee in accordance with the provisions of SECTIONS 2.5.6, 2.5.7, 2.5.9 and 2.5.10. Any Award remaining after the completion of such restoration, replacement or rebuilding shall be applied in reduction of the Obligations (including principal, interest and other sums secured hereby) in such order as the Mortgagee shall determine. A partial taking is substantial only if it materially decreases the fair market value of the Mortgaged Premises and the remainder of the Mortgaged Premises cannot be restored to an economically viable whole.

3.4. Temporary Taking. If any Award payable to the Mortgagor on account of a taking for temporary use or occupancy is made in a lump sum or is payable other than in equal monthly installments, the Mortgagor shall pay over such Award to the Depository and such Award shall be applied to installments of Impositions and of principal and interest and all other charges secured by this Mortgage or due in respect of the Obligations or the other Loan Documents as and when the same become due and payable. Any unapplied portion of such Award held by the Depository when such taking ceases or expires (if no Event of Default has then occurred and is continuing), or after the Obligations shall have been paid in full, shall be paid to the Mortgagor or to any other party entitled thereto.

3.5. The Mortgagor's Obligation to Restore. If proceeds of the Award are made available to the Mortgagor for restoration, replacement or rebuilding pursuant hereto, the Mortgagor shall be obligated promptly to restore, replace, rebuild or alter any Improvements or Building Service Equipment affected by a taking so as to restore the Mortgaged Premises to an economically viable whole, all without regard to the adequacy of the proceeds of an Award, if any, made available to the Mortgagor.



ARTICLE IV.

Assignment of Space Leases, Profits  
and Other Income as Further Security, Etc.

4.1. Assignment of Space Leases, Rents, Issues and Profits.

The Mortgagor hereby absolutely assigns and sets over unto the Mortgagee all Space Leases, if any, now or hereafter entered into with respect to all or any part of the Mortgaged Premises, and all renewals, extensions, subleases or assignments thereof, and all other occupancy agreements (written or oral), by concession, license or otherwise, together with all of the rents, income, receipts, revenues, issues and profits arising therefrom (the "Collateral"). This assignment is intended by the Mortgagor and the Mortgagee to create, and shall be construed to create, an absolute assignment of all Space Leases, rents, issues and profits, subject only to the terms and conditions of this Mortgage.

4.2. The Mortgagor's Covenants Regarding Space Leases.

4.2.1. Without the prior consent and approval of the Mortgagee in each instance, the Mortgagor will not (a) assign, pledge, hypothecate or otherwise encumber any of the Space Leases or the rents, income, issue and profits of the Mortgaged Premises; or (b) enter into any Space Leases affecting the Mortgaged Premises or any part thereof, unless such Space Lease is expressly subordinate to the lien of this Mortgage and to any consolidation, extension, renewal, recasting or refinancing hereof and the Space Lease provides, in substance, that in the event of enforcement by the Mortgagee of the remedies provided for by law or by this Mortgage, each Space Tenant shall, at the option of the Mortgagee, attorn to any person succeeding to the interest of the Mortgagor as a result of such enforcement and shall recognize such successor in interest as landlord (or sublandlord, as the case may be) under such Space Lease without change in the terms or other provisions thereof; provided, however, that such successor shall not be bound by any payment of rent or additional rent for more than one (1) month in advance or any amendment or modification of any such Space Lease made without the Mortgagee's written consent; or (c) enter into any Space Leases except in accordance with the provisions of the Note.

4.2.2. The Mortgagor further represents, warrants, covenants and agrees that:

(a) To the best of its knowledge, each Space Lease is (or, when executed, will be) a valid and legally enforceable obligation of the parties thereto, in full force and effect.

(b) With respect to each Space Lease and the Space Tenant security deposits thereunder, any and/or all of such security deposits shall be held as required by the Space Lease but in no event in a manner other than that required by law.

(c) The Mortgagor shall, at its sole cost and expense, keep, observe, perform and discharge, duly and punctually, all and singular the material obligations, terms, covenants, conditions, representations and warranties of each Space Lease on the part of the Mortgagor to be kept, observed, performed and discharged.

(d) (i) Except as herein in this clause (i) expressly provided, the Mortgagor shall, at its sole cost and expense, maintain the Space Leases in full force and effect; the Mortgagor will not waive its rights under or materially modify, change, supplement, alter or amend ("Change"), nor shall the Mortgagor surrender (whether partial or total), terminate, cancel or subordinate, any of the Space Leases, and any such attempted Change, surrender, termination, cancellation or subordination shall be void, unless, in each case, the prior written consent thereto of the Mortgagee shall have been obtained. Notwithstanding the foregoing, the Mortgagor may terminate or cancel any Space Lease as a result of a material default by the tenant under such Space Lease if (w) such termination is being effected in the ordinary course of the Mortgagor's business, (x) no Event of Default then exists and (y) such termination or cancellation would not materially and adversely affect the value of the Space Leases as collateral security for the Obligations. A material Change shall include but not be limited to any material Change in the amount or time of payment of the rent or additional rent, the length of term or square footage of the premises under any Space Lease or any other Change which would materially adversely affect the Mortgagor's rights under the Space Lease, or would affect the Mortgagee's rights under the Space Lease or the value of the Space Lease as collateral security for the Obligations.

(ii) The Mortgagor shall, at its sole cost and expense, enforce the Space Leases in accordance with their terms; and shall appear in and defend any action or proceeding arising to which it is a party under or in any manner connected with any of the Space Leases.

(e) The Mortgagor shall deliver to the Mortgagee a copy of each notice of default sent or received by it relating in any way to any Space Lease promptly upon, but in any event within five (5) business days after, its sending or receipt thereof.

#### 4.3. The Mortgagor's Rights and Powers.

4.3.1. The Mortgagor hereby irrevocably, in the name of the Mortgagor or otherwise, authorizes and empowers the Mortgagee, and absolutely assigns and transfers unto the Mortgagee, and constitutes and appoints the Mortgagee its true and lawful attorney-in-fact, coupled with an interest and as its agent, irrevocably, with full power of substitution for it and in its name, but solely for the following purposes: (i) to exercise and enforce every right, power, remedy, authority, option and privilege of the Mortgagor under the Space Leases, and as such attorney-in-fact, the Mortgagee may subordinate, terminate, cancel or modify the Space Leases, accept the surrender of the Space Leases, give any notice, take any action resulting in such subordination, termination, cancellation, modification or surrender, give any authorization, furnish any information, make any demands, execute any instruments and take any and all other action on behalf of and in the name of the Mortgagor which in the opinion of the Mortgagee may be necessary or appropriate to be given, furnished, made,

exercised or taken by the Mortgagor under the Space Leases in order to comply therewith, to perform the conditions thereof or to prevent or remedy any default by the Mortgagor thereunder or to enforce any of the Mortgagor's rights and remedies thereunder, and (ii) to ask, require, demand, receive and collect and give acquittances for the Income (as hereinafter defined), and on nonpayment thereof to sue for, recover and receive the same, and on payment thereof to give sufficient releases, receipts, discharges and acquittances thereof; to endorse any checks or other instruments or orders in connection therewith and to file any claims or take any action or institute any proceedings which the Mortgagee may deem to be necessary or advisable; provided, however, that the power provided for in this sentence may not be exercised by the Mortgagee unless an Event of Default shall have occurred and be continuing. "Income" shall mean all deposits, rents, issues, profits, revenues, royalties, and other revenue producing arrangements, whether written or oral, and all monetary benefits of, and/or derived from, and/or sums payable under and by virtue of the Space Leases and/or the Premises.

4.3.2. So long as there shall not have occurred and then be continuing any Event of Default and until such right of Mortgagor is terminated by the Mortgagee as in SECTION 4.3.3 provided, the Mortgagee will not exercise its rights pursuant to SECTION 4.3.1, and the Mortgagor shall have the right (but limited as hereinafter provided) to exercise all of its rights under the Space Leases, provided that the Mortgagor shall at all times comply with, observe and perform, in the exercise of such right, all of the provisions of this Mortgage and the other Loan Documents applicable to the Space Leases; provided, further, that no action shall be taken or failed to be taken by the Mortgagor which would impair the Collateral or any other collateral security for the Obligations provided for in the Loan Documents.

4.3.3. The Mortgagee, upon the occurrence and during the continuance of an Event of Default, at its option and upon written notice to the Mortgagor, shall have the right to terminate the right of the Mortgagor to exercise its rights under the Space Leases, and, thereupon, in addition, the Mortgagee, at any time thereafter, at its option, shall have the complete right, power and authority hereunder to exercise and enforce all rights, powers, remedies, authority, options and privileges of the Mortgagor under the Space Leases in the name of the Mortgagor or the Mortgagee, to enforce all obligations of the other parties to the Space Leases and to exercise and enforce all of its rights and remedies hereunder and under law not exercisable prior to an Event of Default.

4.3.4. The Mortgagor does hereby direct each and all of the Space Tenants under the Space Leases and all contractual obligors of the Mortgagor to pay any Income to the Mortgagee upon demand for payment thereof by the Mortgagee without further inquiry. It is understood and agreed, however, that no such demand shall be made unless an Event of Default shall have occurred and be continuing. No such Space Tenant or obligor shall be obliged to account to the Mortgagor for any amounts paid to the Mortgagee by reason of any payment made to the Mortgagee pursuant to such demand and, upon any such payment to the Mortgagee, shall be pro tanto released from their obligations to the Mortgagor. Each Space Tenant shall be permitted to rely on any communication from the Mortgagee pursuant hereto, and under no circumstances shall such Space Tenant be obligated to the Mortgagor for any payments made to the Mortgagee hereunder. Until such demand is made, the Mortgagor is authorized to collect or enforce or continue collecting or enforcing such Income in accordance with the provisions of this Mortgage.

4.3.5. The Mortgagee shall not have any duty as to the collection or protection of the Collateral or any income thereon or payments with respect thereto, or as to the preservation of any rights pertaining thereto beyond the safe custody of any thereof actually in its possession. In no instance shall the Mortgagee be responsible to lessees for payment of interest upon, or return of, any lease security deposits, except as provided by law or as provided in the leases and then only if and to the extent that such deposits are received by the Mortgagee. The Mortgagor hereby waives notice of acceptance hereof and, except as otherwise specifically provided herein or required by provision of law which may not be waived, hereby waives any and all notices or demands with respect to any exercise by the Mortgagee of any rights or powers which it may have or to which it may be entitled with respect to the Collateral.

4.3.6. The Mortgagor hereby irrevocably constitutes and appoints the Mortgagee as the true and lawful attorney-in-fact of the Mortgagor, which appointment is coupled with an interest, with full power of substitution, to proceed from time to time in the Mortgagor's name in any statutory or non-statutory proceeding affecting the Mortgagor or any Collateral, and the Mortgagee or its nominee may (i) execute and file proof claim for the full amount of any Collateral and vote such claims for the full amount thereof (A) for or against any proposal or resolution, (B) for a trustee or trustees or for a receiver or receivers or for a committee of creditors and/or (C) for the acceptance or rejection of any proposed arrangement, plan of reorganization, composition or extension, and the Mortgagee or its nominee may receive any payment or distribution and give acquittance therefor and may exchange or release Collateral; (ii) endorse any draft or other instrument for the payment of money, execute releases and negotiate and enter into settlements; and (iii) execute all such other documents or instruments as may be necessary or expedient to be executed by the Mortgagor for any of the purposes of this Mortgage; provided, however, that the power provided for in this sentence may be exercised by the Mortgagee only while an Event of Default is continuing. The Mortgagee shall have no duty to exercise any of the aforesaid rights, privileges or options and shall not be responsible for any failure to do so or delay in so doing.

4.4. Remedies and Entry Upon Default.

4.4.1. So long as no Event of Default shall have occurred and be continuing, the Mortgagor shall have the right to collect (but not more than one (1) month in advance) and retain all of the rents, gross receipts and other payments, if any, from the Space Leases and from the Mortgaged Premises generally, and the Mortgagee agrees that customary initial rent payments, security deposits and reimbursements by a Space Tenant to the Mortgagor on account of alterations made by the Mortgagor for the benefit of the Space Tenant are permissible advance payments by the Space Tenant.

4.4.2. Upon any Event of Default, the Mortgagee may, but shall not be obligated to:

- (a) terminate the rights of the Mortgagor referred to in SECTION 4.3 hereof and exercise all of the powers, rights and remedies provided for in SECTION 4.3 hereof, including those to be exercised only from and after an Event of Default;

(b) at any time and from time to time, without notice to, or assent by, the Mortgagor or any other Person, but without affecting any of the Obligations, in the name of the Mortgagor or in the name of the Mortgagee, notify the account debtors and obligors on any or all of the Space Leases to make payment and performance directly to the Mortgagee, and demand, collect, receive, compound and give acquittance for the Space Leases or any part thereof; extend the time of payment and performance of, compromise or settle for cash, credit or otherwise, upon any terms and conditions, any of the Space Leases; endorse to the order of the Mortgagee checks, drafts or other orders or instruments for the payment of moneys payable to the Mortgagor which shall be issued in respect of any of the Space Leases; file any claims, commence, maintain or discontinue any actions, suits or other proceedings deemed by the Mortgagee necessary or advisable for the purpose of collecting upon or enforcing any of the Space Leases; and execute any instrument and do all other things deemed necessary and proper by the Mortgagee to protect and preserve and realize upon the Space Leases and/or the other rights contemplated hereby and the Mortgagor hereby irrevocably constitutes and appoints the Mortgagee as such Mortgagor's lawful attorney-in-fact, coupled with an interest, and its agent for the foregoing purposes;

(c) demand, collect, sue for, attach, levy, recover, receive, compromise and adjust, and make, execute and deliver receipts and releases for all Income that may then be or may thereafter become due, owing or payable with respect to the Premises or any part or parts thereof from any present or future lessees, tenants, subtenants or occupants thereof or from any present or future contract obligors; and/or

(d) pay, in such order as the Mortgagee in its sole discretion shall determine, from and out of the Income collected in connection with the Premises and/or the Collateral or any part or parts thereof or from or out of any other funds (less the expense of collection, including attorneys' fees and disbursements), any taxes, assessments, water rates, sewer rates, or other government or other charges levied, assessed or imposed against the Premises or any part or part thereof, and also any and all other charges, costs and expenses which the Mortgagee deems necessary or advisable to pay in respect of the management or operation of the Premises, including, without limitation, the costs of insurance policies, repairs and alterations, commissions for renting the Premises or any part or parts thereof, legal expenses in enforcing claims, preparing papers or procuring any other services that may be required and any amounts payable under or pursuant to any Lease. All amounts so paid and expended shall be payable on demand, together with interest at the Default Rate from the date incurred until paid, and be deemed to be included within the

Obligations and secured by this Mortgage. The provisions of SECTION 4.2.2 and the rights given to the Mortgagee hereby shall inure to the benefit of the Mortgagee even though the Mortgagee does not enter and take possession of the Premises. Any balance remaining after the Obligations shall have been paid in full shall be turned over to the Mortgagor or such other Person as may lawfully be entitled thereto. Neither the entry upon and taking possession of the Mortgaged Premises, nor the collection and application of the rents, gross receipts or other charges thereof, nor any other action taken by the Mortgagee in connection therewith, shall cure or waive any default hereunder or waive or modify any notice thereof or notice of acceleration of the Obligations theretofore given by the Mortgagee.

4.4.3. If an Event of Default shall have occurred and be continuing and the Mortgagee shall have entered upon the Mortgaged Premises as provided in SECTION 6.2.2 hereof, a notice in writing by the Mortgagee to the Space Tenants under the Space Leases advising them that the Mortgagor has defaulted hereunder and requesting that all future payments of rent, additional rent or other charges under the Space Leases be made to the Mortgagee (or its agent) shall be construed as conclusive authority to such Space Tenants that such payments are to be made to the Mortgagee (or its agent). Each Space Tenant shall be fully protected in making such payments to the Mortgagee (or its agent) and be given full credit against its obligations under the applicable Space Lease to the extent of payments made to the Mortgagee (or its agent) pursuant to any such notice; and the Mortgagor hereby irrevocably constitutes and appoints the Mortgagee the attorney-in-fact and agent of the Mortgagor, coupled with an interest, for the purpose of endorsing the consent of the Mortgagor on any such notice.

#### 4.5. No Obligation of Mortgagee.

4.5.1. The Mortgagee shall not be obligated to perform or discharge any obligation of the Mortgagor as a result of the collateral assignment hereby effected, and the Mortgagor hereby agrees to indemnify and hold the Mortgagee harmless from and against any and all liability, loss or damage which the Mortgagee may incur by reason of any act of the Mortgagee under this Mortgage, other than as a result of the Mortgagee's willful misconduct or gross negligence. Should the Mortgagee incur any such liability, loss or damage by reason of this Mortgage and which is covered by the foregoing indemnity, or in defense against any such claims or demands, or perform any acts or covenants on the part of Mortgagor to be performed under the Space Leases, or pay for the account of the Mortgagor any and all sums, costs and expenses for the discharge of taxes, assessments, water rents or other liens against the Collateral (as hereinafter defined) or any part thereof, or on account of insurance premiums or repairs, and also any amounts and expenses necessary to perform any covenants and conditions to be performed on the part of the Mortgagor under the Space Leases, the amount thereof, including costs, expenses and attorneys' fees, together with interest thereon at the Default Rate from the date such expenses were paid by the Mortgagee to the date of payment to the Mortgagee by the Mortgagor, shall be included in the Obligations secured by this Mortgage, and the Mortgagor shall reimburse the Mortgagee therefor upon demand.

4.5.2. The acceptance by the Mortgagee of this Mortgage, with all the rights, powers, privileges and authority so created, shall not at any time or in any event obligate the Mortgagee to appear in or defend any action or proceeding relating to the Collateral, or to take any action hereunder or thereunder, or to expend any money or incur any expenses or perform or discharge any obligation, duty or liability under the Collateral.

ARTICLE V.

Security Agreement Under Uniform Commercial Code

5.1. The Mortgagor intends that this Mortgage shall constitute a security agreement within the meaning of the Uniform Commercial Code of the State (the "Code") with respect to all of the Mortgagor's right, title and interest in and to the Building Service Equipment and Furnishings as are considered or as shall be determined to be personal property or "fixtures" (as defined in the Code) and all books, records, licenses and certificates of the Mortgagor or relating to the Mortgaged Premises, together with all replacements thereof, substitutions therefor or additions thereto (said property being sometimes hereinafter in this ARTICLE V referred to as the "Personal Property Collateral"), and that a security interest shall attach thereto for the benefit of the Mortgagee to secure the Obligations and all other sums and charges which may become due hereunder, thereunder or under any of the other Loan Documents. The Mortgagor hereby authorizes the Mortgagee to file financing and continuation statements with respect to the Personal Property Collateral without the signature of the Mortgagor, if permitted by the Code as adopted by the State. In any event the Mortgagor covenants to execute such financing and continuation statements as the Mortgagee may reasonably request. If an Event of Default shall occur and be continuing, the Mortgagee, pursuant to the appropriate provisions of the Code, shall have the option of proceeding as to both real and personal property in accordance with its rights and remedies in respect of real property under this Mortgage and the law of the State, in which event the default provisions of the Code shall not apply. The Mortgagor agrees that, in the event the Mortgagee shall elect to proceed with respect to the Personal Property Collateral separately from the real property, unless a greater period shall then be mandated by the Code, five (5) days notice of the sale of the Personal Property Collateral shall be reasonable notice. The expenses of retaking, holding, preparing for sale and selling incurred by the Mortgagee shall be assessed against the Mortgagor and shall include, but not be limited to, the reasonable legal expenses incurred by Mortgagee. The Mortgagor agrees that it will not remove or permit to be removed from the Mortgaged Premises any of the Personal Property Collateral without the prior written consent of the Mortgagee except as set forth in SECTION 2.7.2. All replacements, renewals and additions to the Personal Property Collateral shall be and become immediately subject to the security interest of this Mortgage and the provisions of this ARTICLE V. The Mortgagor warrants and represents that all Personal Property Collateral now is free and clear of all liens, encumbrances or security interests other than the Permitted Encumbrances, and that all replacements of the Personal Property Collateral, substitutions therefor or additions thereto, unless the Mortgagee otherwise consents, will be, free and clear of liens, encumbrances or security interests of others.

ARTICLE VI.

Events of Default and Remedies

6.1. Events of Default. Mortgagee shall be entitled to exercise any and all of the remedies provided in SECTION 6.2 and in the other Loan Documents upon the happening of an Event of Default. The term "Event of Default", wherever used in the Mortgage, shall mean any one or more of the following events:

(a) failure of Mortgagor (x) to pay, for a period of ten (10) days after the same becomes due (i) any installment of interest and/or principal under this Note, or (ii) any other payment required hereunder or under any of the other Loan Documents or under any supplement, modification or extension hereof or thereof, or (y) to pay the final principal balance of the Note when due, whether upon the stated maturity date set forth therein, upon acceleration of such principal sum or otherwise, together with accrued and unpaid interest thereon; or

(b) if any of Mortgagor's representations or warranties contained herein or in any of the Loan Documents shall be untrue or incorrect in any material respect at the time made, or if any such warranty or representation intended to be a continuing one shall become untrue or incorrect in any material respect and Mortgagor shall fail to remedy such situation within thirty (30) days after notice from Mortgagee, unless such situation cannot be remedied in such period and provided further that the Mortgagor shall commence compliance with such situation and shall continue to diligently prosecute such compliance, then such cure period shall be extended for an additional sixty (60) day period, or such other period of time as the Mortgagee may agree in writing (or immediately upon notice in case of emergency); or

(c) if Mortgagor shall commence a voluntary case concerning itself under Title 11 of the United States Code entitled "Bankruptcy" as now or hereafter in effect, or any successor thereto (the "Bankruptcy Code"); or an involuntary case is commenced against Mortgagor and the petition is not controverted within thirty (30) days, or is not dismissed within ninety (90) days, after commencement of the case; or a custodian (as defined in the Bankruptcy Code) is appointed for, or takes charge of, all or any substantial part of the property of Mortgagor; or Mortgagor commences any other proceeding under any reorganization, arrangement, adjustment of debt, relief of debtors, dissolution, insolvency or liquidation or similar law of any jurisdiction whether now or hereafter in effect relating to Mortgagor or there is commenced against Mortgagor any such proceeding which remains undismissed for a period of ninety (90) days; or Mortgagor is adjudicated insolvent or bankrupt; or any order of relief of other order approving any such case or proceeding is entered; or Mortgagor suffers any appointment of any custodian or the like for it or any substantial part of its property to continue undischarged or unstayed for a period of ninety (90) days; or Mortgagor makes a general assignment for the benefit of creditors; or Mortgagor shall fail to pay, or shall state that it is unable to pay, or shall be unable to pay, its debts generally as they become due; or Mortgagor shall call a meeting of its creditors with a view to arranging a composition or adjustment of its debts; or



(d) if any of the events enumerated in clause (c) of this SECTION shall happen to Acadia; or

(e) if any execution, warrant, attachment, garnishment or other similar processes shall be levied or filed against the Mortgaged Premises or any part thereof, or against Mortgagor which involve claims aggregating more than \$100,000 and such processes shall not be stayed, vacated or discharged, such as by bonding, within ninety (90) days after the same shall have been levied or filed; or

(f) if Mortgagor shall fail to perform or observe, or cause to be performed or observed the provisions contained in SECTION 2.18. herein, within the time periods set forth therein, with time being of the essence; or

(g) except as otherwise provided in PARAGRAPH (f) directly hereinabove, if Mortgagor shall fail to perform or observe, or cause to be performed or observed, any other term, obligation, covenant, condition or agreement contained in the Note, this Mortgage or in any of the other Loan Documents, or in any assignment of leases and rents or in any other instrument executed concurrently herewith by Mortgagor and/or Guarantor or supplemental hereto, pertaining to the debt evidenced by this Note or the security therefor, or under any supplement, modification or extension of any of the foregoing, on its part to be performed and such failure shall have continued for a period of thirty (30) days after notice thereof; provided, however, if such default shall not have been occasioned by any willful act of Mortgagor, and if such default cannot with due diligence be cured within such thirty (30) days period, the time within which to cure the same shall be extended for such period as may be necessary to cure the same with due diligence if Mortgagor commences within such thirty (30) days and proceeds diligently to cure the same; or

(h) if there should occur a default which is not cured within the applicable grace or cure period, if any, under any mortgage or deed of trust of all or part of the Mortgaged Premises (as such term is defined in the Mortgage), including a mortgage or deed of trust held by Mortgagee, regardless of whether any such other mortgage or deed of trust is superior, subordinate, or collateral to the Mortgage; it being further agreed by Mortgagor that an Event of Default shall constitute an "Event of Default" under any such other mortgage or deed of trust held by Mortgagee; provided, however, that this provision shall not be construed as Mortgagee's consent to any such mortgage or deed of trust; or

(i) if any "Event of Default" (as such term is defined in any Loan Document) shall occur; or

(j) if there shall be an acceleration upon default of any other loan made by or held by Mortgagee to a borrower controlled by Acadia; or

(k) if any Guarantor defaults under or attempts to withdraw, cancel or disclaim liability under any Indemnity pursuant to the terms therein; or

(l) if the Mortgagor shall default in the observance or performance of any term, covenant or condition of the Ground Lease on the part of the Mortgagor, as lessee thereunder, to be observed or performed beyond any applicable notice and cure periods under the Ground Lease; or

(m) if the leasehold estate created by the Ground Lease shall be surrendered, in whole or in material part, or if the Lease shall be terminated or canceled for any reason or under any circumstance whatsoever, or if any of the terms, covenants or conditions of the Ground Lease shall in any manner be materially modified, changed, supplemented, altered or amended without the consent of the Mortgagee, which consent shall not be unreasonably withheld.

6.2. Remedies. If an Event of Default shall occur and be continuing, the Mortgagee, at its option, may:

6.2.1. by notice to the Mortgagor, declare the entire principal amount of the Note then outstanding and all accrued and unpaid interest thereon and all other Obligations of the Mortgagor to the Mortgagee to be immediately due and payable, and upon such declaration such principal and interest and all other Obligations of the Mortgagor to the Mortgagee shall become and be immediately due and payable, anything in the Note or in this Mortgage or in any of the other Loan Documents to the contrary notwithstanding.

6.2.2. after commencement of such proceedings as may be required by any applicable law, either in person, or by its agents or attorneys, or by a court-appointed receiver, enter into and upon all or any part of the Mortgaged Premises and exclude the Mortgagor, its agents and employees from possession; and while in possession, use, operate, manage, control, and conduct the business of, the Mortgaged Premises in such manner and to such extent as the Mortgagee shall, in its reasonable discretion, determine to be appropriate, either itself or by its employees, agents, attorneys or the receiver; and maintain and restore the Mortgaged Premises and make all necessary or proper repairs, replacements, alterations, and improvements as the Mortgagee, in its reasonable discretion, determines to be advisable; and, without limiting the Mortgagee's rights under SECTION 4.4.2, the Mortgagee (whether or not it shall have taken possession of the Premises or obtained a receiver for the Mortgaged Premises) shall be entitled to collect and receive all earnings, revenues, rents, issues, profits and income of the Mortgaged Premises. After first deducting the amount of expenses incurred in connection with the operation of the Mortgaged Premises, including advances for maintenance, repairs, alterations, improvements, taxes, assessments, insurance and other prior or current charges in respect of the Mortgaged Premises or any part thereof, as well as compensation for the services of the Mortgagee and for all attorneys, agents, consultants and other persons engaged by it to render services in connection with the Mortgaged Premises, the Mortgagee shall apply the balance of said moneys to the payment of the Obligations. Any remaining moneys shall be remitted to the Mortgagor or to such other person as lawfully may be entitled thereto. Any and all amounts advanced by the Mortgagee as authorized, or contemplated, by this SECTION 6.2.2 shall bear interest from the date advanced at the Default Rate and, together with such interest, shall be added to the Obligations secured by this Mortgage, and shall be payable by Mortgagor on demand.

6.2.3. with or without entry, either itself or by its agents or attorneys:

(a) foreclose this Mortgage in accordance with the laws of the State and the provisions hereof, for all of the Obligations or for any portion thereof or any other sums secured hereby which are then due and payable, subject to the continuing lien of this Mortgage for the balance of the Obligations not then due; or

(b) take such steps to protect and enforce its rights whether by action, suit or proceeding in equity or at law for the specific performance of any covenant, condition or agreement in the Note or in this Mortgage, or in aid of the execution of any power herein granted, or for any foreclosure hereunder, or for the enforcement of any other appropriate legal or equitable remedy or otherwise as the Mortgagee shall elect, including bringing any appropriate action or proceeding to foreclose this Mortgage and any other documents securing the Note and to sell, as an entirety or in separate lots or parcels, the Mortgaged Property under the power of sale hereinafter provided or the judgment or decree of a court or courts of competent jurisdiction; and (c) to pursue any other remedy available to it. The Mortgagee shall take action either by such proceedings or by the exercise of its power with respect to entry and/or taking possession, or both, as the Mortgagee may determine; and

6.2.4. exercise any or all of its rights and remedies under the Loan Documents in such order of priority as the Mortgagee shall determine in its sole discretion. The Mortgagee may proceed in any such action to final judgment and execution thereon for all sums due under SECTION 6.2.1, together with interest on such sums at the Default Rate. Interest at the Default Rate shall be due on any judgment obtained by the Mortgagee from the date of judgment until actual payment is made of the full amount of the judgment by the Sheriff or otherwise.

6.3. Foreclosure; No Marshalling of Assets; Appointment of Receiver.

6.3.1. In case of a foreclosure sale, all of the Mortgaged Premises, at the option of Mortgagee, in its sole discretion, may be sold in one or more parcels even though the proceeds of such sale exceed or may exceed the Obligations. The Mortgagee shall not be required to exercise any rights under this Mortgage before proceeding against any other security, shall not be required to proceed against other security before proceeding under this Mortgage, and shall not be precluded from proceeding against any or all of any security held by the Mortgagee for any or all of the Obligations in any order or at the same time.

6.3.2. The Mortgagee, in any action to foreclose this Mortgage, shall be entitled, without notice and without regard to the adequacy of any security for the Obligations or the solvency of any Person liable for the payment thereof, to the appointment of a receiver of the rents and profits of the Mortgaged Premises.

6.3.3. The Mortgagor agrees, to the full extent that it may lawfully do so, that in any foreclosure or other action brought by the Mortgagee to enforce this Mortgage, it will not at any time insist upon or plead or in any way take advantage of any appraisal, valuation, stay, marshalling of assets, extension, redemption or moratorium law now or hereafter in force and effect so as to prevent, hinder, delay or otherwise affect the enforcement of the provisions of this Mortgage or any rights or remedies the Mortgagee may have hereunder or by law.

6.3.4. If the Mortgagee shall elect to accelerate the Obligations following the occurrence of an Event of Default, the Mortgagor, within five (5) days after demand, will pay to the Mortgagee, or any receiver appointed in connection with the foreclosure of this Mortgage, any and all amounts then held as security deposits under all Space Leases; and the Mortgagee or such receiver shall be deemed to indemnify the Mortgagor against all claims of tenants in respect of the security deposits so paid following such demand.

6.3.5. If an Event of Default shall occur and be continuing, in addition to all other rights of the Mortgagee provided in this Mortgage or by law, the Mortgagor shall, on demand, surrender possession of the Mortgaged Premises to the Mortgagee; the Mortgagor consents that the Mortgagee may exercise any or all of the rights specified in SECTION 6.2.2; and the Mortgagor irrevocably appoints the Mortgagee its attorney-in-fact, coupled with an interest, for such purposes. If the Mortgagor is then an occupant of all or any portion of the Mortgaged Premises, it agrees to surrender possession of that part of the Mortgaged Premises which it occupies to the Mortgagee immediately upon demand if an Event of Default shall have occurred and be continuing. If the Mortgagor remains in possession despite such demand, such possession shall, at the Mortgagee's election, be as tenant of the Mortgagee; and the Mortgagor agrees to pay monthly in advance to the Mortgagee such rent for the premises so occupied as the Mortgagee may demand, and in default of so doing, the Mortgagor may also be dispossessed by summary proceedings or otherwise. If a receiver of the rents and profits of the Mortgaged Premises shall be appointed, the covenants of this SECTION 6.3.5 may be enforced by the receiver.

#### 6.4. Legal Expenses of Mortgagee.

6.4.1. The Mortgagor will pay to the Mortgagee, on demand, all costs, charges and expenses (including, without limitation, reasonable attorneys' fees and disbursements) incurred or paid at any time by the Mortgagee (i) in connection with any action or proceeding to foreclose this Mortgage or to recover or collect all, or any portion of the Obligations; and (ii) in connection with any modification or amendment or assignment of this Mortgage or the other Loan Documents, together with interest on each such payment made by the Mortgagee at the Default Rate from the date of the Mortgagee's demand for such payment to the date of reimbursement by Mortgagor.

6.4.2. If any action or proceeding be commenced in which the Mortgagee is made a party, or in which it becomes necessary to defend or uphold the lien of this Mortgage, all reasonable sums paid by the Mortgagee for the expense of any litigation to prosecute or defend the title, rights and lien created by this Mortgage (including, without limitation, reasonable attorneys' fees) shall be paid by the Mortgagor, together with interest thereon at the Default Rate from the date of the Mortgagee's demand for such payment to the date of reimbursement by Mortgagor.

6.5. Remedies Cumulative; No Waiver; Etc.

6.5.1. No remedy in this Mortgage conferred upon or reserved to the Mortgagee is intended to be exclusive of any other remedy or remedies, and each and every such remedy shall be cumulative, and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity. No delay or omission by the Mortgagee in exercising any right or power arising upon any Event of Default shall impair any such right or power, or shall be construed to be a waiver of or acquiescence in any such Event of Default; and every power and remedy given by this Mortgage to the Mortgagee may be exercised from time to time as often as the Mortgagee may determine it is appropriate to do so.

6.5.2. A waiver in one or more instances of compliance with any of the terms, covenants, conditions or provisions of this Mortgage or of the other Loan Documents shall apply to the particular instance or instances and at the particular time or times only, and no such waiver shall be deemed a continuing waiver. In any event, no waiver shall be effective, or be asserted by the Mortgagor as having been made, unless set forth in a writing signed by the Mortgagee.

6.5.3. The Mortgagor waives and renounces all homestead and similar exemption rights with respect to the Mortgaged Premises provided for by the Constitution and laws of the United States and of the State as against the collection of the Loan Documents, or any part thereof.

6.6. No Merger. It is the intention of the parties to this Mortgage that if the Mortgagee shall at any time hereafter acquire title to all or any portion of the Mortgaged Premises, then, and until the Obligations have been paid in full, the interest of the Mortgagee hereunder and the lien of this Mortgage shall not merge or become merged in or with the estate and interest of the Mortgagee as the holder and owner of title to all or any portion of the Mortgaged Premises and that, until such payment, the estate of the Mortgagee in the Mortgaged Premises and the lien of this Mortgage and the interest of the Mortgagee hereunder shall continue in full force and effect to the same extent as if the Mortgagee had not acquired title to all or any portion of the Mortgaged Premises.

6.7. Foreclosure of Mortgage by Power of Sale.

Mortgagee may, either with or without entry of taking possession of the Mortgaged Property as provided in this Mortgage or otherwise, personally or by its agents or attorneys, and without prejudice to the right to bring an action for foreclosure of this Mortgage, sell the Mortgaged Property or any part thereof pursuant to any procedures provide by applicable law, including, without limitation, the procedures set forth in Article 14 of the New York Real Property Actions and Proceedings Law (and any amendments or substitute statutes in regard thereto), and all estate, right, title, interest, claim and demand therein, and right of redemption thereof, at one or more sales as an entity or in parcels, and at such time and place upon such terms and after such notice thereof as may be required or permitted by applicable law.

All Notices hereunder or under any applicable law pertaining hereto (including, without limitation, Article 14 of the New York Real Property Actions and Proceeding Law) shall be in writing and shall be deemed sufficiently given or served for all purposes when delivered (1) by personal service or courier service, and shall be deemed given on the date when signed for or, if refused, when refused by the person designated as an agent for receipt of service, (ii) by facsimile transmission, and shall be deemed given when printed confirmation of completion of transmission is generated by the sender's facsimile transmission instrument, or (iii) by United States certified mail, return receipt requested, postage prepaid, and shall be deemed given two (2) days after being sent, to any party hereto at the following address: 20 Soundview Marketplace, Port Washington, New York 11050 or such other address of which a party shall have notified the party giving such notice in writing as aforesaid. For purposes hereof, notices may be given by the parties hereto or by their attorneys identified herein.

6.8. Purchase by Mortgagee.

Without limiting any other provision contained herein, upon any such foreclosure sale, the Mortgagee may bid for and purchase the Mortgaged Property and, upon compliance with the terms of sale, may hold, retain and possess and dispose of such property in its own absolute right without further accountability.

6.9. Application of Indebtedness Toward Purchase Price

Without limiting any other provision contained herein, upon any such foreclosure sale, the Mortgagee may, if permitted by law, and after allowing for costs and expenses of the sale, compensation and other charges, in paying the purchase price, apply any portion or all of the indebtedness and other sums due to the Mortgagee under the Note, this Mortgage or any other instrument securing the Note, in lieu of cash, to the amount which shall, upon distribution of the net proceeds of such sale, be payable thereon.

6.10. Waiver of Appraisalment, Valuation, Stay, Execution and Redemption Laws

Without limiting any other provision contained herein, the Mortgagor agrees, to the full extent permitted by law that in case of a default on its part hereunder, neither the Mortgagor nor anyone claiming through or under it shall or will set up, claim or seek to take advantage of any appraisalment, valuation, stay, extension or redemption laws now or hereafter in force, in order to prevent or hinder the enforcement or foreclosure of this Mortgage or the absolute sale of the Mortgaged Property or the final and absolute putting into possession thereof, immediately after such sale, of the purchasers thereat, and the Mortgagor for itself and all who may at any time claim through or under it, hereby waives, to the full extent that may be lawfully so do, the benefit of all such laws, and any and all right to have the assets comprising the Mortgaged Property marshalled upon any foreclosure of the lien hereof and agrees that the Mortgagee or any court having jurisdiction to foreclose such lien may sell the Mortgaged Property in part or as an entirety. Mortgagor agrees that neither it nor any guarantor will assert a defense in any action to recover a deficiency judgment following a foreclosure that the sales price realized at the sale was less than the fair market value.

#### 6.11. Receiver

Without limiting any other provision contained herein, if an Event of Default shall have occurred, the Mortgagee, to the extent permitted by law and without regard to the value, adequacy or sufficiency of the security for the indebtedness and other sums secured hereby, shall be entitled as a matter of right if it so elects to the appointment of a receiver to enter upon and take possession of the Mortgaged Property and to collect all rents, income and other benefits thereof and apply the same as the court may direct. The expenses, including receiver's fees, reasonable attorneys' fees, costs and reasonable agent's compensation, incurred pursuant to the powers herein contained shall be secured by this Mortgage. The right to enter and take possession of and to manage and operate the Mortgaged Property and to collect all rents, income and other benefits thereof, whether by a receiver or otherwise, shall be cumulative to any other right or remedy hereunder of afforded by law or in equity and may be exercised concurrently therewith or independently therewith or independently thereof. The Mortgagee shall be liable to account only for such rents, income and other benefits actually received by the Mortgagee, whether received pursuant to this paragraph or paragraph 3.03. Notwithstanding the appointment of any receiver or other custodian, the Mortgagee shall be entitled as pledged to the possession and control of any cash, deposits, or instruments at the time held by, or payable or deliverable under the terms of this Mortgage to, the Mortgagee.

#### 6.12. Suits to Protect the Mortgaged Property

Without limiting any other provision contained herein, the Mortgagee shall have the power and authority to institute and maintain any suits and proceedings as the Mortgagee may deem advisable in its judgment (a) to prevent any impairment of the Mortgaged Property by any acts which may be unlawful or any violation of this Mortgage, (b) to preserve or protect its interest in the Mortgaged Property, and (c) to restrain the enforcement of or compliance with any legislation or other governmental enactment, rule or order might impair the security hereunder or be prejudicial to the Mortgagee's interest.

#### 6.13. Proofs of Claim

Without limiting any other provision contained herein, in case of any receivership, insolvency, bankruptcy, reorganization, arrangement, adjustment, composition or other judicial proceedings affecting the Mortgagor or any guarantor, co-maker or endorser of any of the Mortgagor's obligations, its creditors or its property, the Mortgagee, to the extent permitted by law, shall be entitled to file such proofs of claim and other documents as may be necessary or advisable in order to have its claims allowed in such proceedings for the entire amount due and payable by the Mortgagor under the Note, this Mortgage and any other instrument securing the Note, at the date of the institution of such proceedings, and for any additional amounts which may become due and payable by the Mortgagor after such date.

#### 6.14. Delay or Omission No Waiver

No delay or omission of Mortgagee or of any holder of the Note to exercise any right, power or remedy accruing upon any Event of Default shall exhaust or impair any such right, power or remedy or shall be construed to waive any such Event of Default or to constitute acquiescence therein. Every right, power and remedy given to the Mortgagee may be exercised from time to time and as often as may be deemed expedient by the Mortgagee.

#### 6.15. No Waiver of One Default to Affect Another

No waiver of any Event of Default hereunder shall extend to or affect any subsequent or any other Event of Default then existing, or impair any rights, powers or remedies consequent thereon. If the Mortgagee (a) grants forbearance or an extension of time for the payment of any sums secured hereby; (b) takes other or additional security for the payment thereof; (c) waives or does not exercise any right granted in the Note, this Mortgage or any instrument securing the Note; (d) releases any part of the Mortgaged Property from the lien of this Mortgage or any other instrument securing the Note; (e) consents to the filing of any map, plat or replat of the Land; (f) consents to the granting of any easement on the Land; or (g) makes or consents to any agreement changing the terms of this Mortgage or subordinating the lien or any charge hereof, then, except as otherwise provided by an instrument executed by the Mortgagee, no such act or omission shall release, discharge, modify, change or affect the original liability under the Note, this Mortgage or otherwise of the Mortgagor or any subsequent purchaser of the Mortgaged Property or any part thereof or any maker, co-signer, endorser, surety or guarantor. No such act or omission shall preclude the Mortgagee from exercising any right, power or privilege herein granted or intended to be granted in case of any Event of Default then existing or of any subsequent Event of Default nor, except as otherwise expressly provided in an instrument executed by the Mortgagee, shall the lien of this Mortgage be altered thereby, except to the extent of releases as described in subparagraph (d) above of this paragraph 3.12. In the event of the sale or transfer by operation of law or otherwise of all or any part of the Mortgaged Property, the Mortgagee, without notice to any person, firm or corporation, is hereby authorized and empowered to deal with any such vendee or transferee with reference to the Mortgaged Property or the indebtedness secured hereby, or with reference to any of the terms or conditions hereof, as fully and to the same extent as it might deal with the original parties hereto and without in any way releasing or discharging any of the liabilities or undertakings hereunder.



6.16. Discontinuance of Proceedings; Position of Parties

Restored

If the Mortgagee shall have proceeded to enforce any right or remedy under the Mortgage by foreclosure, entry or otherwise and such proceedings shall have resulted in a final determination adverse to the Mortgagee, then and in every such case the Mortgagor and the Mortgagee shall be restored to their former positions and rights hereunder, and all rights, powers and remedies of the Mortgagee shall continue as if no such proceedings had occurred or had been taken.

6.17. Remedies Cumulative

No right, power or remedy conferred upon or reserved to the Mortgagee by the Note, this Mortgage or any other instrument securing the Note is exclusive of any other right, power or remedy, but each such right, power and remedy shall be cumulative and concurrent and shall be in addition to any other right, power and remedy given hereunder or under the Note or any other instrument securing the Note, or now or hereafter existing as law, in equity or by statute.

6.18. Defeasance

If Mortgagor shall pay or cause to be paid the principal of and premium, if any, and interest on the Note, in accordance with the terms thereof, and if the Mortgagor shall pay or cause to be paid all sums payable hereunder by the Mortgagor and shall comply with all terms, conditions and requirements hereof, then this Mortgage shall be null and void and of no further force and effect and shall be released by the Mortgagee upon the written request and at the expense of the Mortgagor.

6.19. Interest After Default

Upon default or after maturity or after judgment has been rendered on the Note, Mortgagor's right to select pricing options shall cease and the unpaid principal of all advances shall, at the option of the Mortgagee, bear interest at the Involuntary Rate.

6.20. Construction of Mortgagee Rights

All covenants hereof shall be construed as affording to the Mortgagee rights additional to and not exclusive of the rights conferred under the provisions of Section 254 and 273 of the Real Property Law of the State of New York.

ARTICLE VII.

Provisions of General Application

7.1. Modifications. No change, amendment, termination, modification or cancellation of this Mortgage, or of any part hereof, shall be valid unless set forth in a writing signed by the Mortgagor and the Mortgagee, except that only the Mortgagee need sign any satisfaction of this Mortgage.

7.2. Notices. All notices, demands, requests, consents, approvals or other communications (each, a "Notice") given or required to be given hereunder shall be deemed given or furnished hereunder when addressed to the party intended to receive the same, at the address of such party set forth below:

Mortgagee: Fleet Bank, National Association, 1133 Avenue of the Americas, New York, New York 10036, Attention: Denise Smyth, Vice President,

Mortgagor: Port Bay Associates, LLC, c/o Acadia Realty Trust, 20 Soundview Marketplace, Port Washington, New York 11050, Attention: Robert Masters, Esq.

Each such Notice shall be effective (i) if delivered by hand, at the time of delivery to the address specified herein below or (ii) if given by first-class certified or first-class registered mail, return receipt requested postage prepaid, on the fourth Business Day (as "Business Day" is defined in the Note) following the time of mailing in the manner aforesaid, or (iii) on the Business Day immediately following the delivery of such notice to an overnight delivery service.

Any party may change the address to which any such notice, report, demand or other instrument is to be delivered or mailed, by furnishing written notice of such change to the other parties, but no such notice of change shall be effective unless and until received by such other parties.

7.3. The Mortgagee's Rights to Perform the Mortgagor's Covenants. If the Mortgagor shall fail to pay or cause payment to be paid to the Mortgagee in accordance with the terms of the Loan Documents, or to perform or observe any other term, covenant, condition or obligation required to be performed or observed by the Mortgagor under this Mortgage or the other Loan Documents, without limiting any other provision of this Mortgage, and without waiving or releasing the Mortgagor from any obligation or default hereunder, after giving any notice to the Mortgagor required hereunder and after the passage of any applicable cure periods (or without such notice in the event of an emergency), the Mortgagee (or any receiver of the Mortgaged Premises) shall have the right, but not the obligation, to make any such payment, or to perform any other act or take any appropriate action, including, without limitation, entry on the Mortgaged Premises and performance of work thereat, as it, in its sole discretion, may deem necessary to cause such other term, covenant, condition or obligation to be promptly performed or observed on behalf of the Mortgagor or to protect the security of this Mortgage. All amounts advanced by, or on behalf of, the Mortgagee in exercising its rights under this SECTION 7.3 (including, but not limited to, legal expenses and disbursements incurred in connection therewith), together with interest thereon at the Default Rate from the date of the Mortgagee's demand upon the Mortgagor for reimbursement of such sums until reimbursement by the Mortgagor, shall be payable by the Mortgagor to the Mortgagee upon demand and shall be secured by this Mortgage.

7.4. Additional Sums Payable by the Mortgagor. All sums which, by the terms of this Mortgage or any of the other Loan Documents are payable by the Mortgagor to the Mortgagee shall, together with the interest thereon provided for herein or in the Note or such other Loan Documents, be added to and deemed part of the Obligations secured by the lien of this Mortgage whether or not the provision which obligates the Mortgagor to make any such payment to the Mortgagee specifically so states.

7.5. Captions. The captions used in this Mortgage are inserted only as a matter of convenience and for reference, and in no way define, limit, enlarge or describe the scope or intent of this Mortgage or in any other way affect this Mortgage or the construction of any provision hereof.

7.6. Successors and Assigns. The covenants and agreements contained in this Mortgage shall run with the land and bind the Mortgagor, the heirs, legatees, legal representatives, successors and assigns of the Mortgagor and of each Person constituting the Mortgagor and all subsequent owners, encumbrancers and Space Tenants of the Mortgaged Premises, or any part thereof; and shall inure to the benefit of the Mortgagee, its successors and assigns and all subsequent beneficial owners of this Mortgage.

7.7. Gender and Number. Wherever the context of this Mortgage so requires, the neuter gender includes the masculine and/or feminine gender and the singular number includes the plural.

7.8. Severability. If any one or more of the provisions contained in this Mortgage shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provisions of this Mortgage; and this Mortgage shall, in such event, be construed as if such invalid, illegal or unenforceable provision had never been included.

7.9. Usury. Anything in this Mortgage or the other Loan Documents to the contrary notwithstanding, the Mortgagee shall never be entitled to receive, collect or apply as interest on the principal amount of the Obligations secured hereby any amount in excess of the maximum rate of interest permitted to be charged by applicable law. In the event the Mortgagee ever receives, collects or applies as interest any such excess, the amount which would be excessive interest shall be applied to the reduction of the principal amount of said Obligations; and if said principal amount shall have been paid in full, shall be remitted to the Mortgagor. In determining whether or not the interest paid or payable in any specific instance shall exceed the highest lawful rate, the Mortgagor and the Mortgagee shall to the maximum extent permitted by applicable law (i) characterize any non-principal payment as an expense, fee or premium rather than as interest, (ii) exclude voluntary prepayments and the effects thereof and (iii) "spread" the total amount of interest throughout the entire contemplated terms of the obligations so that the interest rate is uniform throughout the entire said term.

7.10. Subrogation. Should the proceeds of the loan made by the Mortgagee to the Mortgagor and evidenced by the Note be used directly or indirectly to discharge, or satisfy, in whole or in part, any prior lien or encumbrance upon the Mortgaged Premises or any part thereof, then the Mortgagee shall be subrogated to such other lien or encumbrance and to any additional security held by the holder thereof and shall have the benefit of the priority thereof.

7.11. Controlling Law. This Mortgage shall be governed by, and construed and enforced in accordance with, the laws of the State of New York.

7.12. Entire Agreement. This Mortgage, together with the other Loan and Loan Documents, embodies the entire agreement and understanding between the parties relating to the subject matter hereof.

7.13. Jurisdiction. Any legal action or proceeding with respect to the Note or any of the Loan Documents may be brought in the courts of the States of New York or if the requisites of jurisdiction obtain, of the United States of America for the Southern or Eastern District of New York and, by execution and delivery hereof, the Mortgagor hereby accepts for itself and in respect of its property, generally and unconditionally, the jurisdiction of the aforesaid courts. Nothing herein, however, shall affect the right of the Mortgagee to commence legal proceedings or otherwise proceed against the Mortgagor in any other jurisdiction. The Mortgagor hereby waives any claim that New York or any such District is an inconvenient forum and any claim against the Mortgagee for consequential, special or punitive damages respecting the Loan Documents.

7.14. Reappraisal or Subsequent Environmental Reports of Mortgaged Premises

At intervals in Mortgagee's sole discretion, the Mortgagee may order a reappraisal or an environmental assessment of the Mortgaged Property by an independent appraiser or environmental firm, as applicable, of its selection, or by an employee of the Mortgagee, and Mortgagor agrees to allow access to the Mortgaged Property to such independent appraiser, environmental firm, or employee of the Mortgagee, and in the case of an independent appraiser or environmental firm, to pay to the Mortgagee, within thirty (30) days of billing, such appraiser's or environmental firm's, as applicable, reasonable fee and expenses. However, notwithstanding the above, Mortgagor shall be responsible for paying the cost of up to one appraisal per annum if more than one appraisal per annum is required by the Mortgagee

7.15. Agent for Service of Process

The Mortgagor agrees to submit to personal jurisdiction in the State of New York in any action or proceeding arising out of this Mortgage and in furtherance of such agreement designates CT Corporation System, 111 8th Avenue, 13th Floor, New York, New York 10011 as the agent for service of process in any such action or proceeding.

7.16. Consent of Mortgagee

Except as may be specifically provided for herein, whenever the consent or approval of the Mortgagee is required, the decision whether to consent or approve shall be in the sole and absolute discretion of the Mortgagee.

7.17. Construction of Loan Document

This Mortgage, the Note and all other documents executed and delivered in connection herewith or therewith shall be given a fair and reasonable construction in accordance with the intention of the parties as expressed herein and therein and without regard for any rule of law requiring construction against the party who prepares such instruments.

ARTICLE VIII.

Intentionally Deleted.

ARTICLE IX.

Particular Provisions

The foregoing ARTICLES of this Mortgage are subject to the following further provisions, if any, set forth in this ARTICLE IX.

9.1. The phrase "if an Event of Default has occurred and is continuing" or the like contained herein, in the Note or in any other Security Document is not intended to mean, and shall not be construed, by implication or otherwise, to mean that Mortgagor or any other Person shall have a right to cure an Event of Default following acceleration by Mortgagee, and the only right Mortgagor or any other Person shall have upon the occurrence of any Event of Default and Mortgagee's election to accelerate repayment of the Obligations is to tender payment in full of the Obligations unless Mortgagee, in its sole discretion, agrees in writing to waive such Event of Default.

9.2. Interest Rate Protection Agreement. This Mortgage shall secure the payment of all amounts that may be due and payable pursuant to the terms of any interest rate swap, cap or other interest rate protection agreement (collectively, the "Hedge Agreement") now or hereafter entered into between the Mortgagor and the Mortgagee or their respective designees, including, without limitation, the obligation of the Mortgagor to make payments thereunder and to pay any amounts of which may become due upon a termination thereof. All such payments with respect to such Hedge Agreement shall be deemed to be additional interest under the Note. The additional interest shall be secured by this Mortgage (even if the principal balance has been paid in full) and the Mortgagor shall not be entitled to a satisfaction, termination or release of this Mortgage, and the lien and conveyance created by this Mortgage shall continue, if and so long as any additional interest under the Note payable by the Mortgagor remains outstanding and unpaid. A copy of the Hedge Agreement, if any, is on file with the Mortgagor.

9.3. Mortgagor Acknowledgment. The Mortgagor hereby acknowledges that it has received a complete copy of this Mortgage without charge.

9.4. Set-Off

Mortgagor represents, warrants and covenants that there are no offsets, counterclaims or defenses against the Indebtedness, the Mortgage or the Note and that Mortgagor and the undersigned has full power, authority and legal right to execute this Mortgage and to keep and observe all of the terms of this Mortgage on Mortgagor's part to be observed or performed.

Mortgagor hereby grants to Mortgagee a lien, security interest and right of setoff as security for all liabilities and obligations to Mortgagee, whether now existing or hereafter arising, upon and against all deposits, credits, collateral and property, now or hereafter in the possession, custody, safekeeping or control of Mortgagee or any entity under the control of FleetBoston Financial Corporation or in transit to any of them. At any time after an Event of Default, without demand or notice, Mortgagee may set off the same or any part thereof and apply the same to any liability or obligation of Mortgagor regardless of the adequacy of any other collateral securing the Loan. ANY AND ALL RIGHTS TO REQUIRE MORTGAGEE TO EXERCISE ITS RIGHTS OR REMEDIES WITH RESPECT TO ANY OTHER COLLATERAL WHICH SECURES THE LOAN, PRIOR TO EXERCISING ITS RIGHT OF SETOFF WITH RESPECT TO SUCH DEPOSITS, CREDITS OR OTHER PROPERTY OF THE MORTGAGOR ARE HEREBY KNOWINGLY, VOLUNTARILY AND IRREVOCABLY WAIVED.

9.5. Re-execution of Documents

Upon receipt of an affidavit of an officer of the Mortgagee as to the loss, theft, destruction or mutilation of the Note or any other security document which is not of public record, and, in the case of any such loss, theft, destruction or mutilation, upon surrender of such Note or other security document, Mortgagor will issue, in lieu thereof, a replacement Note or other security document in the same principal amount thereof and otherwise of like tenor.

9.6. Right to Prepay

Provided that the Mortgagor is not in default of any of the covenants, conditions, or agreements contained in this Mortgage, the Note or any other loan document delivered in connection thereto, the Mortgagor may prepay the Loan, in whole or in part, in accordance with, and subject to, the prepayment provisions set forth in Paragraph 10 of the Note, which Paragraph 10 includes provisions for payment of a yield maintenance premium under certain circumstances. The provisions of Paragraph 10 of the Note is incorporated herein by this reference, and shall be deemed an obligation secured by the lien of this Mortgage.

9.7. WAIVER OF JURY TRIAL

MORTGAGOR AND MORTGAGEE MUTUALLY HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVE THE RIGHT TO A TRIAL BY JURY IN RESPECT OF ANY CLAIM BASED HEREON, ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS MORTGAGE OR ANY OTHER LOAN DOCUMENTS CONTEMPLATED TO BE EXECUTED IN CONNECTION HERewith OR ANY COURSE OF CONDUCT, COURSE OF DEALINGS, STATEMENTS (WHETHER VERBAL OR WRITTEN) OR ACTIONS OF ANY PARTY. THIS WAIVER CONSTITUTES A MATERIAL INDUCEMENT FOR MORTGAGEE TO ACCEPT THIS MORTGAGE AND MAKE THE LOAN. ACCEPTANCE OF THIS MORTGAGE BY THE MORTGAGEE SHALL BE DEEMED TO CONSTITUTE A WAIVER BY THE MORTGAGEE OF THE RIGHT TO TRIAL BY JURY IN THE EVENT OF ANY LITIGATION IN RESPECT OF WHICH THE MORTGAGOR HAS WAIVED THE RIGHT TO TRIAL BY JURY HEREUNDER.

9.8. Multiple Security

If (a) the Premises shall consist of one or more parcels, whether or not contiguous and whether or not located in the same county, or (b) in addition to this Mortgage, the Mortgagee shall now or hereafter hold one or more additional mortgages, liens or other security (directly or indirectly) for the Indebtedness upon other property in the State in which the Premises are located, then to the fullest extent permitted by law, the Mortgagee may, at its election, commence or consolidate in a single foreclosure action all foreclosure proceedings against all such collateral securing the Indebtedness (including the Mortgaged Property), which action may be brought or consolidated in the courts of any county in which any of such collateral is located. The Mortgagor acknowledges that the right to maintain a consolidated foreclosure action is a specific inducement to the Mortgagee to extend the Indebtedness, and the Mortgagor expressly and irrevocably waives any objections to the commencement or consolidation of the foreclosure proceedings in a single action and any objections to the laying of venue or based on the grounds of forum non conveniens which it may now or hereafter have.

9.9. NON-RESIDENTIAL PROPERTY

This Mortgage does not cover real property principally improved by one or more structures containing in the aggregate six (6) or less residential dwelling units having their own separate cooking facilities.

9.10. Limited Recourse.

Mortgagee expressly agrees that the extent of liability of the Mortgagor for any sums due or obligations to perform under the Note (except for the indemnities and/or guarantees delivered to Mortgagee by the Mortgagor and/or the other Indemnitor dated as of this date in connection with the loan evidenced by the Note, and secured, in part, by this Mortgage) is limited to the Mortgagor's estate, right, title and interest in, to and under the Mortgaged Property, the Mortgagor's right, title and interest to the leases and all interest of undersigned thereto (the "Leases"), as described in this Mortgage and/or any other document evidencing or securing the Note, as the same may be amended from time to time (individually, herein referred to as the "Instrument" or "Loan Document" and collectively, either as "Instruments" or "Loan Documents") and the assignment of leases in rents dated of even date hereof by the Mortgagor in favor of Mortgagee, as the same may be amended from time to time (the "Assignment"), Mortgagee agreeing not to look personally to the Mortgagor or to the other Indemnitor or to any principals, trustees members,

partners, shareholders, officers, directors, employees or agents of the Mortgagor (collectively, the "Affiliates") but to look solely to the Mortgaged Property, the Leases and the Collateral and no other assets of the Mortgagor, Indemnitor or the Affiliates for payment of any of such sums; provided that the foregoing shall not (i) constitute a waiver of any obligation evidenced by the Note, this Mortgage, the Assignment and/or any other Instrument, (ii) limit the right of the holder of the Note, this Mortgage, the Assignment, and/or any other Instrument to name the Mortgagor as a party defendant in any action or suit for judicial or non-judicial foreclosure and sale under the Note, the Mortgage, the Assignment and/or any other Instrument in any action or proceeding hereunder so long as no judgment in the nature of a deficiency judgment or any other personal or money judgment shall be asked for or taken against the Mortgagor or the Affiliates, (iii) affect in any way the validity of any guaranty or indemnity from the Mortgagor, the other Indemnitors and/or any other person of all or any of the obligations evidenced and secured by the Note and/or the any of the other Instruments, or the rights of the Mortgagee in connection with such guaranties and/or indemnities to look to the property and assets of the Mortgagor, the other Indemnitor, any guarantor, and/or any Affiliates, but only to the extent provided in such guaranty and/or indemnity, as the case may be (iv) release or impair the Note or the lien of the Mortgage, the Assignment, and/or other Instrument, (v) prevent or in any way hinder the Mortgagee from exercising or constitute a defense, an affirmative defense, a counterclaim or other basis for relief in respect of the exercise of, any other remedy against the Mortgaged Property, the Leases and/or the Collateral and/or the Mortgage, Assignment, Instrument and/or any other instrument securing the Note including the other loan documents executed and delivered to the Mortgagee in connection with the transactions contemplated herein or as prescribed by law or in equity in case of default, except that Mortgagee shall in no event seek any deficiency or other personal or money judgment against the Mortgagor or any Affiliates except to the extent provided for in such guarantees and/or indemnities, (vi) prevent or in any way hinder the Mortgagee from exercising, or constitute a defense, an affirmative defense, a counterclaim or other basis for relief in respect of the exercise of, its remedies in respect of any deposits, insurance proceeds, condemnation awards or other monies or other collateral or letters of credit securing the Note, or (vii) be applicable to the responsible Person in the event of and to the extent of fraud, misappropriation of funds or other property, or intentional damage to any of the Mortgaged Premises or any other collateral securing this Note or any part thereof intentionally inflicted in bad faith by Mortgagor or any partner, principal, shareholder, officer, director, agent or employee of Maker or any partner or principal of any of the foregoing or (viii) be applicable to the liability arising in respect of hazardous materials or ADA compliance.

Nothing herein shall be deemed to be a waiver of any right which the Mortgagee may have under Section 506(a), 506(b), 1111(b) or any other provision of the Bankruptcy Reform Act of 1978 or any successor thereto or similar provisions under applicable state law to file a claim for the full amount of the debt owing to the Mortgagee by the Mortgagor or to require that all of the Mortgaged Property shall continue to secure all of the indebtedness owing to the Mortgagee in accordance with the Note, this Mortgage, and the other Loan Documents.



THIS MORTGAGE IS GIVEN ON THE CONDITION that if the Mortgagor, its successors or assigns, shall well and truly pay the Note according to its tenor and shall pay all other sums due under the Loan Documents and any Hedge Agreement, and shall duly perform every covenant, term, condition and agreement of the Mortgagor in this Mortgage and in the Note and other Loan Documents contained and pay all of the other Obligations, then this Mortgage shall be void; otherwise it shall remain in full force and effect.

IN WITNESS WHEREOF, the Mortgagor has executed this Mortgage as of the day and year first above written.

MORTGAGOR:

Port Bay Associates, LLC

By: Acadia Realty Limited Partnership,  
its Managing Member

By: Acadia Realty Trust, its General Partner

By: \_\_\_\_\_  
Robert Masters  
Senior Vice President

STATE OF NEW YORK )  
 ) SS:  
COUNTY OF NASSAU )

On the 19th day of July, 2000 before me, the undersigned a Notary Public in and for said State, personally appeared Robert Masters, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual or the person upon behalf of which the individual acted, executed the instrument.

\_\_\_\_\_  
Notary Public

AMENDED AND RESTATED  
PROMISSORY NOTE

DEFINED TERMS

Execution Date: As of October 13, 2000 City and State of Signing: Philadelphia, Pennsylvania

Loan Amount: Twenty Five Million Two Hundred Thousand Dollars (\$25,200,000) Interest Rate: 8.13% per annum

Borrower: ACADIA REALTY LIMITED PARTNERSHIP, a Delaware limited partnership (formerly known as Mark Centers Limited Partnership)

Borrower's Address: 20 Soundview Marketplace, Port Washington, New York 11050

Holder: METROPOLITAN LIFE INSURANCE COMPANY, A NEW YORK CORPORATION

Holder's Address: Metropolitan Life Insurance Company  
200 Park Avenue 12th Floor  
New York, New York 10166  
Attention: Senior Vice-President,  
And  
Metropolitan Life Insurance Company  
One Madison Avenue  
New York, New York 10010-3690  
Attention: Vice President and Investment Counsel  
Law Department, Real Estate Investments

Maturity Date: November 1, 2010 Advance Date: The date funds are disbursed to Borrower.

Interest Only Period: The period from the Advance Date and ending on the last day of the month in which the Advance Date occurs. Principal and Interest Installment Date: The first day of the second calendar month following the Advance Date.

Monthly Installment: Equal monthly installments of principal and interest at the Interest Rate each in the amount of \$196,672.85 Permitted Prepayment Period: During the 90 day period prior to the Maturity Date, Borrower may prepay the Loan without a Prepayment Fee on 30 days prior written notice. In addition, commencing on the first day of the 61st month following the Advance Date, Borrower may prepay either the entire Loan, or 35.31746 percent of the Loan (being the portion attributable to the East End Center as described in Section 10.07(b) of the Mortgage), or 64.68253 percent of the Loan (being the portion attributable to Crescent Street as described in Section 10.07(b) of the Mortgage), with a Prepayment Fee on 60 days prior written notice.

The Monthly Installment is based upon an amortization period of 25 years.

Liable Party: Acadia Realty Trust, a publicly-traded Maryland real estate investment trust.  
Address or Liable Party: 20 Soundview Marketplace, Port Washington, New York 11050

Late Charge: An amount equal to four cents (\$.04) for each dollar that is overdue.  
Default Rate: An annual rate equal to the Interest Rate plus four percent (4%).

Note: This Amended and Restated Promissory Note.

Mortgage: Amended and Restated Mortgage, Security Agreement, and Fixture Filing dated as of the Execution Date granted by Borrower to Holder, securing this Loan and the Other Loan.

Loan Documents: This Note, the Mortgage, any other documents related to this Note and/or the Mortgage and/or the Other Loan, that certain Capital Expense Escrow Agreement between Borrower and Holder dated as of the Execution Date, and all renewals, amendments, modifications, restatements and extensions of these documents.

Other Loan: That certain loan in the amount of \$10,800,000 from Holder to Borrower evidenced by an Amended and Restated Promissory Note of even date, and all other documents related thereto.

Guaranty: Guaranty dated as of the Execution Date and executed by Liable Party.

Indemnity Agreement: Unsecured Indemnity Agreement dated as of the Execution Date and executed by Borrower and Liable Party in favor of Holder. The Indemnity Agreement and Guaranty are not Loan Documents and shall survive repayment of the Loan or other termination of the Loan Documents.

FOR VALUE RECEIVED, Borrower promises to pay to the order of Holder, at Holder's Address or such other place as Holder may from time to time designate, the Loan Amount with interest payable in the manner described below, in money of the United States of America that at the time of payment shall be legal tender for payment of all obligations.

This Note is amending and restating and consolidating into this one Note in their entirety two notes (the "Original Two Notes") given to Holder by Marvin Slomowitz as follows: (a) Mortgage Note dated November 14, 1988, in the original principal amount of \$14,200,000, and secured by a mortgage on property located at the intersection of Route 115 and Route 309 and Mundy Street, Wilkes Barre Township, Luzerne County, Pennsylvania (the "East End Center Property"); (b) Mortgage Note dated November 14, 1988, in the original principal amount of \$12,000,000 and secured by a mortgage on property on Crescent Street, Brockton, Massachusetts (the "Crescent Property"); both Original Two Notes were in 1993 assumed by Mark Centers Limited Partnership, a Delaware limited partnership, and both Original Two Notes were amended (as so amended, the "Two Notes") by Note and Mortgage Modification Agreements dated May 28, 1993, and respectively recorded in the office for the Recorder of Deeds of Luzerne County, Pennsylvania in Mortgage Book 1859 at Page 334, and in the Plymouth County Registry of Deeds, Massachusetts, in Book 11958 at Page 98. The East End Center Property and the Crescent Property both are owned by Borrower, and Borrower and Holder have agreed to amend and restate and consolidate in their entirety (and Lender shall be deemed to do so by acceptance hereof) by this Note the Two Notes and loans (as well as three other notes into one note, as reflected by the Other Loan), all of which will be secured by the Mortgage instead of by separate mortgages on each property. This Note shall not be construed as a novation of the Two Notes, except that the aggregate principal balance of the Two Notes has been reduced from \$26,200,000 to \$25,200,000.

Capitalized terms that are not defined in this Note shall have the meanings set forth in the Mortgage.

1 . Payment of Principal and Interest. Principal and interest under this Note shall be payable as follows:

(a) Interest on the funded portion of the Loan Amount shall accrue from the Advance Date at the Interest Rate and shall be paid on the first day of the first calendar month following the Advance Date;

(b) Commencing on the Principal and Interest Installment Date and on the first day of each calendar month thereafter, to and including the first day of the calendar month immediately preceding the Maturity Date, Borrower shall pay the Monthly Installment; and

(c) On the Maturity Date, a final payment in the aggregate amount of the unpaid principal sum evidenced by this Note, all accrued and unpaid interest, and all other sums evidenced by this Note or secured by the Mortgage and/or any other Loan Documents as well as any future advances under the Mortgage that may be made to or on behalf of Borrower by Holder following the Advance Date (collectively, the "Secured Indebtedness"), shall become immediately payable in full.

Borrower acknowledges and agrees that a substantial portion of the original Loan Amount shall be outstanding and due on the Maturity Date.

Interest shall be calculated on the basis of a thirty (30) day month and a three hundred sixty (360) day year, except that (i) if the Advance Date occurs on a date other than the first day of a calendar month, interest payable for the period commencing on the Advance Date and ending on the last day of the month in which the Advance Date occurs shall be calculated on the basis of the actual number of days elapsed over a 365 day or 366 day year, as applicable, and (ii) if the Maturity Date occurs on a date other than the last day of the month, interest payable for the period commencing on the first day of the month in which the Maturity Date occurs and ending on the Maturity Date shall be calculated on the basis of the actual number of days elapsed over a 365 day or 366 day year, as applicable.

2. Application of Payments. At the election of Holder, and to the extent permitted by law, 0 payments shall be applied in the order selected by Holder to any expenses, prepayment fees, late charges, escrow deposits and other sums due and payable under the Loan Documents, and to unpaid interest at the Interest Rate or at the Default Rate, as applicable. The balance of any payments shall be applied to reduce the then unpaid Loan Amount.

3. Security. The covenants of the Mortgage are incorporated by reference into this Note. This Note shall evidence, and the Mortgage shall secure, the Secured Indebtedness.

4. Late Charge. If any payment of interest, any payment of a Monthly Installment or any payment of a required escrow deposit is not paid within 7 days of the due date, Holder shall have the option to charge Borrower the Late Charge. The Late Charge is for the purpose of defraying the expenses incurred in connection with handling and processing delinquent payments and is payable in addition to any other remedy Holder may have. Unpaid Late Charges shall become part of the Secured Indebtedness and shall be added to any subsequent payments due under the Loan Documents.

5. Acceleration Upon Default . At the option of Holder, if Borrower fails to pay any sum specified in this Note within 7 days of the due date, or if an Event of Default occurs, the Secured Indebtedness, and all other sums evidenced and/or secured by the Loan Documents, including without limitation any applicable prepayment fees (collectively, the "Accelerated Loan Amount"), shall become immediately due and payable.

UPON THE OCCURRENCE OF AN EVENT OF DEFAULT, BORROWER HEREBY AUTHORIZES AND EMPOWERS ANY ATTORNEY OR THE PROTHONOTARY OR CLERK OF ANY COURT IN THE COMMONWEALTH OF PENNSYLVANIA OR ELSEWHERE, TO APPEAR AT ANY TIME FOR BORROWER IN ANY ACTION BROUGHT AGAINST BORROWER ON THIS NOTE AT THE SUIT OF HOLDER, WITH OR WITHOUT DECLARATION FILED, AS OF ANY TERM, AND THEREIN TO CONFESS OR ENTER JUDGMENT AGAINST BORROWER FOR THE ENTIRE ACCELERATED LOAN AMOUNT, TOGETHER WITH COSTS OF SUIT AND ATTORNEYS' COMMISSION OF ONE (1 %) PERCENT OF THE ACCELERATED LOAN AMOUNT FOR COLLECTION; AND IN SO DOING, THIS NOTE OR A COPY THEREOF VERIFIED BY AFFIDAVIT SHALL BE A SUFFICIENT WARRANT.

6. Interest Upon Default. The Accelerated Loan Amount shall bear interest at the Default Rate which shall never exceed the maximum rate of interest permitted to be contracted for under the laws of the Commonwealth of Pennsylvania. The Default Rate shall commence upon the occurrence of an Event of Default and shall continue until payment is received in full, including the period from judgment until actual payment.

7. Limitation on Interest. The agreements made by Borrower with respect to this Note and the other Loan Documents are expressly limited so that in no event shall the amount of interest received, charged or contracted for by Holder exceed the highest lawful amount of interest permissible under the laws applicable to the Loan. If at any time performance of any provision of this Note or the other Loan Documents results in the highest lawful rate of interest permissible under applicable laws being exceeded, then the amount of interest received, charged or contracted for by Holder shall automatically and without further action by any party be deemed to have been reduced to the highest lawful amount of interest then permissible under applicable laws. If Holder shall ever receive, charge or contract for, as interest, an amount which is unlawful, at Holder's election, the amount of unlawful interest shall be refunded to Borrower (if actually paid) or applied to reduce the then unpaid Loan Amount. To the fullest extent permitted by applicable laws, any amounts contracted for, charged or received under the Loan Documents included for the purpose of determining whether the Interest Rate would exceed the highest lawful rate shall be calculated by allocating and spreading such interest to and over the full stated term of this Note.

8. Prepayment. Borrower shall not have the right to prepay all or any portion of the Loan Amount at any time during the term of this Note except as expressly set forth in the Defined Terms or the Mortgage. If Borrower provides notice of its intention to prepay, the Accelerated Loan Amount shall become due and payable on the date specified in the prepayment notice.

9. Prepayment Fee. (a) Any tender of payment by Borrower or any other person or entity of the Secured Indebtedness, other than as expressly provided in the Loan Documents, shall constitute a prohibited prepayment. If a prepayment of all or any part of the Secured Indebtedness is made following (i) an Event of Default and an acceleration of the Maturity Date, or (ii) in connection with a purchase of the Property or a repayment of the Secured Indebtedness at any time before, during or after, a judicial or non-judicial foreclosure or sale of the Property, then to compensate Holder for the loss of the investment, Borrower shall pay an amount equal to the Prepayment Fee (as hereinafter defined).

(b) The "Prepayment Fee" shall be the greater of (A) the present value of all remaining payments of principal and interest including the outstanding principal due on the Maturity Date, discounted at the rate which, when compounded monthly, is equivalent to the Treasury Rate compounded semi annually, and (y) is the amount of the principal then outstanding, or (B) one percent (1 %) of the amount of the principal being prepaid.

(c) The "Treasury Rate" shall be the annualized yield on securities issued by the United States Treasury having a maturity equal to the remaining stated term of this Note, as quoted in the Federal Reserve Statistical Release 1H. 15 (519)] under the heading "U.S. Government Securities - Treasury Constant Maturities" for the date on which prepayment is being made. If this rate is not available as of the date of prepayment, the Treasury Rate shall be determined by interpolating between the yield on securities of the next longer and next shorter maturity. If the Treasury Rate is no longer published, Holder shall select a comparable rate. Holder will, upon request, provide an estimate of the amount of the Prepayment Fee two weeks before the date of the scheduled prepayment.

(d) In the event of a permitted prepayment during the Permitted Prepayment Period which is less than the entire principal balance of the Note, for the purposes of determining the Prepayment Fee, the outstanding principal shall be equal to the applicable percentage of principal being prepaid.

10. Waiver of Right to Prepay Note Without Prepayment Fee . Borrower acknowledges that Holder has relied upon the anticipated investment return under this Note in entering into transactions with, and in making commitments to, third parties and that the tender of any prohibited prepayment, shall, to the extent permitted by law, include the Prepayment Fee. Borrower agrees that the Prepayment Fee represents the reasonable estimate of Holder and Borrower of a fair average compensation for the loss that may be sustained by Holder as a result of a prohibited prepayment of this Note and it shall be paid without prejudice to the right of Holder to collect any other amounts provided to be paid under the Loan Documents.

BORROWER EXPRESSLY (A) WAIVES ANY RIGHTS IT MAY HAVE UNDER APPLICABLE PENNSYLVANIA LAW TO PREPAY THIS NOTE, IN WHOLE OR IN PART, WITHOUT FEE OR PENALTY, UPON ACCELERATION OF THE MATURITY DATE OF THIS NOTE, AND (B) AGREES THAT IF, FOR ANY REASON, A PREPAYMENT OF THIS NOTE IS MADE, UPON OR FOLLOWING ANY ACCELERATION OF THE MATURITY DATE OF THIS NOTE BY HOLDER ON ACCOUNT OF ANY DEFAULT BY BORROWER UNDER ANY LOAN DOCUMENT, INCLUDING BUT NOT LIMITED TO ANY TRANSFER, FURTHER ENCUMBRANCE OR DISPOSITION WHICH IS PROHIBITED OR RESTRICTED BY THE MORTGAGE, THEN BORROWER SHALL BE OBLIGATED TO PAY CONCURRENTLY THE PREPAYMENT FEE SPECIFIED IN SECTION 9. BY EXECUTING THIS NOTE, BORROWER AGREES THAT HOLDER'S AGREEMENT TO MAKE THE LOAN AT THE INTEREST RATE AND FOR THE TERM SET FORTH IN THIS NOTE CONSTITUTES ADEQUATE CONSIDERATION FOR THIS WAIVER AND AGREEMENT.

11. Liability of Borrower. Upon the occurrence of an Event of Default, except as provided in this Section 11, Holder will look solely to the Property and the security under the Loan Documents for the repayment of the Loan and will not enforce a deficiency judgment against Borrower. However, nothing contained in this section shall limit the rights of Holder to proceed against Borrower and the general partners of Borrower and/or the Liable Party, if any, (i) to enforce any Leases entered into by Borrower or its affiliates as tenant, guaranties, or other agreements entered into by Borrower in a capacity other than as borrower or any policies of insurance; (ii) to recover damages for fraud, material misrepresentation, material breach of warranty or waste; (iii) to recover any Condemnation Proceeds or Insurance Proceeds or other similar funds which have been misapplied by Borrower or which, under the terms of the Loan Documents, should have been paid to Holder; (iv) to recover any tenant security deposits, tenant letter of credit or other deposits or fees paid to Borrower that are part of the collateral for the Loan or prepaid rents for a period of more than 30 days which have not been delivered to Holder; (v) to recover Rents and Profits received by Borrower after the first day of the month in which an Event of Default occurs and prior to the date Holder acquires title to the Property which have not been applied to the Loan or in accordance with the Loan Documents to operating and maintenance expenses of the Property; (vi) to recover damages, costs and expenses arising from, or in connection with Article VI of the Mortgage pertaining to hazardous materials or the Indemnity Agreement; (vii) to recover all amounts expended and reasonable expenses of Holder in connection with the exercise of the rights and remedies under the Loan Documents and/or the foreclosure of the Mortgage; (viii) to recover damages arising from Borrower's failure to comply with Section 8.01 of the Mortgage pertaining to ERISA; and/or (ix) to the extent Holder does not require deposits on account of Impositions and/or Premiums, to the extent that any obligations for which the Impositions and/or Premiums deposit was not paid by Borrower.

The limitation of liability set forth in this Section 11 shall not apply and the Loan shall be fully recourse in the event (a) of a violation of either Section 10.01 or Section 10.02 or Section 10.05 or Section 10.06 of the Mortgage, or (b) that prior to the repayment of the Secured Indebtedness, (i) Borrower commences a voluntary bankruptcy or insolvency proceeding, or (ii) an involuntary bankruptcy or insolvency proceeding is commenced against Borrower and is not dismissed within 90 days of filing, or (iii) Borrower or any general partner of Borrower, or any person or entity related to or affiliated with Borrower or any general partner in Borrower, takes any action that challenges, interferes with, or delays the exercise of Lender's rights or remedies available under the Loan Documents, at law or in equity. In addition, this agreement shall not waive any rights which Holder would have under any provisions of the U.S. Bankruptcy Code to file a claim for the full amount of the Secured Indebtedness or to require that the Property shall continue to secure all of the Secured Indebtedness.

12. Waiver by Borrower. Borrower and others who may become liable for the payment of all or any part of this Note, and each of them, waive diligence, demand, presentment for payment, notice of nonpayment, protest, notice of dishonor and notice of protest, notice of intent to accelerate and notice of acceleration and specifically consent to and waive notice of any amendments, modifications, renewals or extensions of this Note, including the granting of extension of time for payment, whether made to or in favor of Borrower or any other person or persons.

13. Exercise of Rights. No single or partial exercise by Holder, or delay or omission in the exercise by Holder, of any right or remedy under the Loan Documents shall waive or limit the exercise of any such right or remedy. Holder shall at all times have the right to proceed against any portion of or interest in the Property in the manner that Holder may deem appropriate, without waiving any other rights or remedies. The release of any party under this Note shall not operate to release any other party which is liable under this Note and/or under the other Loan Documents or under the Indemnity Agreement.

14. Fees and Expense. If Borrower defaults under this Note, Borrower shall be personally liable for and shall pay to Holder, in addition to the sums stated above, the costs and expenses of enforcement and collection, including a reasonable sum as an attorney's fee. This obligation is not limited by Section 11.

15. No Amendment. This Note may not be modified or amended except in a writing executed by Borrower and Holder. No waivers shall be effective unless they are set forth in writing signed by the party which is waiving a right. This Note and the other Loan Documents are the final expression of the lending relationship between Borrower.

16. Governing Law. This Note is to be construed and enforced in accordance with the laws of the Commonwealth of Pennsylvania.

17. Construction. The words "Borrower" and "Holder" shall be deemed to include their respective heirs, representatives, successors and assigns, and shall denote the singular and/or plural, and the masculine and/or feminine, and natural and/or artificial persons, as appropriate. The provisions of this Note shall remain in full force and effect notwithstanding any changes in the shareholders, partners or members of Borrower. If more than one party is Borrower, the obligations of each party shall be joint and several. The captions in this Note are inserted only for convenience of reference and do not expand, limit or define the scope or intent of any section of this Note.

18. Notices. All notices, demands, requests and consents permitted or required under this Note shall be given in the manner prescribed in the Mortgage.

19. Time of the Essence. Time shall be of the essence with respect to all of Borrower's obligations under this Note.

20. Severability. If any provision of this Note should be held unenforceable or void, then that provision shall be deemed separable from the remaining provisions and shall not affect the validity of this Note, except that if that provision relates to the payment of any monetary sum, then Holder may, at its option, declare the Secured Indebtedness (together with the Prepayment Fee) immediately due and payable.

IN WITNESS WHEREOF, Borrower has executed this Note as of the Execution Date.

ACADIA REALTY LIMITED PARTNERSHIP, a  
Delaware limited partnership

By ACADIA REALTY TRUST, a  
Maryland real estate investment trust,  
its general partner

By:  
Robert Masters, Senior Vice President

AMENDED AND RESTATED  
PROMISSORY NOTE

DEFINED TERMS

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Execution Date; As of October 13, 2000 City and State of Signing: Philadelphia, Pennsylvania  
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Loan Amount: Ten Million Eight Hundred Thousand Dollars Interest Rate: Floating Rate as determined and described (\$10,800,000) below  
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Borrower: ACADIA REALTY LIMITED PARTNERSHIP, a Delaware limited partnership (formerly known as Mark Centers Limited Partnership)  
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Borrower's Address: 20 Soundview Marketplace, Port Washington, New York 11050  
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Holder: METROPOLITAN LIFE, INSURANCE COMPANY, A NEW YORK CORPORATION  
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Holder's Address: Metropolitan Life Insurance Company  
200 Park Avenue 12th Floor  
New York, New York 10166  
Attention: Senior Vice-President,  
And  
Metropolitan Life Insurance Company  
One Madison Avenue  
New York, New York 10010-3690  
Attention: Vice President and Investment Counsel  
Law Department, Real Estate Investments  
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Maturity Date: November 1, 2003

Advance Date: The date funds are disbursed to Borrower.  
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Interest Only Period: The period from the Advance Date and ending on the last day of the seventeenth month following the Advance Date.

Principal and Interest Installment Date: The first day of the nineteenth calendar month following the Advance Date.  
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Monthly Installment: Monthly installments calculated at the then applicable Floating Rate over the remainder of the amortization period, adjusted with each adjustment to the Floating Rate on each "Rate Reset Date" (as defined below).

Permitted Prepayment Period: Borrower may prepay without a prepayment fee on 30 days' notice either the entire Loan or 56.48148 percent of the Loan (being the portion attributable to Greenridge Plaza as described in Section 10.07(c) of the Mortgage, which percentage may be adjusted as provided in such Section of the Mortgage), or 28.70370 percent of the Loan (being the portion attributable to Valmont Plaza as described in Section 10.07(c) of the Mortgage, which percentage may be adjusted as provided in such Section of the Mortgage), or 14.81481 percent of the Loan (being the portion attributable to Luzerne Street as described in Section 10.07(c) of the Mortgage, which percentage may be adjusted as provided in such Section of the Mortgage).  
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The Monthly Installment is based upon an amortization period of 25 years.

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Liable Party: Acadia Realty Trust, a publicly-traded Maryland real estate investment trust.

Address of Liable Party: 20 Soundview Marketplace, Port Washington, New York 11050  
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Late Charge: An amount equal to four cents (\$.04) for each dollar that is overdue.

Default Rate: An annual rate equal to the Interest Rate plus four percent (4%).  
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Note: This Amended and Restated Promissory Note. Mortgage: Amended and Restated Mortgage, Security Agreement, and Fixture Filing dated as of the Execution Date granted by Borrower to Holder, securing this Loan and the Other Loan. Loan Documents: This Note, the Mortgage and any other documents related to this Note and/or the Mortgage and/or the Other Loan, that certain Capital Expense Escrow Agreement between Borrower and Holder dated as of the Extension Date, and all renewals, amendments, modifications, restatements and extensions of these documents. Other Loan: That certain loan in the amount of \$25,200,000 from Holder to Borrower evidenced by an Amended and Restated Promissory Note of even date, and all other documents related thereto. Guaranty: Guaranty dated as of the Execution Date and executed by Liable Party. Indemnity Agreement: Unsecured Indemnity Agreement dated as of the Execution Date and executed by Borrower and Liable Party in favor of Holder. The Indemnity Agreement and Guaranty are not Loan Documents and shall survive repayment of the Loan or other termination of the Loan Documents.  
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FOR VALUE RECEIVED, Borrower promises to pay to the order of Holder, at Holder's Address or such other place as Holder may from time to time designate, the Loan Amount with interest payable in the manner described below, in money of the United States of America that at the time of payment shall be legal tender for payment of all obligations.

This Note is amending and restating and consolidating into this one Note in their entirety three notes (the "Original Three Notes") given to Holder by Marvin Slomowitz as follows: (a) Mortgage Note dated November 14, 1988, in the original principal sum of \$6,700,000 and secured by a Mortgage on property located at the intersection of Route 11 and Nay Aug Street in Scranton, Pennsylvania (the "Greenridge Plaza Property"), (b) Mortgage Note dated November 14, 1988, in the original principal sum of \$6,100,000 and secured by a mortgage on property located on the southside of Route 93 in West Hazleton, Pennsylvania (the "Valmont Plaza Property"), and (c) Mortgage Note dated November 14, 1988, in the original principal sum of \$2,000,000 and secured by a mortgage on property located at the intersection of Luzerne and Meridian Streets in Scranton, Pennsylvania (the "Luzerne Street Property"); all of which Original Three Notes were in 1993 assumed by Mark Centers Limited Partnership, a Delaware limited partnership, and all Original Three Notes were amended (as so amended, the "Three Notes") by Note and Mortgage Modification Agreements dated May 28, 1993, and respectively recorded in the following Office for Recording of Deeds as follows: Lackawanna County in Mortgage Book 1487, at Page 1; Luzerne County in Mortgage Book 1859 at Page 311; Lackawanna County in Mortgage Book 1486, at Page 256. The Greenridge Plaza Property, Valmont Plaza Property and Luzerne Street Property all are owned by Borrower, and Borrower and Holder have agreed to amend and restate and consolidate in their entirety (and Lender shall be deemed to do so by acceptance hereof) by this Note the Three Notes and loans (as well as two other notes into one note as reflected by the Other Loan), all of which will be secured by the Mortgage instead of by separate mortgages on each property. This Note shall not be construed as a novation of the Three Notes, except that the aggregate principal balance of the Three Notes as represented by this Note has been reduced from \$14,800,000 to \$10,800,000.

Capitalized terms that are not defined in this Note shall have the meanings set forth in the Mortgage.

1. Payment of Principal and Interest. Principal and interest under this Note shall be payable as follows:

(a) Interest on the funded portion of the Loan Amount shall accrue from the Advance Date at the Interest Rate and shall be paid on the first day of the first calendar month following the Advance Date;

(b) Commencing on the Principal and Interest Installment Date and on the first day of each calendar month thereafter, to and including the first day of the calendar month immediately preceding the Maturity Date, Borrower shall pay the Monthly Installment; and

(c) On the Maturity Date, a final payment in the aggregate amount of the unpaid principal sum evidenced by this Note, all accrued and unpaid interest, and all other sums evidenced by this Note or secured by the Mortgage and/or any other Loan Documents as well as any future advances under the Mortgage that may be made to or on behalf of Borrower by Holder following the Advance Date (collectively, the "Secured Indebtedness"), shall become immediately payable in full.

Borrower acknowledges and agrees that a substantial portion of the original Loan Amount shall be outstanding and due on the Maturity Date.

Interest shall be calculated on the basis of a thirty (30) day month and a three hundred sixty (360) day year, except that (i) if the Advance Date occurs on a date other than the first day of a calendar month, interest payable for the period commencing on the Advance Date and ending on the last day of the month in which the Advance Date occurs shall be calculated on the basis of the actual number of days elapsed over a 365 day or 366 day year, as applicable, and (ii) if the Maturity Date occurs on a date other than the last day of the month, interest payable for the period commencing on the first day of the month in which the Maturity Date occurs and ending on the Maturity Date shall be calculated on the basis of the actual number of days elapsed over a 365 day or 366 day year, as applicable.

The "Floating Rate" shall be equal to 200 basis points plus "Libor" at the Advance Date and each applicable "Rate Reset Date." "Libor" is defined as the ninety-day term London Interbank Overnight Rate as of the Rate Reset Date, except that Libor applicable as of the Advance Date shall be determined as of the close of business two business days prior to the Advance Date. The Floating Rate will be reset by Holder each successive three (3) month period, commencing with the first day of the fourth calendar month (each a "Rate Reset Date") during the term of this Note equal to the sum of 200 basic points plus Libor quoted in The Wall Street Journal I on the first business day of each three-month period.

2. Application of Payments. At the election of Holder, and to the extent permitted by law, all payments shall be applied in the order selected by Holder to any expenses, prepayment fees, late charges, escrow deposits and other sums due and payable under the Loan Documents, and to unpaid interest at the Interest Rate or at the Default Rate, as applicable. The balance of any payments shall be applied to reduce the then unpaid Loan Amount.

3. Security. The covenants of the Mortgage are incorporated by reference into this Note. This Note shall evidence, and the Mortgage shall secure, the Secured Indebtedness.

4. Late Charge. If any payment of interest, any payment of a Monthly Installment or any payment of a required escrow deposit is not paid within 7 days of the due date, Holder shall have the option to charge Borrower the Late Charge. The Late Charge is for the purpose of defraying the expenses incurred in connection with handling and processing delinquent payments and is payable in addition to any other remedy Holder may have. Unpaid Late Charges shall become part of the Secured Indebtedness and shall be added to any subsequent payments due under the Loan Documents.

5. Acceleration Upon Default . At the option of Holder, if Borrower fails to pay any sum specified in this Note within 7 days of the due date, or if an Event of Default occurs, the Secured Indebtedness, and all other sums evidenced and/or secured by the Loan Documents (collectively, the "Accelerated Loan Amount"), shall become immediately due and payable. UPON THE OCCURRENCE OF AN EVENT OF DEFAULT, BORROWER HEREBY AUTHORIZES AND EMPOWERS ANY ATTORNEY OR THE PROTHONOTARY OR CLERK OF ANY COURT IN THE COMMONWEALTH OF PENNSYLVANIA OR ELSEWHERE, TO APPEAR AT ANY TIME FOR BORROWER IN ANY ACTION BROUGHT AGAINST BORROWER ON THIS NOTE AT THE SUIT OF HOLDER, WITH OR WITHOUT DECLARATION FILED, AS OF ANY TERM, AND THEREIN TO CONFESS OR ENTER JUDGMENT AGAINST BORROWER FOR THE ENTIRE ACCELERATED LOAN AMOUNT, TOGETHER WITH COSTS OF SUIT AND ATTORNEYS' COMMISSION OF ONE (1 %) PERCENT OF THE ACCELERATED LOAN AMOUNT FOR COLLECTION; AND IN SO DOING, THIS NOTE OR A COPY THEREOF VERIFIED BY AFFIDAVIT SHALL BE A SUFFICIENT WARRANT.

6. Interest Upon Default . The Accelerated Loan Amount shall bear interest at the Default Rate which shall never exceed the maximum rate of interest permitted to be contracted for under the laws of the Commonwealth of Pennsylvania. The Default Rate shall commence upon the occurrence of an Event of Default and shall continue until payment is received in full, including the period from judgment until actual payment.

7. Limitation on Interest . The agreements made by Borrower with respect to this Note and the other Loan Documents are expressly limited so that in no event shall the amount of interest received, charged or contracted for by Holder exceed the highest lawful amount of interest permissible under the laws applicable to the Loan. If at any time performance of any provision of this Note or the other Loan Documents results in the highest lawful rate of interest permissible under applicable laws being exceeded, then the amount of interest received, charged or contracted for by Holder shall automatically and without further action by any party be deemed to have been reduced to the highest lawful amount of interest then permissible under applicable laws. If Holder shall ever receive, charge or contract for, as interest, an amount which is unlawful, at

Holder's election, the amount of unlawful interest shall be refunded to Borrower (if actually paid) or applied to reduce the then unpaid Loan Amount. To the fullest extent permitted by applicable laws, any amounts contracted for, charged or received under the Loan Documents included for the purpose of determining whether the Interest Rate would exceed the highest lawful rate shall be calculated by allocating and spreading such interest to and over the full stated term of this Note.

8. Prepayment. Borrower shall not have the right to prepay all or any portion of the Loan Amount at any time during the term of this Note except as expressly set forth in the Defined Terms or the Mortgage. If Borrower provides notice of its intention to prepay, the Accelerated Loan Amount shall become due and payable on the date specified in the prepayment notice.

9. Liability of Borrower. Upon the occurrence of an Event of Default, except as provided in this Section 9, Holder will look solely to the Property and the security under the Loan Documents for the repayment of the Loan and will not enforce a deficiency judgment against Borrower. However, nothing contained in this section shall limit the rights of Holder to proceed against Borrower and the general partners of Borrower and/or the Liable Party, if any, (i) to enforce any Leases entered into by Borrower or its affiliates as tenant, guarantees, or other agreements entered into by Borrower in a capacity other than as borrower or any policies of insurance; (ii) to recover damages for fraud, material misrepresentation, material breach of warranty or waste; (iii) to recover any Condemnation Proceeds or Insurance Proceeds or other similar funds which have been misapplied by Borrower or which, under the terms of the Loan Documents, should have been paid to Holder; (iv) to recover any tenant security deposits, tenant letter of credit or other deposits or fees paid to Borrower that are part of the collateral for the Loan or prepaid rents for a period of more than 30 days which have not been delivered to Holder; (v) to recover Rents and Profits received by Borrower after the first day of the month in which an Event of Default occurs and prior to the date Holder acquires title to the Property which have not been applied to the Loan or in accordance with the Loan Documents to operating and maintenance expenses of the Property; (vi) to recover damages, costs and expenses arising from, or in connection with Article VI of the Mortgage pertaining to hazardous materials or the Indemnity Agreement; (vii) to recover all amounts expended and reasonable expenses of Holder in connection with the exercise of its rights and remedies under the Loan Documents and/or the foreclosure of the Mortgage; (viii) to recover damages arising from Borrower's failure to comply with Section 8.01 of the Mortgage pertaining to ERISA; and/or (ix) to the extent Holder does not require deposits on account of Impositions and/or Premiums, to the extent any obligations for which the Impositions and/or Premiums deposit was not paid by Borrower.

The limitation of liability set forth in this Section 9 shall not apply and the Loan shall be fully recourse in the event (a) of a violation of either Section 10.01 or Section 10.02 or Section 10.05 or Section 10.06 of the Mortgage, or (b) that prior to the repayment of the Secured Indebtedness, or (i) Borrower commences a voluntary bankruptcy or insolvency proceeding, or (ii) an involuntary bankruptcy or insolvency proceeding is commenced against Borrower and is not dismissed within 90 days of filing, or (iii) Borrower or any general partner of Borrower, or any person or entity related to or affiliated with Borrower or any general partner in Borrower, takes any action that challenges, interferes with, or delays the exercise of Lender's rights or remedies available under the Loan Documents, at law or in equity. In addition, this agreement shall not waive any rights which Holder would have under any provisions of the U.S. Bankruptcy Code to file a claim for the full amount of the Secured Indebtedness or to require that the Property shall continue to secure all of the Secured Indebtedness.

10. Waiver by Borrower . Borrower and others who may become liable for the payment of all or any part of this Note, and each of them, waive diligence, demand, presentment for payment, notice of nonpayment, protest, notice of dishonor and notice of protest, notice of intent to accelerate and notice of acceleration and specifically consent to and waive notice of any amendments, modifications, renewals or extensions of this Note, including the granting of extension of time for payment, whether made to or in favor of Borrower or any other person or persons.

11. Exercise of Rights. No single or partial exercise by Holder, or delay or omission in the exercise by Holder, of any right or remedy under the Loan Documents shall waive or limit the exercise of any such right or remedy. Holder shall at all times have the right to proceed against any portion of or interest in the Property in the manner that Holder may deem appropriate, without waiving any other rights or remedies. The release of any party under this Note shall not operate to release any other party which is liable under this Note and/or under the other Loan Documents or under the Indemnity Agreement.

12. Fees and Expenses. If Borrower defaults under this Note, Borrower shall be personally liable for and shall pay to Holder, in addition to the sums stated above, the costs and expenses of enforcement and collection, including a reasonable sum as an attorney's fee. This obligation is not limited by Section 9.

13. No Amendment . This Note may not be modified or amended except in a writing executed by Borrower and Holder. No waivers shall be effective unless they are set forth in a writing signed by the party which is waiving a right. This Note and the other Loan Documents are the final expression of the lending relationship between Borrower.

14. Governing Law. This Note is to be construed and enforced in accordance with the laws of the Commonwealth of Pennsylvania.

15. Construction . The words "Borrower" and "Holder" shall be deemed to include their respective heirs, representatives, successors and assigns, and shall denote the singular and/or plural, and the masculine and/or feminine, and natural and/or artificial persons, as appropriate. The provisions of this Note shall remain in full force and effect notwithstanding any changes in the shareholders, partners or members of Borrower. If more than one party is Borrower, the obligations of each party shall be joint and several. The captions in this Note are inserted only for convenience of reference and do not expand, limit or define the scope or intent of any section of this Note.

16. Notices. All notices, demands, requests and consents permitted or required under this Note shall be given in the manner prescribed in the Mortgage.

17. Time of the Essence. Time shall be of the essence with respect to all of Borrower's obligations under this Note.

18. Severability. If any provision of this Note should be held unenforceable or void, then that provision shall be deemed separable from the remaining provisions and shall not affect the validity of this Note, except that if that provision relates to the payment of any monetary sum, then Holder may, at its option, declare the Secured Indebtedness (together with the Prepayment Fee) immediately due and payable.

IN WITNESS WHEREOF, Borrower has executed this Note as of the Execution  
Date.

ACADIA REALTY LIMITED PARTNERSHIP, a  
Delaware limited partnership

By ACADIA REALTY TRUST, a  
Maryland real estate investment trust,  
its general partner

By: \_\_\_\_\_  
Robert Masters, Senior Vice President

AMENDED AND RESTATED  
MORTGAGE, SECURITY AGREEMENT AND  
FIXTURE FILING

BY

ACADIA REALTY LIMITED PARTNERSHIP  
(formerly known as Mark Centers Limited Partnership),  
a Delaware Limited Partnership,  
as Borrower

TO

METROPOLITAN LIFE INSURANCE COMPANY,  
a New York corporation,  
as Lender  
October 13, 2000  
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EXHIBIT A PROPERTY DESCRIPTION

EXHIBIT B LEASING GUIDELINES

AMENDED AND RESTATED  
MORTGAGE, SECURITY AGREEMENT AND FIXTURE FILING DEFINED TERMS

Execution Date: As of October 13, 2000

Note: Together, those two Amended and Restated promissory notes dated as of the Execution Date made by Borrower to the order of Lender in the principal amount of \$25,200,000 and \$10,800,000, respectively, and defined below as the Fixed Rate Note and Floating Rate Note, respectively.

Lender & Address: Metropolitan Life Insurance Company, a New York corporation  
200 Park Avenue, 12<sup>th</sup> Floor  
New York, New York 10166  
Attention: Senior Vice President  
Real Estate Investments

and: Metropolitan Life Insurance Company  
One Madison Avenue  
New York, New York 10010-3690  
Attention: Vice President and Investment Counsel  
Law Department, Real Estate Investments

Borrower & Address: ACADIA REALTY LIMITED PARTNERSHIP, a Delaware limited partnership (formerly known as Mark Centers Limited Partnership)  
20 Soundview Marketplace  
Port Washington, New York 11050

Liable Party & Address: ACADIA REALTY TRUST, a Maryland real estate investment trust  
20 Soundview Marketplace  
Port Washington, New York 11050

Counties and States ("State" shall mean as to each portion of the Property, the state in which such property is located): Five Properties are encumbered. Their locations, and the name in this Mortgage under which each is known is as follows:

- a) Approximately 40 acres at intersection of Routes 115 and 309 in Wilkes Barre, Luzerne County, Pennsylvania ("East End Center")
- b) Approximately 22.5 acres at intersection of Route 27 and Electric Avenue in Brockton, Plymouth County, Massachusetts ("Crescent Street")
- c) Approximately 15.05 acres at intersection of Route 11 and Nay Aug Street in Scranton, Lackawanna County, Pennsylvania ("Greenridge Plaza")
- d) Approximately 18.47 acres on south side of Route 93, approximately 2 miles east of I-81, in West Hazelton, Luzerne County, Pennsylvania ("Valmont Plaza")
- e) Approximately 4.6 acres at the intersection of Luzerne and Meridian Streets in Scranton, Lackawanna County, Pennsylvania ("Luzerne Street")

Use: Each a community or neighborhood shopping center

Insurance:

Full Replacement Cost:

Business Income:

Commercial General Liability

Loan Amount	Required Liability Limits (\$)
1-5 Million	5 Million
5-10 Million	10 Million
10- 15 Million	15 Million
15 Million & over	25 Million

Address for Insurance Notification:

Metropolitan Life Insurance Company One Madison Avenue New York, New York  
10010-3690 Attn: Risk Management Unit, Area: 3 D/E

Loan Documents: The Note, this Mortgage and any other documents related to the Note and/or this Mortgage, including without limitation that Capital Escrow Agreement of even date between Borrower and Lender, and all renewals, amendments, modifications, restatements and extensions of these documents.

Indemnity Agreement: Unsecured Indemnity Agreement dated as of the Execution Date and executed by Borrower and Liable Party in favor of Lender.

Guaranty: Guaranty dated as of the Execution Date and executed by Liable Party. The Indemnity Agreement and the Guaranty are not Loan Documents and shall survive repayment of the Loan or other termination of the Loan Documents.

This AMENDED AND RESTATED MORTGAGE, SECURITY AGREEMENT AND FIXTURE FILING (this "Mortgage") is entered into as of the Execution Date by Borrower to Lender with reference to the following Recitals (all of which also shall be operative provisions of this Amended and Restated Mortgage):

RECITALS

A. By documents all dated November 14, 1988, Lender made five separate loans to Marvin Slornowitz C'Slomowitz"), each of which was evidenced by the following notes and secured by the following mortgages:

1. Mortgage Note ("Original East End Note") in the original principal amount of \$14,200,000, secured by a Mortgage and Security Agreement ("Original East End Mortgage") on the East End Center recorded on November 15, 1988 in the Office of the Recording of Deeds (the "Public Office") of Luzerne County, Pennsylvania, in Mortgage Book 1550, at Page 467 (together, the "East End Center Note and Mortgage").

2. Mortgage Note ("Original Crescent Note") in the original principal sum of \$12,000,000, secured by a Mortgage and Security Agreement ("Original Crescent Mortgage") on Crescent Street recorded on November 22, 1988, in the Plymouth County Registry of Deeds, Massachusetts, in Book 8842, at Page 12 (together, the "Crescent Street Note and Mortgage").

3. Mortgage Note ("Original Greenridge Note") in the original principal amount of \$6,700,000, secured by a Mortgage and Security Agreement ("Original Greenridge Mortgage") on Greenridge Plaza and recorded on November 15, 1988, in the Public Office for Lackawanna County in Mortgage Book 1116, at Page 331 (together, the "Greenridge Note and Mortgage").

4. Mortgage Note ("Original Valmont Note") in the original principal amount of \$6,100,000, secured by a Mortgage and Security Agreement ("Original Valmont Mortgage") on Valmont Plaza and recorded on November 15, 1988, in the Public Office for Luzerne County in Mortgage Book 15 5 1, at Page 82 (together, the "Valmont Note and Mortgage").

5. Mortgage Note ("Original Luzerne Note") in the original principal amount of \$2,000,000, secured by a Mortgage and Security Agreement ("Original Luzerne Mortgage") on Luzerne Street and recorded on November 15, 1988, in the Public Office for Lackawanna County in Mortgage Book 1116, at Page 377 (together, the "Luzerne Street Note and Mortgage").

B. In 1993, the Property was transferred by Slornowitz to Marks Centers Limited Partnership ("MarV), a Delaware limited partnership, and Lender, Slornowitz and Mark entered into Note and Mortgage Modification Agreements, all dated May 28, 1993, as follows:

1. Modifying the East End Center Note and Mortgage and recorded in the Public Office of Luzerne County on June 11, 1993, in Mortgage Book 1859, at Page 334 (the "East End Modification").

2. Modifying the Crescent Street Note and Mortgage and recorded in the Plymouth County Registry of Deeds, Massachusetts, on June 18, 1993, in Book 11958, at Page 98 (the "Crescent Modification").

3. Modifying the Greenridge Note and Mortgage and recorded in the Public Office for Lackawanna County on June 15, 1993, in Mortgage Book 1487, at Page I (the "Greenridge Modification").

4. Modifying the Valmont Note and Mortgage and recorded in the Public Office for Luzerne County on June 11, 1993, in Mortgage Book 1859, at Page 311 (the "Valmont Modification").

5. Modifying the Luzerne Street Note and Mortgage and recorded in the Public Office for Lackawanna County on June 11, 1993, in Mortgage Book 1486, at Page 256 (the "Luzerne Modification").

C. The Borrower is the current owner of the Property, and Lender and Borrower have agreed to amend and restate in their entirety the documents evidencing the above-referenced loans by (a) consolidating the Original East End Note and Original Crescent Note, as amended respectively by the East End Modification and Crescent Modification, and amending and restating them entirely, into a single note of \$25,200,000 (the "Fixed Rate Note"), (b) consolidating the Original Greenridge Note, Original Valmont Note and Original Luzerne Note, as amended respectively by the Greenridge Modification, Valmont Modification and Luzerne Modification, and amending and restating them entirely, into a single note of \$10,800,000 (the "Floating Rate Note"). The Fixed Rate Note together with the Floating Rate Note are together in this Mortgage sometimes called the "Note."

D. The Original East End Mortgage, Original Crescent Mortgage, Original Greenridge Mortgage, Original Valmont Mortgage and Original Luzerne Mortgage, as amended respectively by the East End Modification, Crescent Modification, Greenridge Modification, Valmont Modification and Luzerne Modification (together, the "Original Mortgages") are hereby consolidated into and are amended and restated in their entirety into, this single Mortgage covering the Property.

E. This Mortgage shall not be construed as a novation of any of the documents referred to above and shall not prejudice any present or future rights, remedies, benefits or powers belonging or occurring to Lender. This Mortgage shall in no way adversely affect or impair the lien priority of the Original Mortgages. In the event this Mortgage or any part thereof, or any instrument executed in connection herewith, shall be construed or shall operate to affect the lien priority of the Original Mortgages or any other documents of record, then to the extent such instrument creates a charge upon the Property and to the extent third persons acquiring an interest or lien upon the Property, or any part thereof, between the time of the recording of any of the Original Mortgages and this Mortgage are prejudiced thereby, this Mortgage shall be void and of no further force and effect. Notwithstanding the foregoing, the parties hereto, as between themselves, shall be bound by all the terms and conditions of this Mortgage until all Secured Indebtedness owing from Borrower to Under has been paid.

F. Borrower hereby absolutely and unconditionally, as an independent covenant, releases Lender, its officers, agents and employees ("Released Parties") from any claims, causes of action, liabilities or obligations, of any sort or kind, which against Released Parties the Borrower ever had, now has or its successors or assigns can, shall or may have arising out of or relating to the loans referred to above, and notes evidencing them, the Property, the Original Mortgages, or loan documents executed in connection therewith, or amendments thereto, or any matter collateral thereto, from the beginning of the world to the date of this Mortgage.

G. This Mortgage secures: (1) the payment of the indebtedness evidenced by the Note with interest at the rates set forth in the Note, together with all renewals, modifications, consolidations and extensions of the Note, all additional advances or fundings made by Lender, and any other amounts required to be paid by Borrower under any of the Loan Documents, (collectively, the "Secured Indebtedness", and sometimes referred to as the "Loan") and (2) the full performance by Borrower of all of the terms, covenants and obligations set forth in any of the Loan Documents.

H. Borrower makes the following covenants and agreements for the benefit of Lender or any party designated by Lender, including any prospective purchaser of the Loan Documents or participant in the Loan, and their respective officers, employees, agents, attorneys, representatives and contractors (all of which are collectively referred to as, "Lender").

NOW, THEREFORE, IN CONSIDERATION of the Recitals and for other good and valuable consideration, the receipt and sufficiency of which are acknowledged, Borrower agrees to amend and restate the Original Mortgages in their entirety, which shall be effective against Lender by its acceptance hereof, as follows:

ARTICLE I  
GRANT OF SECURITY

Section 1.01 REAL PROPERTY GRANT. Borrower irrevocably sells, transfers, grants, conveys, assigns and warrants to lender, its successors and assigns, WITH MORTGAGE COVENANTS, all of Borrower's present and future estate, right, title and interest in and to the following which are collectively referred to as the "Real Property":

(1) that certain real property located in the County and State which is more particularly described in Exhibit " " attached to this Mortgage or any portion of the real property; all easements, rights-of-way, gaps, strips and gores of land; streets and alleys; sewers and water rights; privileges, licenses, tenements, and appurtenances appertaining to the real property, and the reversion(s), remainder(s), and claims of Borrower with respect to these items, and the benefits of any existing or future conditions, covenants and restrictions affecting the real property (collectively, the "Land");

(2) all things now or hereafter affixed to or placed on the Land, including all buildings, structures and improvements, all fixtures and all machinery, elevators, boilers, building service equipment (including, without limitation, all equipment for the generation or distribution of air, water, heat, electricity, light, fuel or for ventilating or air conditioning purposes or for sanitary or drainage purposes or for the removal of dust, refuse or garbage), partitions, appliances, furniture, furnishings, building materials, supplies, computers and software, window coverings and floor coverings, lobby furnishings, and other property now or in the future attached, or installed in the improvements and all replacements, repairs, additions, or substitutions to these items (collectively, the "Improvements");

(3) all present and future income, rents, revenue, profits, proceeds, accounts receivables and other benefits from the Land and/or Improvements and all deposits made with respect to the Land and/or

Improvements, including, but not limited to, any security given to utility companies by Borrower, any advance payment of real estate taxes or assessments, or insurance premiums made by Borrower and all claims or demands relating to such deposits and other security, including claims for refunds of tax payments or assessments, and all insurance proceeds payable to Borrower in connection with the Land and/or Improvements whether or not such insurance coverage is specifically required under the terms of this Mortgage ("Insurance Proceeds") (all of the items set forth in this paragraph are referred to collectively as "Rents and Profits");

(4) all damages, payments and revenue of every kind that Borrower may be entitled to receive, from any person owning or acquiring a right to the oil, gas or mineral rights and reservations of the Land;

(5) all proceeds and claims arising on account of any damage to, or Condemnation (as hereinafter defined) of any part of the Land and/or Improvements, and all causes of action and recoveries for any diminution in the value of the Land and/or Improvements;

(6) all Leases (as defined in Section 5.02 below), licenses, contracts, management agreements, guaranties, warranties, franchise agreements, permits, or certificates relating to the ownership, use, operation or maintenance of the Land and/or Improvements; and

(7) all names by which the Land and/or Improvements may be operated or known, and all rights to carry on business under those names, and all trademarks, trade names, and goodwill relating to the Land and/or Improvements.

TO HAVE AND TO HOLD the Real Property, unto Lender, its successors and assigns, forever subject to the terms, covenants and conditions of this Mortgage.

Section 1.02 PERSONAL PROPERTY GRANT. Borrower irrevocably sells, transfers, grants, conveys, assigns and warrants to Lender, its successors and assigns, a security interest in Borrower's interest in the following personal property which is collectively referred to as "Personal Property":

(1) any portion of the Real Property which may be personal property, and all other personal property, whether now existing or acquired in the future which is attached to, appurtenant to, or used in the construction or operation of, or in connection with, the Real Property;

(2) all rights to the use of water, including water rights appurtenant to the Real Property, pumping plants, ditches for irrigation, all water stock or other evidence of ownership of any part of the Real Property that is owned by Borrower in common with others and all documents of membership in any owner's association or similar group;

(3) all plans and specifications prepared for construction of the Improvements; and all contracts and agreements of Borrower relating to the plans and specifications or to the construction of the Improvements;

(4) all equipment, machinery, fixtures, goods, accounts, general intangibles, documents, instruments and chattel paper and all substitutions, replacements of, and additions to, any of the these items;

(5) all sales agreements, deposits, escrow agreements, other documents and agreements entered into with respect to the sale of any part of the Real Property, and all proceeds of the sale; and

(6) all proceeds from the voluntary or involuntary disposition or claim respecting any of the foregoing items (including judgments, condemnation awards or otherwise).

All of the Real Property and the Personal Property are collectively referred to as the "Property."

Section 1.03 CONDITIONS TO GRANT. If Borrower shall pay to Lender the Secured Indebtedness, at the times and in the manner stipulated in the Loan Documents, and if Borrower shall perform and observe each of the terms, covenants and agreements set forth in the Loan Documents, then this Mortgage and all the rights granted by this Mortgage shall be released by Lender, at the sole cost and expense of Borrower, in accordance with the laws of the State.

ARTICLE 11  
BORROWER COVENANTS

Section 2.01 DUE AUTHORIZATION, EXECUTION, AND DELIVERY

(a) Borrower represents and warrants that the execution of the Loan Documents and the Indemnity Agreement have been duly authorized and there is no provision in the organizational documents of Borrower requiring further consent for such action by any other entity or person.

(b) Borrower represents and warrants that it is duly organized, validly existing and is in good standing under the laws of the state of its formation and in the State, that it has all necessary licenses, authorizations, registrations, permits and/or approvals to own its properties and to carry on its business as presently conducted.

(c) Borrower represents and warrants that the execution, delivery and performance of the Loan Documents will not result in Borrower being in default under any provision of its organizational documents or of any mortgage, lease, credit or other agreement to which it is a party or which affects it or the Property.

(d) Borrower represents and warrants that the Loan Documents and the Indemnity Agreement have been duly authorized, executed and delivered by Borrower and constitute valid and binding obligations of Borrower which are enforceable in accordance with their terms.

Section 2.02 PERFORMANCE BY BORROWER. Borrower shall pay the Secured Indebtedness to Lender and shall keep and perform each and every other obligation, covenant and agreement of the Loan Documents.

Section 2.03 WARRANTY OF TITLE.

(a) Borrower warrants that it holds marketable and indefeasible fee simple absolute title to the Real Property, and that it has the right and is lawfully authorized to sell, convey or encumber the Property subject only to those property specific exceptions to title recorded in the real estate records of the County and contained in Schedule B-1 of the title insurance policy or policies which have been approved by Lender (the "Permitted Exceptions"). The Property is free from all due and unpaid taxes, assessments and mechanics' and materialmen's liens.

(b) Borrower further covenants to warrant and forever defend Lender from and against all persons claiming any interest in the Property.



Section 2.04 TAXES, LIENS AND OTHER CHARGE.

(a) Unless otherwise paid to Lender as provided in Section 2.05, Borrower shall pay all real estate and other taxes and assessments which may be payable, assessed, levied, imposed upon or become a lien on or against any portion of the Property (all of the foregoing items are collectively referred to as the "Imposition(s)"). The Impositions shall be paid not later than ten (10) days before the dates on which the particular Imposition would become delinquent and Borrower shall produce to Lender receipts of the imposing authority, or other evidence reasonably satisfactory to Lender, evidencing the payment of the Imposition in full. If Borrower elects by appropriate legal action to contest any Imposition, Borrower shall first deposit cash or a bond with Lender as a reserve in an amount which Lender determines is sufficient to pay the Imposition plus all fines, interest, penalties and costs which may become due pending the determination of the contest. If Borrower deposits this sum with Lender, Borrower shall not be required to pay the Imposition provided that the contest operates to prevent enforcement or collection of the Imposition, or the sale or forfeiture of, the Property, and is prosecuted with due diligence and continuity. Upon termination of any proceeding or contest, Borrower shall pay the amount of the Imposition as finally determined in the proceeding or contest. Provided that there is not then an Event of Default (as defined in Section 11.01), the monies which have been deposited with Lender pursuant to this Section shall be applied toward such payment and the excess, if any, shall be returned to Borrower.

(b) In the event of the passage, after the Execution Date, of any law which deducts from the value of the Property, for the purposes of taxation, any lien or security interest encumbering the Property, or changing in any way the existing laws regarding the taxation of mortgages, deeds of trust and/or security agreements or debts secured by these instruments, or changing the manner for the collection of any such taxes, and the law has the effect of imposing payment of any Impositions upon Lender, at Lender's option, the Secured Indebtedness shall immediately become due and payable. Notwithstanding the preceding sentence, the Lender's election to accelerate the Loan shall not be effective if (1) Borrower is permitted by law (including, without limitation, applicable interest rate laws) to, and actually does, pay the Imposition or the increased portion of the Imposition and (2) Borrower agrees in writing to pay or reimburse Lender in accordance with Section 11.06 for the payment of any such Imposition which becomes payable at any time when the Loan is outstanding.

Section 2.05 ESCROW DEPOSITS. Without limiting the effect of Section 2.04 and Section 3.01, Borrower shall pay to Lender monthly on the same date the monthly installment is payable under the Note, an amount equal to 1/12<sup>th</sup> of the amounts Lender reasonably estimates are necessary to pay, on an annualized basis, (1) all Impositions and (2) the premiums for the insurance policies required under this Mortgage (collectively the "Premiums") until such time as Borrower has deposited an amount equal to the annual charges for these items and on demand, from time to time, shall pay to Lender any additional amounts necessary to pay the Premiums and Impositions. Borrower will furnish to Lender bills for Impositions and Premiums thirty (30) days before Impositions become delinquent and such Premiums become due for payment. No amounts paid as Impositions or Premiums shall be deemed to be trust funds and these funds may be commingled with the general funds of Lender without any requirement to pay interest to Borrower on account of these funds. If an Event of Default occurs, Lender shall have the right, at its election, to apply any amounts held under this Section 2.05 in reduction of the Secured Indebtedness, or in payment of the Premiums or Impositions for which the amounts were deposited.

Section 2.06 CARE AND USE OF THE PROPERTY.

(a) Borrower represents and warrants to Lender as follows:

(i) All authorizations, licenses, including without limitation liquor licenses, if any, and operating permits required to allow the Improvements to be operated for the Use have been obtained, paid for and are in full force and effect.

(ii) The Improvements and their Use comply with (and no notices of violation have been received in connection with) all Requirements (as defined in this Section) and Borrower shall at all times comply with all present or future Requirements affecting or relating to the Property and/or the Use. Borrower shall furnish Lender, on request, proof of compliance with the Requirements. Borrower shall not use or permit the use of the Property, or any part thereof, for any illegal purpose. "Requirements" shall mean all laws, ordinances, orders, covenants, conditions and restrictions and other requirements relating to land and building design and construction, use and maintenance, that may now or hereafter pertain to or affect the Property or any part of the Property or the Use, including, without limitation, planning, zoning, subdivision, environmental, air quality, flood hazard, fire safety, handicapped facilities, building, health, fire, traffic, safety, wetlands, coastal and other governmental or regulatory rules, laws, ordinances, statutes, codes and requirements applicable to the Property, including permits, licenses and/or certificates that may be necessary from time to time to comply with any of these requirements.

(iii) Borrower has complied with all requirements of all instruments and agreements affecting the Property, whether or not of record, including without limitation all covenants and agreements by and between Borrower and any governmental or regulatory agency pertaining to the development, use or operation of the Property. Borrower, at its sole cost and expense, shall keep the Property in good order, condition, and repair, and make all necessary structural and non-structural, ordinary and extraordinary repairs to the Property and the Improvements.

(iv) Borrower shall abstain from, and not permit, the commission of waste to the Property and shall not remove or alter in any substantial manner, the structure or character of any Improvements without the prior written consent of Lender.

(v) The zoning approval for the Property is not dependent upon the ownership or use of any property which is not encumbered by this Mortgage.

(vi) Construction of the Improvements on the Property is complete.

(vii) The Property is in good repair and condition, free of any material damage.

(b) Lender shall have the right, at any time and from time to time during normal business hours, to enter the Property in order to ascertain Borrower's compliance with the Loan Documents, to examine the condition of the Property, to perform an appraisal, to undertake surveying or engineering work, and (but subject to the terms of the individual leases) to inspect premises occupied by tenants. Borrower shall cooperate with Lender performing these inspections,

(c) Borrower shall use, or cause to be used, the Property continuously for the Use. Borrower shall not use, or permit the use of, the Property for any other use without the prior written consent of Lender. Borrower shall not file or record a declaration of condominium, master deed of trust or mortgage or any other similar document evidencing the imposition of a so-called "condominium regime" whether superior or subordinate to this Mortgage and (ii) Borrower shall not permit any part of the Property to be converted to, or operated as, a "cooperative" regime whereby the tenants or occupants participate in the ownership, management or control of any part of the Property.

(d) Without the prior written consent of Lender, Borrower shall not (i) initiate or acquiesce in a change in the zoning classification of and/or restrictive covenants affecting the Property or seek any variance under existing zoning ordinances, (ii) use or permit the use of the Property in a manner which may result in the Use becoming a non-conforming use under applicable zoning ordinances, or (iii) subject the Property to restrictive covenants.

Section 2.07 COLLATERAL SECURITY INSTRUMENTS. Borrower covenants and agrees that if Lender at any time holds additional security for any obligations secured by this Mortgage, it may enforce its rights and remedies with respect to the security, at its option, either before, concurrently or after a sale of the Property is made pursuant to the terms of this Mortgage. Lender may apply the proceeds of the additional security to the Secured Indebtedness without affecting or waiving any right to any other security, including the security under this Mortgage, and without waiving any breach or default of Borrower under this Mortgage or any other Loan Document.

Section 2.08 SUITS AND OTHER ACTS TO PROTECT THE PROPERTY.

(a) Borrower shall immediately notify Lender of the commencement, or receipt of notice, of any and all actions or proceedings or other material matter or claim affecting the Property and/or the interest of Lender under the Loan Documents (collectively, "Actions"). Borrower shall appear in and defend any Actions.

(b) Lender shall have the right, at the cost and expense of Borrower, to institute, maintain and participate in Actions and take such other action, as it may deem appropriate in the good faith exercise of its discretion to preserve or protect the Property and/or the interest of Lender under the Loan Documents. Any money paid by Lender under this Section shall be reimbursed to Lender in accordance with Section 11.06 hereof.

Section 2.09 LIENS AND ENCUMBRANCES. Without the prior written consent of Lender, to be exercised in Lender's sole and absolute discretion, other than the Permitted Exceptions, Borrower shall not create, place or allow to remain any lien or encumbrance on the Property, including deeds of trust, mortgages, security interests, conditional sales, mechanic liens, tax liens or assessment liens regardless of whether or not they are subordinate to the lien created by this Mortgage (collectively, "Liens and Encumbrances"). If any Liens and Encumbrances are recorded against the Property or any part of the Property, Borrower shall obtain a discharge and release of any Liens and Encumbrances within fifteen (15) days after receipt of notice of their existence.

ARTICLE III  
INSURANCE

Section 3.01 REQUIRED INSURANCE AND TERMS OF INSURANCE POLICIES.

(a) During the term of this Mortgage, Borrower at its sole cost and expense must provide insurance policies and certificates of insurance satisfactory to Lender as to amounts, types of coverage and the companies underwriting these coverages. In no event shall such policies be terminated or otherwise allowed to lapse. Borrower shall be responsible for its own deductibles. Borrower shall also pay for any insurance, or any increase of policy limits, not described in this Mortgage which Borrower requires for its own protection or for compliance with government statutes. Borrower's insurance shall be primary and without contribution from any insurance procured by Lender.

Policies of insurance shall be delivered to Lender in accordance with the following requirements:

(1) All Risk Property insurance on the Improvements and the Personal Property, including contingent liability from Operation of Building Laws, Demolition Costs and Increased Cost of Construction endorsements, in each case (i) in an amount equal to 100% of the "Full Replacement Cost" of the Improvements and Personal Property, which for purposes of this Article III shall mean actual replacement value (exclusive of costs of excavations, foundations, underground utilities and footings)

with a waiver of depreciation and with a Replacement Cost Endorsement; (ii) containing an agreed amount endorsement with respect to the Improvements and Personal Property waiving all co-insurance provisions; (iii) providing for no deductible in excess of \$10,000; and (iv) containing an "Ordinance or Law Coverage" or "Enforcement" endorsement if any of the Improvements or the use of the Property shall constitute non-conforming structures or uses. The Full Replacement Cost shall be determined from time to time by an appraiser or contractor designated and paid by Borrower and approved by Lender or by an engineer or appraiser in the regular employ of the insurer.

(2) Commercial General Liability insurance against claims for personal injury, bodily injury, death or property damage occurring upon, in or about the Property, such insurance (i) to be on the so-called "occurrence" form with a combined single limit of not less than the amount set forth in the Defined Terms; (ii) to continue at not less than this limit until required to be changed by Lender in writing by reason of changed economic conditions making such protection inadequate; and (iii) to cover at least the following hazards: (a) premises and operations; (b) products and completed operations on an "if any" basis; (c) independent contractors; (d) blanket contractual liability for all written and oral contracts; and (e) contractual liability covering the indemnities contained in this Mortgage to the extent available.

(3) Business Income insurance in an amount sufficient to prevent Borrower from becoming a co-insurer within the terms of the applicable policies, and sufficient to recover one (1) year's "Business Income" (as hereinafter defined). The amount of such insurance shall be increased from time to time during the terms of this Mortgage as and when new leases and renewal leases are entered into and rents payable increase or the annual estimate of gross income from occupancy of the Property increases to reflect such rental increases. "Business Income" shall mean the sum of (i) the total anticipated gross income from occupancy of the Property, - (ii) the amount of all charges (such as, but not limited to, operating expenses, insurance premiums and taxes) which are the obligation of tenants or occupants to Borrower, (iii) the fair market rental value of any portion of the Property which is occupied by Borrower, and (iv) any other amounts payable to Borrower or to any affiliate of Borrower pursuant to leases.

(4) If Lender determines at any time that any part of the Property is located in an area identified on a Flood Hazard Boundary Map or Flood Insurance Rate Map issued by the Federal Emergency Management Agency as having special flood hazards and flood insurance has been made available, Borrower will maintain a flood insurance policy meeting the requirements of the current guidelines of the Federal Insurance Administration with a generally acceptable insurance carrier, in an amount not less than the lesser of (i) the outstanding principal balance of the Loan or (ii) the maximum amount of insurance which is 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 amended.

(5) During the period of any construction or renovation or alteration of the Improvements, a so-called "Builder's All Risk" insurance policy in non-reporting form for any Improvements under construction, renovation or alteration including, without limitation, for demolition and increased cost of construction or renovation, in an amount approved by Lender including an Occupancy endorsement and Worker's Compensation Insurance covering all persons engaged in the construction, renovation or alteration in an amount at least equal to the minimum required by statutory limits of the State.

(6) Workers' Compensation insurance, subject to the statutory limits of the State, and employer's liability insurance with a limit of at least \$1,000,000 per accident and per disease per employee, and \$1,000,000 for disease in the aggregate in respect of any work or operations on or about the Property, or in connection with the Property or its operations (if applicable).

(7) Boiler & Machinery insurance covering the major components of the central heating, air conditioning and ventilating systems, boilers, other pressure vessels, high pressure piping and machinery, elevators and escalators, if any, and other similar equipment installed in the Improvements, in an amount equal to one hundred percent (100%) of the full replacement cost of all equipment installed in, on or at the Improvements. These policies shall insure against physical damage to and loss of occupancy and use of the Improvements arising out of an accident or breakdown.

(8) Such other insurance as may from time to time be reasonably required by Lender against other insurable hazards, including, but not limited to, vandalism, earthquake, sinkhole and mine subsidence.

(b) Lender's interest must be clearly stated by endorsement in the insurance policies described in this Section 3.01 as follows:

(1) The policies of insurance referenced in Subsections (a)(1), (a)(3), (a)(4), (a)(5) and (a)(7) of this Section 3.01 shall identify Lender under the New York Standard Mortgagee Clause (non-contributory) endorsement.

(2) The insurance policy referenced in Section 3.01 (a)(2) shall name Lender as an additional insured.

(3) All of the policies referred to in Section 3.01 shall provide for at least thirty (30) days' written notice to Lender in the event of policy cancellation and/or material change.

(c) All the insurance companies must be authorized to do business in New York State and the State and be approved by Lender. The insurance companies must have a general policy rating of A or better and a financial class of X or better by A.M. Best Company, Inc. and a claims paying ability of BBB or better according to Standard & Poors. If there are any Securities (as defined in Section 12.01) issued with respect to this Loan which have been assigned a rating by a credit rating agency approved by Lender (a "Rating Agency"), the insurance company shall have a claims paying ability rating by such Rating Agency equal to or greater than the rating of the highest class of the Securities. Borrower shall deliver evidence satisfactory to Lender of payment of premiums due under the insurance policies.

(d) Certified copies of the policies, and any endorsements, shall be made available for inspection by Lender upon request. If any policy is canceled before the Loan is satisfied, and Borrower fails to immediately procure replacement insurance, Lender reserves the right but shall not have the obligation immediately to procure replacement insurance at Borrower's cost.

(e) Borrower shall be required during the term of the Loan to continue to provide Lender with original renewal policies or replacements of the insurance policies referenced in Section 3.01 (a). Lender may accept Certificates of Insurance evidencing insurance policies referenced in Subsections (a)(2), (a)(4), and (a)(6) of this Section 3.01 instead of requiring the actual policies. Lender shall be provided with renewal Certificates of Insurance, or Binders, not less than fifteen (15) days prior to each expiration. The failure of Borrower to maintain the insurance required under this Article III shall not constitute a waiver of Borrower's obligation to fulfill these requirements.

(f) All binders, policies, endorsements, certificates, and cancellation notices are to be sent to the Lender's Address for Insurance Notification as set forth in the Defined Terms until changed by notice from Lender.

Section 3.02 ADJUSTMENT OF CLAIMS. Borrower hereby authorizes and empowers Lender to settle, adjust or compromise any claims for damage to, or loss or destruction of, all or a portion of the Property, regardless of whether there are Insurance Proceeds available or whether any such Insurance Proceeds are sufficient in amount to fully compensate for such damage, loss or destruction.

Section 3.03 ASSIGNMENT TO LENDER. In the event of the foreclosure of this Mortgage or other transfer of the title to the Property in extinguishment of the Secured Indebtedness, all right, title and interest of Borrower in and to any premiums or payments in satisfaction of claims or any other rights under insurance policies and any insurance policies covering , and to the extent applicable to, the Property shall pass to the transferee of the Property.

#### ARTICLE IV BOOKS, RECORDS AND ACCOUNTS

Section 4.01 BOOKS AND RECORDS. Borrower shall keep adequate books and records of account in accordance with generally accepted accounting principles ("GAAP"), or in accordance with other methods acceptable to Lender in its sole discretion, consistently applied and furnish to Lender:

(a) on a property by property basis, quarterly certified rent rolls signed and dated by Borrower, detailing the names of all tenants of the Improvements, the portion of Improvements occupied by each tenant, the base rent and any other charges payable under each Lease (as defined in Section 5.02) and the term of each Lease, including the expiration date, and any other information as is reasonably required by Lender, within thirty (30) days after the end of each fiscal quarter;

(b) on a property to property basis, a quarterly operating statement of the Property and year to date operating statements detailing the total revenues received, total expenses incurred, total cost of all capital improvements, total debt service and total cash flow, to be prepared and certified by Borrower in the form required by Lender, and if available, any quarterly operating statement prepared by an independent certified public accountant, within thirty to sixty (30-60) days after the close of each fiscal quarter of Borrower;

(c) an annual balance sheet and profit and loss statement of Borrower in the form required by Lender, prepared and certified by Borrower, as the case may be, or if required by Lender, audited financial statements for Borrower and the Liable Party prepared by an independent certified public accountant acceptable to Lender within ninety (90) days after the close of each fiscal year of Borrower and the Liable Party, as the case may be; and

(d) an annual operating budget presented on a monthly basis consistent with the annual operating statement described above for the Property including cash flow projections for the upcoming year and all proposed capital replacements and improvements at least fifteen (15) days prior to the start of each calendar year.

Section 4.02 PROPERTY REPORTS. Upon request from Lender or its representatives and designees, Borrower shall furnish in a timely manner to Lender:

(a) a property management report for the Property on a property to property basis, providing such information as reasonably requested by Lender, in reasonable detail and certified by Borrower (or an officer, general partner, member or principal of Borrower if Borrower is not an individual) under penalty of perjury to be true and complete, but no more frequently than quarterly; and

(b) an accounting of all security deposits held in connection with any Lease of any part of the Property on a property by property basis, including the name and identification number of the accounts in which such security deposits are held, the name and address of the financial institutions in which such security deposits are held and the name of the person to contact at such financial institution, along with any authority or release necessary for Lender to obtain information regarding such accounts directly from such financial institutions.

Section 4.03 ADDITIONAL MATTERS.

(a) Borrower shall furnish Lender with such other additional financial or management information (including State and Federal tax returns) as may, from time to time, be reasonably required by Lender or the rating agencies in form and substance satisfactory to Lender or the rating agencies.

(b) Borrower shall furnish Lender and its agents convenient facilities for the examination and audit of any such books and records.

(c) Lender and its representatives shall have the right upon prior written notice to examine and audit the records, books, management and other papers of Borrower and its affiliates or of any guarantor or indemnitor which reflect upon their financial condition and/or the income, expenses and operations of the Property, at each of the properties comprising the Property (for such applicable portion thereof) and at any office regularly maintained by Borrower, its affiliates or any guarantor or indemnitor where the books and records are located. Lender shall have the right upon notice to make copies and extracts from the foregoing records and other papers.

ARTICLE V

LEASES AND OTHER AGREEMENTS AFFECTING THE PROPERTY

Section 5.01 BORROWER'S REPRESENTATIONS AND WARRANTIES.

Borrower represents and warrants to Lender as follows:

(a) There are no leases or occupancy agreements affecting the Property except those leases and amendments listed on Exhibit B to the Assignment of Leases and Borrower has delivered to Lender true, correct and complete copies of all leases, including amendments (collectively, "Existing Leases") and all guaranties and amendments of guaranties given in connection with the Existing Leases (the "Guaranties").

(b) To the best knowledge of Borrower, there are no defaults by Borrower under the Existing Leases and Guaranties and, to the best knowledge of Borrower, there are no defaults by any tenants under the Existing Leases or any guarantors under the Guaranties. The Existing Leases and the Guaranties are in full force and effect.

(c) To the best knowledge of Borrower, none of the tenants now occupying 10% or more of the Property or having a current lease affecting 10% or more of the Property is the subject of any bankruptcy, reorganization or insolvency proceeding or any other debtor-creditor proceeding.

(d) No Existing Leases may be amended terminated or canceled unilaterally by a tenant and no tenant may be released from its obligations, except as may be provided by the terms thereof.

Section 5.02 ASSIGNMENT OF LEASES. In order to further secure payment of the Secured Indebtedness and the performance of Borrower's obligations under the Loan Documents, Borrower absolutely, presently and unconditionally grants, assigns and transfers to Lender all of Borrower's right, title, interest and estate in, to and under (i) all of the Existing Leases and Guaranties affecting the Property and (ii) all of the future leases, lease amendments, guaranties and amendments of guaranties and (iii) the Rents and Profits. Borrower acknowledges that it is permitted to collect the Rents and Profits pursuant to a revocable license unless and until an Event of Default occurs. The Existing Leases and Guaranties and all future leases, lease amendments, guaranties and amendments of guaranties are collectively referred to as the "Leases".

Section 5.03 PERFORMANCE OF OBLIGATIONS.

(a) Borrower shall perform all obligations under any and all Leases. If any of the acts described in this Section are done without the written consent of Lender, at the option of Lender, they shall be of no force or effect and shall constitute a default under this Mortgage.

(b) Borrower agrees to furnish Lender executed copies of all future Leases. Borrower shall not, without the express written consent of Lender, (i) enter into or extend any Lease unless the Lease complies with the Leasing Guidelines which are attached to this Mortgage as Exhibit "B", or (ii) cancel or terminate any Leases except in the case of a default unless Borrower has entered into new Leases covering all of the premises of the Leases being terminated or surrendered, or (iii) modify or amend any Leases in any material way unless after such modification the same remains in compliance with the Leasing Guidelines, or reduce the rent or additional rent, or (iv) unless the tenants remain liable under the Leases, consent to an unpermitted assignment of the tenant's interest or to an unpermitted subletting of the demised premises under any Lease, or (v) accept payment of advance rents or security deposits in an amount in excess of one month's rent or (vi) enter into any options to sell the Property.

Section 5.04 SUBORDINATE LEASES. Each Lease affecting the Property shall be absolutely subordinate to the lien of this Mortgage and shall also contain a provision, satisfactory to Lender, to the effect that in the event of the judicial or non-judicial foreclosure of the Property, at the election of the acquiring foreclosure purchaser, the particular Lease shall not be terminated and the tenant shall attorn to the purchaser. If requested to do so, the tenant shall agree to enter into a new Lease for the balance of the term upon the same terms and conditions. If Lender requests, Borrower shall cause a tenant or tenants to enter into subordination and attornment agreements or nondisturbance agreement with Lender on forms which have been approved by Lender.

Section 5.05 LEASING COMMISSIONS. Borrower covenants and agrees that all contracts and agreements relating to the Property requiring the payment of leasing commissions, management fees or other similar compensation shall (i) provide that the obligation will not be enforceable against Lender and (ii) be subordinate to the lien of this Mortgage. Lender will be provided evidence of Borrower's compliance with this Section upon request.

ARTICLE VI  
ENVIRONMENTAL HAZARDS

Section 6.01 REPRESENTATIONS AND WARRANTIES. Borrower hereby represents, warrants, covenants and agrees to and with Lender that (i) neither Borrower nor, to the best of Borrower's knowledge, after due inquiry, any tenant, subtenant or occupant of the Property, has at any time placed, suffered or permitted the presence of any Hazardous Materials (as defined in Section 6.05) at, on, under, within or about the Property except as expressly approved by Lender in writing and (ii) all operations or



activities upon the Property, and any use or occupancy of the Property by Borrower are presently and shall in the future be in compliance with all Requirements of Environmental Laws (as defined in Section 6.06), (iii) Borrower will use best efforts to assure that any tenant, subtenant or occupant of the Property shall in the future be in compliance with all Requirements of Environmental Laws, (iv) all operations or activities upon the Property are presently and shall in the future be in compliance with all Requirements of Environmental Laws, (v) Borrower does not know of, and has not received, any written or oral notice of other communication from any person or entity (including, without limitation, a governmental entity) relating to Hazardous Materials or Remedial Work pertaining thereto, of possible liability of any person or entity pursuant to any Requirements of Environmental Laws, other environmental conditions in connection with the Property, or any actual administrative or judicial proceedings in connection with any of the foregoing, (vi) 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 or entity (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 (vii) Borrower has truthfully and fully 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 that is contained in Borrower's files and records, including, without limitation, any reports relating to Hazardous Materials in, on, under or from the Property and/or to the environmental condition of the Property.

Section 6.02 REMEDIAL WORK. In the event any investigation or monitoring of site conditions or any clean-up, containment, restoration, removal or other remedial work (collectively, the "Remedial Work") is required under any Requirements of Environmental Laws, Borrower shall perform or cause to be performed the Remedial Work in compliance with the applicable law, regulation, order or agreement. All Remedial Work shall be performed by one or more contractors, selected by Borrower and approved in advance in writing by Lender, and under the supervision of a consulting engineer, selected by Borrower and approved in advance in writing by Lender. All costs and expenses of Remedial Work shall be paid by Borrower including, without limitation, the charges of the contractor(s) and/or the consulting engineer, and Lender's reasonable attorneys', architects' and/or consultants' fees and costs incurred in connection with monitoring or review of the Remedial Work. In the event Borrower shall fail to timely commence, or cause to be commenced, or fail to diligently prosecute to completion, the Remedial Work, Lender may, but shall not be required to, cause such Remedial Work to be performed, subject to the provisions of Sections 11.05 and 11.06.

Section 6.03 ENVIRONMENTAL SITE ASSESSMENT. Lender shall have the right, at any time and from time to time (but no more often than one time per calendar year, or more often if facts exist which Lender reasonably believes necessitates the same), to undertake, at the expense of Borrower, an environmental site assessment on the Property, including any testing that Lender may determine, in its sole discretion, is necessary or desirable to ascertain the environmental condition of the Property and the compliance of the Property with Requirements of Environmental Laws. Borrower shall cooperate fully with Lender and its consultants performing such assessments and tests.

Section 6.04 UNSECURED OBLIGATIONS. No amounts which may become owing by Borrower to Lender under this Article VI or under any other provision of this Mortgage as a result of a breach of or violation of this Article VI shall be secured by this Mortgage. The obligations shall continue in full force and effect and any breach of this Article VI shall constitute an Event of Default. The lien of this Mortgage shall not secure (i) any obligations evidenced by or arising under the Indemnity Agreement ("Unsecured Obligations"), or (ii) any other obligations to the extent that they are the same or have the same effect as any of the Unsecured Obligations. The Unsecured Obligations shall continue in full force, and any breach or default of any such obligations shall constitute a breach or default under this Mortgage but the proceeds of any foreclosure sale shall not be applied against Unsecured Obligations. Nothing in this Section

shall in any way limit or otherwise affect the right of Lender to obtain a judgment in accordance with applicable law for any deficiency in recovery of all obligations that are secured by this Mortgage following foreclosure, notwithstanding that the deficiency judgment may result from diminution in the value of the Property by reason of any event or occurrence pertaining to Hazardous Materials or any Requirements of Environmental Laws.

Section 6.05 HAZARDOUS MATERIALS.

"Hazardous Materials" shall include without limitation:

(a) Those substances included within the definitions of "hazardous substances," "hazardous materials," "toxic substances," or "solid waste" in the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 as amended, 42 U.S.C. Sections 9601 et seq., the Resource Conservation and Recovery Act of 1976, 42 U.S.C. Sections 6901 et seq., and the Hazardous Materials Transportation Act, 49 U.S.C. Sections 1801 et seq., and in the regulations promulgated pursuant to said laws;

(b) As to the portions of the Property located in Pennsylvania, those substances defined as "hazardous wastes" under any local and/or State statute, including without limitation, the provisions of the Pennsylvania Clean Streams Law, 35 P.S.A. Section 691.1 et seq. (Supp. 1982) and the Pennsylvania Solid Waste Management Act, 35 P.S.A. Section 6018.101 et seq. (Purdon Supp. 1983), and in the regulations, if any, promulgated pursuant to such laws. As to the Crescent Street property, any toxic or hazardous waste, material or substance or oil or pesticide listed in, covered by, or regulated pursuant to M.G.L.c. 21C or M.G.L.c. 21E, and in the regulations adopted pursuant thereto, including the Massachusetts Contingency Plan, as the same may be amended from time to time;

(c) Those chemicals known to cause cancer or reproductive toxicity, as published pursuant to any State or federal laws;

(d) Those substances listed in the United States Department of Transportation Table (49 CFR 172.101 and amendments thereto) or by the Environmental Protection Agency (or any successor agency) as hazardous substances (40 CFR Part 302 and amendments thereto);

(e) Any material, waste or substance which 'is (A) petroleum, (B) asbestos, (C) polychlorinated biphenyls, (D) designated as a "hazardous substance" pursuant to Section 311 of the Clean Water Act, 33 U.S.C. Section 1251 et seq. (33 U.S.C. Section 1321) or listed pursuant to Section 307 of the Clean Water Act (33 U.S.C. Section 1317); (E) a chemical substance or mixture regulated under the Toxic Substances Control Act of 1976, 15 U.S.C. Sections 2601 et seq; (F) flammable explosives; or (G) radioactive materials; and

(f) Such other substances, materials and wastes which are or become regulated as hazardous or toxic under applicable local, state or federal law, or the United States government, or which are classified as hazardous or toxic under federal, state, or local laws or regulations.

Section 6.06 REQUIREMENTS OF ENVIRONMENTAL LAWS. "Requirements of Environmental Laws" means all requirements of environmental, ecological, health, or industrial hygiene laws or regulations or rules of common law related to the Property, including, without limitation, all requirements imposed by any environmental permit, law, rule, order, or regulation of any federal, state, or local executive, legislative, judicial, regulatory, or administrative agency, which relate to (i) exposure to Hazardous Materials; (ii) pollution or protection of the air, surface water, ground water, land; (iii) solid,

gaseous, or liquid waste generation, treatment, storage, disposal, or transportation; or (iv) regulation of the manufacture, processing, distribution and commerce, use, or storage of Hazardous Materials.

ARTICLE VII  
CASUALTY, CONDEMNATION AND RESTORATION

Section 7.01 BORROWER'S REPRESENTATIONS.

Borrower represents and warrants as follows:

(a) Except as expressly approved by Lender in writing, no casualty or damage to any part of the Property which would cost more than \$50,000 to restore or replace has occurred which has not been fully restored or replaced.

(b) No part of the Property has been taken in condemnation or other similar proceeding or transferred in lieu of condemnation, nor has Borrower received notice of any proposed condemnation or other similar proceeding affecting the Property.

(c) There is no pending proceeding for the total or partial condemnation of the Property.

Section 7.02 RESTORATION.

(a) Borrower shall give prompt written notice of any casualty to the Property to Lender whether or not required to be insured against. The notice shall describe the nature and cause of the casualty and the extent of the damage to the Property. Borrower covenants and agrees to commence and diligently pursue to completion the Restoration.

(b) Borrower assigns to Lender all Insurance Proceeds which Borrower is entitled to receive in connection with a casualty whether or not such insurance is required under this Mortgage. In the event of any damage to or destruction of the Property, and provided (1) an Event of Default does not currently exist, and (2) Lender has determined that (i) there has not been an Impairment of the Security (as defined in Section 7.02 (c)), and (ii) the repair, restoration and rebuilding of any portion of the Property that has been partially damaged or destroyed (the "Restoration") can be accomplished in full compliance with all Requirements to the same condition, character and general utility as nearly as possible to that existing prior to the casualty and at least equal in value as that existing prior to the casualty, the Net Insurance Proceeds shall be applied to the Cost of Restoration in accordance with the terms of this Article. Lender shall hold and disburse the Insurance Proceeds less the cost, if any, to Lender of recovering the Insurance Proceeds including, without limitation, reasonable attorneys' fees and expenses, and adjusters' fees (the "Net Insurance Proceeds") to the Restoration.

(c) For the purpose of this Article, "Impairment of the Security" shall mean any or all of the following: (i) any of the Leases for more than 15,000 square feet existing immediately prior to the damage, destruction condemnation or casualty shall have been cancelled, or shall contain any exercisable right to cancel as a result of the damage, destruction or casualty; (ii) the casualty or damage occurs during the last year of the term of the Loan [for this purpose the Fixed Rate Note and Floating Rate Note each shall be deemed a Loan, with the East End Center and Crescent Street (together, the "Fixed Rate Property"), being attributable to the Fixed Rate Note and Greenridge Plaza, Valmont Plaza and Luzerne Street (collectively, the "Floating Rate Property") being attributed to the Floating Rate Note]; or (iii) restoration of the Property is estimated to require more than one year to complete from the date of the occurrence.

(d) If the Net Insurance Proceeds are to be used for the Restoration in accordance with this Article, Borrower shall comply with Lender's Requirements For Restoration as set forth in Section 7.04 below. Upon Borrower's satisfaction and completion of the Requirements For Restoration and upon confirmation that there is no Event of Default then existing, Lender shall pay any remaining Restoration Funds (as defined in Section 7.04 below) then held by Lender to Borrower.

(e) In the event that the conditions for Restoration set forth in this Section have not been met, Lender may, at its option, first apply the Net Insurance Proceeds to the reduction of the portion of Secured Indebtedness allocable to the portion of the Property affected, and then to other Secured Indebtedness in such order as Lender may determine and Lender may declare the portion of the entire Secured Indebtedness allocable to the portion of the Property affected immediately due and payable. After payment in full of the entire Secured Indebtedness, any remaining Restoration Funds shall be paid to Borrower.

#### Section 7.03 CONDEMNATION.

(a) If the Property or any part of the Property is taken by reason of any condemnation or similar eminent domain proceeding, or by a grant or conveyance in lieu of condemnation or eminent domain ("Condemnation"), Lender shall be entitled to all compensation, awards, damages, proceeds and payments or relief for the Condemnation ("Condemnation Proceeds"). At its option, Lender shall be entitled to commence, appear in and prosecute in its own name any action or proceeding or to make any compromise or settlement in connection with such Condemnation. Borrower hereby irrevocably constitutes and appoints Lender as its attorney-in-fact, which appointment is coupled with an interest, to commence, appear in and prosecute any action or proceeding or to make any compromise or settlement in connection with any such Condemnation.

(b) Borrower assigns to Lender all Condemnation Proceeds which Borrower is entitled to receive. In the event of any Condemnation, and provided (1) an Event of Default does not currently exist, and (2) Lender has determined that (i) there has not been an Impairment of the Security, and (ii) the Restoration of any portion of the Property that has not been taken can be accomplished in full compliance with all Requirements to the same condition, character and general utility as nearly as possible to that existing prior to the taking and at least equal in value as that existing prior to the taking, then Borrower shall commence and diligently pursue to completion the Restoration. Lender shall hold and disburse the Condemnation Proceeds less the cost, if any, to Lender of recovering the Condemnation Proceeds including, without limitation, reasonable attorneys' fees and expenses, and adjusters' fees (the "Net Condemnation Proceeds") to the Restoration.

(c) In the event the Net Condemnation Proceeds are to be used for the Restoration, Borrower shall comply with Lender's Requirements For Restoration as set forth in Section 7.04 below. Upon Borrower's satisfaction and completion of the Requirements For Restoration and upon confirmation that there is no Event of Default then existing, Lender shall pay any remaining Restoration Funds (as defined in Section 7.04 below) then held by Lender to Borrower.

(d) In the event that the conditions for Restoration set forth in this Section have not been met, Lender may, at its option, first apply the Net Condemnation Proceeds to the reduction of the portion of the Secured Indebtedness allocable to the portion of the Property affected and then to other Secured Indebtedness in such order as Lender may determine and Lender may declare the entire Secured Indebtedness allocable to the portion of the Property affected immediately due and payable. After payment in full of the entire Secured Indebtedness, any remaining Restoration Funds shall be paid to Borrower.

Section 7.04 REQUIREMENTS FOR RESTORATION. Unless otherwise expressly agreed in a writing signed by Lender, the following are the Requirements For Restoration:

(a) If the Net Insurance Proceeds or Net Condemnation Proceeds are to be used for the Restoration, prior to the commencement of any Restoration work (the "Work"), Borrower shall provide Lender for its review and written approval (i) complete plans and specifications for the Work which (A) have been approved by all required governmental authorities, (B) have been approved by an architect satisfactory to Lender (the "Architect") and (C) are accompanied by Architect's signed statement of the total estimated cost of the Work (the "Approved Plans and Specifications"); (ii) the amount of money which Lender reasonably determines will be sufficient when added to the Net Insurance Proceeds or Condemnation Proceeds to pay the entire cost of the Restoration (collectively referred to as the "Restoration Funds"); (iii) evidence that the Approved Plans and Specifications and the Work are in compliance with all Requirements; (iv) an executed contract for construction with a contractor satisfactory to Lender (the "Contractor") in a form approved by Lender in writing; and (v) a surety bond and/or guarantee of payment with respect to the completion of the Work. The bond or guarantee shall be satisfactory to Lender in form and amount and shall be signed by a surety or other entities who are acceptable to Lender.

(b) Borrower shall not commence the Work, other than temporary work to protect the Property or prevent interference with business, until Borrower shall have complied with the requirements of subsection (a) of this Section 7.04. So long as there does not currently exist an Event of Default and the following conditions have been complied with or, in Lender's discretion, waived, Lender shall disburse the Restoration Funds in increments to Borrower, from time to time as the Work progresses:

(i) Architect shall be in charge of the Work.

(ii) Lender shall disburse the Restoration Funds directly or through escrow with a title company selected by Borrower and approved by Lender, upon not less than ten (10) days' prior written notice from Borrower to Lender and Borrower's delivery to Lender of (A) Borrower's written request for payment (a "Request for Payment") accompanied by a certificate by Architect in a form satisfactory to Lender which states that (a) all of the Work completed to that date has been completed in compliance with the Approved Plans and Specifications and in accordance with all Requirements, (b) the amount requested has been paid or is then due and payable and is properly a part of the cost of the Work, and (c) when added to all sums previously paid by Lender, the requested amount does not exceed the value of the Work completed to the date of such certificate; and (B) evidence satisfactory to Lender that the balance of the Restoration Funds remaining after making the payments shall be sufficient to pay the balance of the cost of the Work. Each Request for Payment shall be accompanied by (x) waivers of liens covering that part of the Work previously paid for, if any (y) a title search or by other evidence satisfactory to Lender that no mechanic's or materialmen's liens or other similar liens for labor or materials supplied in connection with the Work have been filed against the Property and not discharged of record, and (z) an endorsement to Lender's title policy insuring that no encumbrance exists on or affects the Property other than the Permitted Exceptions.

(iii) The final Request for Payment shall be accompanied by (i) a final certificate of occupancy or other evidence of approval of appropriate governmental authorities for the use and occupancy of the Improvements, (ii) evidence that the Restoration has been completed in accordance with the Approved Plans and Specifications and all Requirements, (iii) evidence that the costs of the Restoration have been paid in full, and (iv) evidence that no mechanic's or similar liens for labor or material supplied in connection with the Restoration are outstanding against the Property, including final waivers of liens covering all of the Work and an endorsement to Lender's title policy insuring that no

encumbrance exists on or affects the Property other than the Permitted Exceptions.

(c) If (i) within sixty (60) days after the occurrence of any damage, destruction or condemnation requiring Restoration, Borrower fails to submit to Lender and receive Lender's approval of plans and specifications or fails to deposit with Lender the additional amount necessary to accomplish the Restoration as provided in subparagraph (a) above, or (ii) after such plans and specifications are approved by all such governmental authorities and Lender, Borrower fails to commence promptly or diligently continue to completion the Restoration, or (iii) Borrower becomes delinquent in payment to mechanics, materialmen or others for the costs incurred in connection with the Restoration, or (iv) there exists an Event of Default, then, in addition to all of the rights herein set forth and after ten (10) days' written notice of the non-fulfillment of one or more of these conditions, Lender may apply the Restoration Funds to reduce the Secured Indebtedness in such order as Lender may determine, and at Lender's option and in its sole discretion, Lender may declare the Secured Indebtedness immediately due and payable together with the Prepayment Fee.

#### ARTICLE VIII REPRESENTATIONS OF BORROWER

Section 8.01 ERISA. Borrower hereby represents, warrants and agrees that: (i) it is acting on its own behalf and that it is not an employee benefit plan as defined in Section 3(3) of the Employee Retirement Income Security Act of 1974, as amended ("ERISA"), which is subject to Title 1 of ERISA, nor a plan as defined in Section 4975(e)(1) of the Internal Revenue Code of 1986, as amended (each of the foregoing hereinafter referred to collectively as a "Plan"); (ii) Borrower's assets do not constitute "plan assets" of one or more such Plans within the meaning of Department of Labor Regulation Section 2510.3101; (iii) it will not be reconstituted as a Plan or as an entity whose assets constitute "plan assets", (iv) Borrower will not engage in any transaction which would cause any obligation hereunder to be a nonexempt prohibited transaction under ERISA; and (v) Borrower will deliver to Lender such certifications or other evidence of its compliance with this Section from time to time throughout the Loan as Lender may request.

Section 8.02 NON-RELATIONSHIP. Borrower hereby represents and warrants that neither Borrower nor any general partner, director, member or officer of Borrower nor, to Borrower's knowledge, any person who is a Borrower's Constituent (as defined in Section 8.03) is (i) a director or officer of Metropolitan Life Insurance Company ("MetLife"), (ii) a parent, son or daughter of a director or officer of MetLife, or a descendent of any of them, (iii) a stepparent, adopted child, stepson or stepdaughter of a director or officer of MetLife, or (iv) a spouse of a director or officer of MetLife.

#### Section 8.03 NO ADVERSE CHANGE.

Borrower represents and warrants that:

(a) there has been no material adverse change from the conditions shown in the application submitted for the Loan by Borrower ("Application") or in the materials submitted in connection with the Application in the credit rating or financial condition of Borrower, the general partners, shareholders or members of Borrower or any entity which is a general partner, shareholder or member of Borrower, respectively as the case may be (collectively, "Borrower's Constituents", but Borrower's Constituents shall exclude limited partners of Borrower and the unrelated owners of any interests of the general partner of Borrower which are traded on a national securities exchange).

(b) Borrower has delivered to Lender true and correct copies of all Borrower's organizational documents and except as expressly approved by Lender in writing, there have been no

changes in Borrower's Constituents since the date that the Application was executed by Borrower.

(c) Neither Borrower, nor any of the Borrower's Constituents, is involved in any bankruptcy, reorganization, insolvency, dissolution or liquidation proceeding, and to the best knowledge of Borrower, no such proceeding is contemplated or threatened.

(d) Borrower has received reasonably equivalent value for the granting of this Mortgage.

Section 8.04 FOREIGN INVESTOR. Borrower hereby represents and warrants that neither Borrower nor any of Borrower's Constituents are, and no legal or beneficial interest in a partner, member or stockholder of Borrower or any of Borrower's Constituents is or will be held, directly or indirectly by, a "foreign person" within the meaning of Sections 1445 and 7701 of the Internal Revenue Code of 1986, as amended, or Regulations promulgated pursuant thereto.

Section 8.05 SECURITIES LAWS. The limited partnership interests evidenced by the Borrower's Organizational Documents have been issued in accordance with all applicable federal and state securities laws, or authorized exemptions from such securities laws, including, but not limited to, the Securities Act of 1933, as amended and the Securities and Exchange Act of 1934. The limited partnership interests of Borrower have not been issued in violation of any federal, state or local securities law, and to the extent that these securities have been issued in reliance on exemptions from such federal or state securities law, all necessary steps have been taken to qualify for such exemptions. The limited partners of Borrower have been properly notified of all applicable securities laws and related restrictions on their ability to transfer, sell or otherwise dispose of their partnership interests in Borrower. The name of Lender is not and will not be in any of the offering materials provided or to be provided to any person, including, but not limited to, any of the limited partners of Borrower, nor has there been any representation, whether written, oral or otherwise, that Lender in any way has participated or endorsed the offering of the partnership interests in Borrower.

#### ARTICLE IX EXCULPATION AND LIABILITY

##### Section 9.01 LIABILITY OF BORROWER.

(a) Upon the occurrence of an Event of Default, except as provided in this Section 9.01, Lender will look solely to the Property and the security under the Loan Documents for the repayment of the Loan and will not enforce a deficiency judgment against Borrower. However, nothing contained in this section shall limit the rights of Lender to proceed against Borrower and the general partners of Borrower and/or the Liable Parties, if any, (i) to enforce any Leases entered into by Borrower or its affiliates as tenant, guarantees, or other agreements entered into by Borrower in a capacity other than as borrower or any policies of insurance; (ii) to recover damages for fraud, material misrepresentation, material breach of warranty or waste; (iii) to recover any Condemnation Proceeds or Insurance Proceeds or other similar funds which have been misapplied by Borrower or which, under the terms of the Loan Documents, should have been paid to Lender; (iv) to recover any tenant security deposits, tenant letters of credit or other deposits or fees paid to Borrower that are part of the collateral for the Loan or prepaid rents for a period of more than 30 days which have not been delivered to Lender; (v) to recover Rents and Profits received by Borrower after the first day of the month in which an Event of Default occurs and prior to the date Lender acquires title to the Property which have not been applied to the Loan or in accordance with the Loan Documents to operating and maintenance expenses of the Property; (vi) to recover damages, costs and expenses arising from, or in connection with Article VI of this Mortgage pertaining to hazardous materials or the Indemnity Agreement; (vii) to recover all amounts expended and reasonable expenses of Lender in connection with the exercise of its rights and remedies under the Loan

Documents and/or the foreclosure of this Mortgage; (viii) to recover damages arising from Borrower's failure to comply with Section 8.01 of this Mortgage pertaining to ERISA; and/or (ix) to the extent Lender does not require deposits on account of Impositions and/or Premiums, to the extent that any obligations for which the Impositions or Premiums deposit was not paid by Borrower.

(b) The limitation of liability set forth in this Section 9.01 shall not apply and the Loan shall be fully recourse in the event (i) of a violation of either Section 10.01 or Section 10.02 or Section 10.05 or Section 10.06 of this Mortgage, or (ii) that Borrower (A) commences a voluntary bankruptcy or insolvency proceeding or (B) an involuntary bankruptcy or insolvency proceeding is commenced against Borrower and is not dismissed within 90 days of filing or (C) that Borrower or any general partner of Borrower, or any person related to or affiliated with Borrower or any general partner in Borrower, takes any action that challenges, interferes with, or delays the exercise of Lender's rights or remedies available under the Loan Documents, at law or in equity. In addition, this agreement shall not waive any rights which Lender would have under any provisions of the U.S. Bankruptcy Code to file a claim for the full amount of the Secured Indebtedness or to require that the Property shall continue to secure all of the Secured Indebtedness.

ARTICLE X  
CHANGE IN OWNERSHIP, CONVEYANCE OF PROPERTY

Section 10.01 CONVEYANCE OF PROPERTY, CHANGE IN OWNERSHIP COMPOSITION.

(a) Borrower shall not cause or permit: (i) the Property or any interest in the Property, to be conveyed, transferred, assigned, encumbered, sold or otherwise disposed of, or (ii) any transfer, assignment or conveyance of any general partnership interest in Borrower or any interest in Borrower's Constituents or (iii) any merger, reorganization, dissolution or other change in the ownership structure of Borrower or any of the general partners of Borrower, including, without limitation, any conversion of Borrower or any general partner of Borrower from a general partnership or limited partnership to a limited partnership, general partnership, a limited liability partnership or a limited liability company (collectively, "Transfers").

(b) The prohibitions on transfer shall not be applicable to (i) transfer of limited partnership interests of the Borrower, provided that at all times the Liable Party maintains at least 50% partnership interest in the Borrower; (ii) transfers of the shares or stock of Liable Party so long as the Liable Party is a publicly traded company on a national stock exchange; (iii) transfers of the shares or stock of Liable Party if the Liable Party no longer is a publicly traded company on a national stock exchange, provided that the Liable Party has a net worth of not less than \$15,000,000 and either Ross Dworman or Kenneth Bernstein retains effective management control over the Liable Party and Borrower; and (iv) the consolidation, merger, reorganization or other change in the ownership structure of Borrower or Liable Party if the Liable Party is no longer a publicly traded company on a national stock exchange, provided Liable Party has a net worth of not less than \$15,000,000 and either Ross Dworman or Kenneth Bernstein retains effective management control over Liable Party and Borrower.

Section 10.02 PROHIBITION ON SUBORDINATE FINANCING. Borrower shall not incur or permit the incurring of (i) any financing in addition to the Loan that is secured by a lien, security interest or other encumbrance of any part of the Property or (ii) any pledge or encumbrance of a partnership (other than a limited partnership interest), member or shareholder or beneficial interest in Borrower.



Section 10.03 INTENTIONALLY OMITTED.

Section 10.04 STATEMENTS REGARDING OWNERSHIP. Borrower agrees to submit or cause to be submitted to Lender within thirty (30) days after December 31st of each calendar year during the term of this Mortgage and ten (10) days after any written request by Lender, a sworn, notarized certificate, signed by an authorized (i) individual who is Borrower or one of the individuals comprising Borrower, (ii) member of Borrower, (iii) partner of Borrower or (iv) officer of Borrower, as the case may be, stating whether (x) any part of the Property, or any interest in the Property, has been conveyed, transferred, assigned, encumbered, or sold, and if so, to whom; (y) any conveyance, transfer, pledge or encumbrance of any interest in Borrower has been made by Borrower and if so, to whom; or (z) there has been any change in the general partner of Borrower or in Borrower's Constituents from those on the Execution Date, and if so, a description of such change or changes.

Section 10.05 ONETIME TRANSFER RIGHT.

(a) Notwithstanding anything in Article X to the contrary, Borrower shall have the one time right to transfer either or both of the East End Center and/or Crescent Street properties, subject to compliance with all of the following conditions:

(i) The Floating Rate Note shall have previously been paid off in full, and

(ii) There shall exist no Event of Default, and

(iii) Lender has in writing approved, acting reasonably, of the transferee, and

(iv) The transferee shall be able to make, and shall make the representations set forth in Sections 8.01 and 8.02 of this Mortgage, and

(v) The cash flow, in the opinion of Lender, derived from the Crescent Street property shall be no less than 1.50 times the portion of the annual payments required under the Fixed Payment Note attributable to Crescent Street property, and the cash flow, in the opinion of Lender, derived from the East End Center property shall be no less than 1.35 times the portion of the annual payments required under the Fixed Payment Note attributable to the East End Center property; and

(vi) The Loan to value ratio of the portion of the Fixed Payment Note attributable to Crescent Street property with the value of Crescent Street property shall not be greater than 77% and the Loan to value ratio of the portion of the Fixed Payment Note attributable to the East End Center with the value of East End Center shall not be greater than 77%, and

(vii) Borrower or the transferee shall pay a fee equal to one percent (1%) of the portion of the Fixed Rate Note being assumed by the transferee, together with a processing fee of \$5,000, and

(viii) the Loan Documents shall be modified to amend and restate into a separate note, mortgage and other of the Loan Documents, the portion of the Fixed Rate Note being assumed and the property being transferred, if applicable (and separate from the portions being retained, if applicable), in a manner satisfactory to Lender, and the transferee shall expressly assume (or execute) such applicable documents and indemnity agreement in a form and manner reasonably satisfactory to Lender, and an additional liable party acceptable to Lender shall execute a guaranty and indemnity agreement (in the form of the Guaranty and Indemnity Agreement) with respect to events occurring from and after the date of transfer; and

(ix) the transferee (or the principal of the transferee if the transferee is a single purpose entity) must have a net worth not less than \$15,000,000, and

(x) the transferee must be experienced in the ownership, management and leasing of properties similar to the property being transferred, and

(xi) Borrower or transferee must pay all costs and expenses incurred by Lender in connection with the transfer, including without limitation title insurance premiums, documentation costs and reasonable attorneys' fees, and

(xii) if the Fixed Rate Loan (or any portion thereof) has been securitized, Lender shall have received confirmation that the assumption thereof by transferee will not result in an adverse change in the rating of the securities by the applicable rating agency.

No transfer shall release Borrower or the Liable Party, from their obligations under the Loan Documents, the Indemnity Agreement or the Guaranty with respect to events arising or occurring prior to the date of transfer.

(b) Borrower shall not have any rights of transfer under the Loan Documents with respect to Greenridge Plaza, Valmont Plaza or Luzerne Street except as provided in Section 10.06 below.

Section 10.06 RELEASES. Notwithstanding any provision prohibiting transfers in the Loan Documents, and provided no Event of Default exists and there is no default under the Indemnity Agreement or Guaranty, Lender shall release from the lien of this Mortgage any or all of the Greenridge Plaza, Valmont Plaza or Luzerne Street properties upon the sale thereof, but only upon compliance with all of the following conditions:

(a) Borrower presents Lender with a bona fide contract for sale with a party unrelated to Borrower, certified to be true, correct and complete, and gives Lender at least 30 days' prior notice of the applicable settlement date, and

(b) the loan documentation evidencing and effectuating the release must be satisfactory to Lender, and if the amortization payments have commenced under the Floating Rate Note, the monthly payments shall be reset based upon the remainder of the amortization period, and

(c) Lender shall have received such endorsements to its title insurance policy as it may reasonably require including, without limitation, partial release endorsement and bring down to the date of the partial release, and

(d) Borrower must pay all of Lender's expenses, including attorneys' fees incurred in connection with the release, and

(e) the proceeds of sale shall be distributed as follows:

(i) if the sale price is in excess of the outstanding principal balance, accrued interest and all other sums due and payable and attributable to the portion of the Floating Rate Note attributable to the property being released, such sales price shall be distributed in the following order of priority, to the extent available: (A) to Lender in full payment of the outstanding principal balance of the portion of the Floating Rate Note, accrued interest and all other sums due and payable and attributable to the property being released, (B) to Borrower in an amount equal to ten percent (10%) of the then outstanding balance of the portion of the Floating Rate Note attributable to the property being released, (C) to Borrower to reimburse Borrower for any reasonable out-of-pocket expenses incurred in connection with such sale transaction, (D) to Borrower to reimburse Borrower for any outstanding capital expenses which were funded

on an out-of-pocket basis by Borrower with respect to the property being sold and which have not yet been reimbursed to Borrower under the Capital Escrow Agreement, (E) to Lender and Borrower, split equally, with the amount so paid to Lender being used to reduce the principal balance of the Floating Rate Note (pro rata as attributable to the remaining properties) and then to reduce the Fixed Rate Note (pro rata as attributable to each property, without Prepayment Fee), or

(ii) if the sales price is not in excess of the outstanding principal balance, accrued interest and all other sums due and payable and attributable to the portion of the Floating Rate Note attributable to the property being released, or if the application of (i) above is not sufficient to pay the same in its entirety, the Borrower nevertheless shall pay to Lender in full the outstanding principal balance, all accrued interest and other sums due and payable and attributable to the portion of the Floating Rate Note attributable to the property being released.

Section 10.07 CONTRIBUTION.

(a) In numerous instances and circumstances this Mortgage refers either to portions of the Fixed Rate Note and/or Floating Rate Note attributable to a property. This is a result of the consolidation of various notes as referred to in the RECITALS.

(b) For the purposes of interpretation, as of the date of this Mortgage, the Fixed Rate Note, with a principal balance of \$25,200,000 shall be deemed to be composed of two notes attributable to properties as follows:

- (i) \$16,300,000 to East End Center (64.68253%)
- (ii) \$8,900,000 to Crescent Street property (35.31746%)

(c) For the purposes of interpretation, as of the date of this Mortgage, the Floating Rate Note, with a principal balance of \$10,800,000 shall be deemed to be composed of three notes attributable to properties as follows:

- (i) \$6,100,000 to Greenridge Plaza (56.48148%)
- (ii) \$3, 100,000 to Valmont Plaza (28.70370%)
- (iii) \$1,600,000 to Luzerne Street (14.8148 1%)

(d) Except in the case of an Event of Default, Lender shall allocate principal payments made under the Fixed Rate Note or Floating Rate Note in the percentages specified in paragraphs (b) and (c) above, and at any given time the portion attributable to the property specified in paragraphs (b) and (c) above shall be the percentages so specified unless and until there is a release of any property, in which event the percentage shall be reallocated between the remaining properties in proportion to the outstanding balances then attributable to such properties.

ARTICLE XI  
DEFAULTS AND REMEDIES

Section 11.01 EVENTS OF DEFAULT. Any of the following shall be deemed to be a material breach of Borrower's covenants in this Mortgage and shall constitute a default ("Event of Default"):

(a) The failure of Borrower to pay any installment of principal, interest or principal and interest, any required escrow deposit or any other sum required to be paid under any Loan Document, whether to Lender or otherwise, within seven (7) days of the due date of such payment; provided, however, no notice shall be required to be given and no grace period shall apply to the payment due on the Maturity Date under the Fixed Rate Note or Floating Rate Note.

(b) The failure of Borrower to perform or observe any other term, provision, covenant, condition or agreement under any Loan Document for a period of more than thirty (30) days after receipt of notice of such failure;

(c) The filing by Borrower or the Liable Party of a voluntary petition or application for relief in bankruptcy, the filing against Borrower or Liable Party of an involuntary petition or application for relief in bankruptcy which is not dismissed within ninety (90) days, or Borrower's or Liable Party's adjudication as a bankrupt or insolvent, or the filing by Borrower or Liable Party of any petition, application for relief or answer seeking or acquiescing in any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief for itself under any present or future federal, state or other statute, law, code or regulation relating to bankruptcy, insolvency or other relief for debtors, or Borrower's or Liable Party's seeking or consenting to or acquiescing in the appointment of any trustee, custodian, conservator, receiver or liquidator of Borrower or Liable Party or of all or any substantial part of the Property or of any or all of the Rents and Profits, or the making by Borrower or Liable Party of any general assignment for the benefit of creditors, or the admission in writing by Borrower or Liable Party of its inability to pay its debts generally as they become due;

(d) If any warranty, representation, certification, financial statement or other information made or furnished at any time pursuant to the terms of the Loan Documents by Borrower, or by any person or entity otherwise liable under any Loan Document shall be materially false or misleading;

(e) If Borrower shall suffer or permit the Property, or any part of the Property, to be used in a manner that might (1) impair Borrower's title to the Property, (2) create rights of adverse use or possession, or (3) constitute an implied dedication of any part of the Property; or

(f) If Liable Party shall default under the Guaranty or Indemnity Agreement;

Section 11.02 REMEDIES UPON DEFAULT. Upon the happening of an Event of Default, the Secured Indebtedness shall, at the option of Lender, become immediately due and payable, without further notice or demand, and Lender may undertake any one or more of the following remedies:

(a) Foreclosure, Institute a foreclosure action either as a whole or in separate parcels as Lender may determine in accordance with the law of the State, or take any other action as may be allowed, at law or in equity, for the enforcement of the Loan Documents and realization on the Property or any other security afforded by the Loan Documents. If the Property is sold as separate parcels, Lender may direct the order in which such parcels are sold. In the case of a judicial proceeding, Lender may proceed to final judgment and execution for the amount of the Secured Indebtedness owed as of the date of the judgment, together with all costs of suit, reasonable attorneys' fees and interest on the judgment at the maximum rate permitted by law from the date of the judgment until paid. If Lender is the purchaser at the foreclosure sale of the Property, the foreclosure sale price shall be applied against the total amount due Lender; and/or

(b) STATUTORY POWER OF SALE. With respect to the Crescent Street property, exercise the STATUTORY POWER OF SALE. Institute a non-judicial foreclosure proceeding in compliance with applicable law in effect on the date foreclosure is commenced for the Lender to sell the Property

either as a whole or in separate parcels as Lender may determine at public sale or sales to the highest bidder for cash, in order to pay the Secured Indebtedness owed as of the date of the sale, together with all costs of suit and interest at the maximum rate permitted by law until receipt of payment, together with a reasonable attorney's fee for collection but in no event less than \$25,000. If the Property is sold as separate parcels, Lender may direct the order in which the parcels are sold. Lender shall deliver to the purchaser a deed or deeds without covenant or warranty, express or implied. Lender may postpone the sale of all or any portion of the Property by public announcement at the time and place of sale, and from time to time may further postpone the sale by public announcement in accordance with applicable law. The STATUTORY POWER OF SALE shall not be exhausted until the Crescent Street property shall have been sold or the entire Secured Indebtedness has been paid in full; and/or

(c) Entry- Enter into possession of the Property, lease the Improvements, collect all Rents and Profits and, after deducting all costs of collection and administration expenses, apply the remaining Rents and Profits in such order and amounts as Lender, in Lender's sole discretion, may elect to the payment of Impositions, operating costs, costs of maintenance, restoration and repairs, Premiums and other charges, including, but not limited to, costs of leasing the Property and fees and costs of counsel and receivers, and in reduction of the Secured Indebtedness; and/or

(d) Receivership Have a receiver appointed to enter into possession of the Property as a matter of right, lease the Property, collect the Rents and Profits and apply them as the appropriate court may direct. Lender shall be entitled to the appointment of a receiver without the necessity of proving either the inadequacy of the security or the insolvency of Borrower or any of the Liable Parties. Borrower and Liable Parties shall be deemed to have consented to the appointment of the receiver. The collection or receipt of any of the Rents and Profits by Lender or any receiver shall not affect or cure any Event of Default.

(e) CONFESSION OF JUDGMENT FOR POSSESSION. FOR THE PURPOSE OF OBTAINING POSSESSION OF EACH OF THE PARCELS LOCATED IN PENNSYLVANIA AND BEING A PART OF THE PROPERTY, UPON THE OCCURRENCE OF AN EVENT OF DEFAULT, BORROWER HEREBY AUTHORIZES AND EMPOWERS ANY ATTORNEY OF ANY COURT OF RECORD IN THE COMMONWEALTH OF PENNSYLVANIA OR ELSEWHERE, AS ATTORNEY FOR BORROWER AND ALL PERSONS CLAIMING UNDER OR THROUGH BORROWER, TO APPEAR AND CONFESS JUDGMENT IN EJECTMENT FOR POSSESSION OF THE APPLICABLE PORTION OF THE PROPERTY AGAINST BORROWER, AND AGAINST ALL PERSONS CLAIMING UNDER OR THROUGH BORROWER, IN FAVOR OF LENDER, FOR RECOVERY BY LENDER OF POSSESSION THEREOF, FOR WHICH THIS MORTGAGE, OR A COPY THEREOF VERIFIED BY AFFIDAVIT, SHALL BE A SUFFICIENT WARRANT; AND THEREUPON A WRIT OF POSSESSION MAY IMMEDIATELY ISSUE FOR POSSESSION OF THE APPLICABLE PORTION OF THE PROPERTY, WITHOUT ANY PRIOR WRIT OR PROCEEDING WHATSOEVER AND WITHOUT ANY STAY OF EXECUTION. IF FOR ANY REASON AFTER SUCH ACTION HAS BEEN COMMENCED IT SHALL BE DISCONTINUED, OR POSSESSION OF THE APPLICABLE PORTION OF THE PROPERTY SHALL REMAIN IN OR BE RESTORED TO BORROWER, LENDER SHALL HAVE THE RIGHT FOR THE SAME DEFAULT OR ANY SUBSEQUENT DEFAULT TO ENTER JUDGMENT AGAINST BORROWER BY CONFESSION AS ABOVE PROVIDED TO RECOVER POSSESSION OF THE APPLICABLE PORTION OF THE PROPERTY. LENDER MAY CONFESS JUDGMENT IN EJECTMENT BY CONFESSION BEFORE OR AFTER THE INSTITUTION OF PROCEEDINGS TO FORECLOSE THIS MORTGAGE OR TO ENFORCE THE NOTE, OR AFTER ENTRY OF JUDGMENT THEREIN OR ON THE NOTE, OR AFTER A SHERIFF'S SALE OF THE PROPERTY, OR ANY PORTION THEREOF IN WHICH LENDER IS THE SUCCESSFUL BIDDER, IT BEING THE UNDERSTANDING OF THE PARTIES THAT THE AUTHORIZATION TO PURSUE SUCH PROCEEDINGS FOR OBTAINING

POSSESSION AND CONFESSION OF JUDGMENT THEREIN IS AN ESSENTIAL PART OF THE REMEDIES FOR ENFORCEMENT OF THIS MORTGAGE AND THE NOTE, AND SHALL SURVIVE ANY EXECUTION SALE TO LENDER, AND MAY BE EXERCISED AS MANY TIMES AS LENDER DETERMINES THE NEED THEREFOR.

Section 11.03 APPLICATION OF PROCEEDS OF SALE. In the event of a sale of the Property pursuant to Section 11.02 of this Mortgage, to the extent permitted by law, the Lender shall determine in its sole discretion the order in which the proceeds from the sale shall be applied to the payment of the Secured Indebtedness, including without limitation, the expenses of the sale and of all proceedings in connection with the sale, including reasonable attorneys' fees and expenses; Impositions, Premiums, liens, and other charges and expenses; the outstanding principal balance of the Secured Indebtedness; any accrued interest; any Prepayment Fee; and any other amounts owed under any of the Loan Documents.

Section 11.04 WAIVER OF JURY TRIAL. To the fullest extent permitted bylaw, Borrower and Lender HEREBY WAIVE THEIR RESPECTIVE RIGHT TO TRIAL BY JURY in any action, proceeding and/or hearing on any matter whatsoever arising out of, or in any way connected with, the Notes, this Mortgage or any of the Loan Documents, or the enforcement of any remedy under any law, statute, or regulation. Neither party will seek to consolidate any such action in which a jury has been waived, with any other action in which a jury trial cannot or has not been waived. Each party has received the advice of counsel with respect to this waiver.

Section 11.05 LENDER'S RIGHT TO PERFORM BORROWER'S OBLIGATIONS. Borrower agrees that, if Borrower fails to perform any act or to pay any money which Borrower is required to perform or pay under the Loan Documents, Lender may make the payment or perform the act at the cost and expense of Borrower and in Borrower's name or in its own name. Any money paid by Lender under this Section 11.05 shall be reimbursed to Lender in accordance with Section 11.06.

Section 11.06 LENDER REIMBURSEMENT. All payments made, or funds expended or advanced by Lender pursuant to the provisions of any Loan Document, shall (1) become a part of the Secured Indebtedness, (2) bear interest if with respect to the East End or Crescent Street properties at the Interest Rate as set forth in the Fixed Rate Note, or if with respect to the Greenridge Plaza or Valmont Plaza or Luzerne Street properties, at the Interest Rate set forth in the Floating Rate Note, from the date such payments are made or funds expended or advanced, (3) become due and payable by Borrower upon demand by Lender, and (4) if with respect to the East End or Crescent Street properties, bear interest at the Default Rate as set forth in the Fixed Rate Note, or if with respect to the Greenridge Plaza or Valmont Plaza or Luzerne Street properties, at the Interest Rate set forth in the Floating Rate Note, from the date of such demand. Borrower shall reimburse Lender within ten (10) days after receipt of written demand for such amounts.

Section 11.07 FEES AND EXPENSES. If Lender becomes a party (by intervention or otherwise) to any action or proceeding affecting, directly or indirectly, Borrower, the Property or the title thereto or Lender's interest under this Mortgage, or employs an attorney to collect any of the Secured Indebtedness or to enforce performance of the obligations, covenants and agreements of the Loan Documents, Borrower shall reimburse Lender in accordance with Section 11.06 for all expenses, costs, charges and reasonable legal fees incurred by Lender (including, without limitation, the fees and expenses of experts and consultants), whether or not suit is commenced.

Section 11.08 WAIVER OF CONSEQUENTIAL DAMAGES. Borrower covenants and agrees that in no event shall Lender be liable for consequential damages, and to the fullest extent permitted by law, Borrower expressly waives all existing and future claims that it may have against Lender for consequential damages.

Section 11.09 ADDITIONAL REMEDIES. Not in limitation of, but in addition to the remedies provided above, as to the Crescent Street property, Lender shall have all rights and remedies provided under the laws of the Commonwealth of Massachusetts, and as to the balance of the Property all rights and remedies provided under the laws of the Commonwealth of Pennsylvania.

ARTICLE XII  
BORROWER AGREEMENTS AND FURTHER ASSURANCES

Section 12.01 PARTICIPATION AND SALE OF LOAN.

(a) Lender may sell, transfer or assign its entire interest or one or more participation interests in the Loan (or portions thereof) and the Loan Documents at any time and from time to time, including, without limitation, its rights and obligations as servicer of the Loan. Lender may issue mortgage passthrough certificates or other securities evidencing a beneficial interest in a rated or unrated public offering or private placement, including depositing the Loan Documents with a trust that may issue securities (the "Securities"). Lender may forward to each purchaser, transferee, assignee, servicer, participant, investor in such Securities (collectively, the "Investor") or any Rating Agency rating such Securities and each prospective Investor, all documents and information which Lender now has or may hereafter acquire relating to the Secured Indebtedness and to Borrower or the Liable Party and the Property, whether furnished by Borrower, the Liable Party or otherwise, as Lender determines necessary or desirable.

(b) Borrower will cooperate with Lender and the rating agencies in furnishing such information and providing such other assistance, reports and legal opinions as Lender may reasonably request in connection with any such transaction. In addition, Borrower acknowledges that Lender may release or disclose to potential purchasers or transferees of the Loan, or potential participants in the Loan, originals or copies of the Loan Documents, title information, engineering reports, financial statements, operating statements, appraisals, Leases, rent rolls, and all other materials, documents and information in Lender's possession or which Lender is entitled to receive under the Loan Documents, with respect to the Loan, Borrower, Liable Party or the Property. Borrower shall also furnish to such Investors or such prospective Investors or such Rating Agency any and all information concerning the Property, the Leases, the financial condition of Borrower or the Liable Party as may be requested by Lender, any Investor or any prospective Investor or any Rating Agency in connection with any sale, transfer or participation interest.

Section 12.02 REPLACEMENT OF NOTE. Upon notice to Borrower of the loss, theft, destruction or mutilation of either the Fixed Rate Note or Floating Rate Note, Borrower will execute and deliver, in lieu of the original thereof, a replacement note, identical in form and substance either to the Fixed Rate Note or Floating Rate Note, as applicable, and dated as of the Execution Date. Upon the execution and delivery of the replacement note, all references in any of the Loan Documents to the Note shall include the replacement note, and all references to the Fixed Rate Note or Floating Rate Note, if replaced, shall include the replacement note.

Section 12.03 BORROWER'S ESTOPPEL. Within ten (10) days after a request by Lender, Borrower shall furnish an acknowledged written statement in form satisfactory to Lender (i) setting forth the amount of the Secured Indebtedness, (ii) stating either that no offsets or defenses exist against the Secured Indebtedness, or if any offsets or defenses are alleged to exist, their nature and extent, (iii) whether any default then exists under the Loan Documents or any event has occurred and is continuing, which, with the lapse of time, the giving of notice, or both, would constitute such a default, and (iv) any other matters as Lender may reasonably request. If Borrower does not furnish an estoppel certificate within the 10-day

period, Borrower appoints Lender as its attorney-in-fact to execute and deliver the certificate on its behalf, which power of attorney shall be coupled with an interest and shall be irrevocable.

Section 12.04 FURTHER ASSURANCES. Borrower shall, without expense to Lender, execute, acknowledge and deliver all further acts, deeds, conveyances, mortgages, deeds of trust, assignments, security agreements, and financing statements as Lender shall from time to time reasonably require, to assure, convey, assign, transfer and confirm unto Lender the Property and rights conveyed or assigned by this Mortgage or which Borrower may become bound to convey or assign to Lender, or for carrying out the intention or facilitating the performance of the terms of this Mortgage or any of the other Loan Documents, or for filing, refiling, registering, reregistering, recording or rerecording this Mortgage. If Borrower fails to comply with the terms of this Section, Lender may, at Borrower's expense, perform Borrower's obligations for and in the name of Borrower, and Borrower hereby irrevocably appoints Lender as its attorney-in-fact to do so. The appointment of Lender as attorney-in-fact is coupled with an interest.

Section 12.05 SUBROGATION. Lender shall be subrogated to the lien of any and all encumbrances against the Property paid out of the proceeds of the Loan and to all of the rights of the recipient of such payment.

ARTICLE XIII  
SECURITY AGREEMENT

Section 13.01 SECURITY AGREEMENT.

THIS MORTGAGE CREATES A LIEN ON THE PROPERTY. IN ADDITION, TO THE EXTENT THE PROPERTY IS PERSONAL PROPERTY OR FIXTURES UNDER APPLICABLE LAW, THIS MORTGAGE CONSTITUTES A SECURITY AGREEMENT UNDER THE UNIFORM COMMERCIAL CODE OF THE STATE IN WHICH THE PROPERTY IS LOCATED (THE "U.C.C.") AND ANY OTHER APPLICABLE LAW AND IS FILED AS A FIXTURE FILING. UPON THE OCCURRENCE OF AN EVENT OF DEFAULT, LENDER MAY, AT ITS OPTION, PURSUE ANY AND ALL RIGHTS AND REMEDIES AVAILABLE TO A SECURED PARTY WITH RESPECT TO ANY PORTION OF THE PROPERTY, AND/OR LENDER MAY, AT ITS OPTION, PROCEED AS TO ALL OR ANY PART OF THE PROPERTY IN ACCORDANCE WITH LENDER'S RIGHTS AND REMEDIES WITH RESPECT TO THE LIEN CREATED BY THIS MORTGAGE. THIS FINANCING STATEMENT SHALL REMAIN IN EFFECT AS A FIXTURE FILING UNTIL THIS MORTGAGE IS RELEASED OR SATISFIED OF RECORD.

Section 13.02 REPRESENTATIONS AND WARRANTIES.

Borrower warrants, represents and covenants as follows:

(a) Borrower owns the Personal Property free from any lien, security interest, encumbrance or adverse claim, except as otherwise expressly approved by Lender in writing. Borrower will notify Lender of, and will protect, defend and indemnify Lender against, all claims and demands of all persons at any time claiming any rights or interest in the Personal Property.

(b) The Personal Property has not been used and shall not be used or bought for personal, family, or household purposes, but shall be bought and used solely for the purpose of carrying on Borrower's business.

(c) Borrower will not remove the Personal Property without the prior written consent of Lender, except the items of Personal Property which are consumed or worn out in ordinary usage shall be



promptly replaced by Borrower with other Personal Property of value equal to or greater than the value of the replaced Personal Property.

Section 13.03 CHARACTERIZATION OF PROPERTY. The grant of a security interest to Lender in this Mortgage shall not be construed to limit or impair the lien of this Mortgage or the rights of Lender with respect to any property which is real property or which the parties have agreed to treat as real property. To the fullest extent permitted by law, everything used in connection with the production of Rents and Profits is, and at all times and for all purposes and in all proceedings, both legal and equitable, shall be regarded as real property, irrespective of whether or not the same is physically attached to the Land and/or Improvements.

Section 13.04 PROTECTION AGAINST PURCHASE MONEY SECURITY INTERESTS. It is understood and agreed that in order to protect Lender from the effect of U.C.C. Section 9-313, as amended from time to time and as enacted in the State, in the event that Borrower intends to purchase any goods which may become fixtures attached to the Property, or any part of the Property, and such goods will be subject to a purchase money security interest held by a seller or any other party:

(a) Before executing any security agreement or other document evidencing or perfecting the security interest, Borrower shall obtain the prior written approval of Lender. All requests for such written approval shall be in writing and contain the following information: (i) a description of the fixtures; (ii) the address at which the fixtures will be located; and (iii) the name and address of the proposed holder and proposed amount of the security interest.

(b) Borrower shall pay all sums and perform all obligations secured by the security agreement. A default by Borrower under the security agreement shall constitute a default under this Mortgage. If Borrower fails to make any payment on an obligation secured by a purchase money security interest in the Personal Property or any fixtures, Lender, at its option, may pay the secured amount and Lender shall be subrogated to the rights of the holder of the purchase money security interest.

(c) Lender shall have the right to acquire by assignment from the holder of the security interest for the Personal Property or fixtures, all contract rights, accounts receivable, negotiable or non-negotiable instruments, or other evidence of indebtedness and to enforce the security interest as assignee.

(d) The provisions of subparagraphs (b) and (c) of this Section 13.04 shall not apply if the goods which may become fixtures are of at least equivalent value, and quality as the Personal Property being replaced and if the rights of the party holding the security interest are expressly subordinated to the lien and security interest of this Mortgage in a manner satisfactory to Lender.

#### ARTICLE XIV MISCELLANEOUS COVENANTS

Section 14.01 NO WAIVER. No single or partial exercise by Lender, or delay or omission in the exercise by Lender, of any right or remedy under the Loan Documents shall preclude, waive or limit the exercise of any other right or remedy. Lender shall at all times have the right to proceed against any portion of, or interest in, the Property without waiving any other rights or remedies with respect to any other portion of the Property. No right or remedy under any of the Loan Documents is intended to be exclusive of any other right or remedy but shall be cumulative and may be exercised concurrently with or independently from any other right and remedy under any of the Loan Documents or under applicable law.

Section 14.02 NOTICES. All notices, demands and requests given or required to be given by, pursuant to, or relating to, this Mortgage shall be in writing. All notices shall be deemed to have been properly given if mailed by United States registered or certified mail, with return receipt requested, postage prepaid, or by United States Express Mail or other comparable overnight courier service to the parties at the addresses set forth in the Defined Terms (or at such other addresses as shall be given in writing by any party to the others) and shall be deemed complete upon receipt or refusal to accept delivery as indicated in the return receipt or in the receipt of such United States Express Mail or courier service.

Section 14.03 HEIRS AND ASSIGNS; TERMINOLOGY.

(a) This Mortgage applies to Lender, Liable Parties and Borrower, and their heirs, legatees, devisees, administrators, executors, successors and assigns. The term "Borrower" shall include both the original Borrower and any subsequent owner or owners of any of the Property. The term "Liable Party" shall include both the original Liable Party and any subsequent or substituted Liable Party.

(b) In this Mortgage, whenever the context so requires, the masculine gender includes the feminine and/or neuter, and the singular number includes the plural.

Section 14.04 SEVERABILITY. If any provision of this Mortgage should be held unenforceable or void, then that provision shall be separated from the remaining provisions and shall not affect the validity of this Mortgage except that if the unenforceable or void provision relates to the payment of any monetary sum, then, Lender may, at its option, declare the Secured Indebtedness immediately due and payable.

Section 14.05 APPLICABLE LAW. This Mortgage shall be construed and enforced in accordance with the laws of the Commonwealth of Pennsylvania; except as to the Crescent Street property, the laws of the Commonwealth of Massachusetts shall govern as to the perfection of security and as to any remedial provision applicable thereto.

Section 14.06 CAPTIONS. The captions are inserted only as a matter of convenience and for reference, and in no way define, limit, or describe the scope or intent of any provisions of this Mortgage.

Section 14.07 TIME OF THE ESSENCE. Time shall be of the essence with respect to all of Borrower's obligations under this Mortgage and the other Loan Documents.

Section 14.08 NO MERGER. In the event that Lender should become the owner of the Property, there shall be no merger of the estate created by this Mortgage with the fee estate in the Property.

Section 14.09 NO MODIFICATIONS. This Mortgage may not be changed, amended or modified, except in a writing expressly intended for such purpose and executed by Borrower and Lender.

Section 14.10 CRESCENT STREET PROPERTY. This Mortgage as to the Crescent Street property is upon the STATUTORY CONDITION and upon the further condition that all representations, warranties, covenants and agreements on the part of Borrower herein undertaken shall be kept and fully and seasonably performed and that no breach of any other of the conditions specified herein shall be permitted, and no Event of Default shall have occurred, for any breach of which covenants, conditions, representations, warranties, which breach is or becomes an Event of Default, Lender shall have the STATUTORY POWER OF SALE and any other powers given by any other statute or law.

Section 14.11. POWERS OF ATTORNEY. Any power of attorney in this Mortgage given by Borrower to Lender is granted for the sole benefit of Lender and specifically is not governed by or subject to the provisions of Pennsylvania Act 39 of 1999 (20 Pa.C.S.A. Section 5601 et seq.).

Section 14.12. MARSHALLING AND OTHER MATTERS. Borrower hereby waives, to the extent permitted by law, the benefit of all appraisement, 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, and, except to the extent specifically otherwise provided in the Loan Documents, Borrower shall have the right to apply to proceeds or from any portion of the Property against the Fixed Rate Note or Floating Rate Note and/or Secured Indebtedness in such order as Lender shall in its sole discretion determine. Further, Borrower, to the extent permitted by law, hereby expressly waives any and all rights of redemption from sale under any order or decree of foreclosure of this Mortgage on behalf of Borrower, and on behalf of each and every person acquiring any interest in or title to the Property or portion thereof subsequent to the date of this Mortgage and on behalf of all persons to the extent permitted by applicable law. Borrower further waives any right, pursuant to statute or otherwise, to require Lender to exhaust any right or remedy or to proceed against any other person, entity or property before proceeding against the Property or any particular portion thereof.

IN WITNESS WHEREOF, Borrower has executed this Mortgage, or has caused this Mortgage to be executed by its duly authorized representative(s) as of the Execution Date as an instrument under seal.

ACADIA REALTY LIMITED PARTNERSHIP,  
a Delaware limited partnership

By: ACADIA REALTY TRUST, a Maryland real estate  
Investment trust its general partner

By: \_\_\_\_\_  
Robert Masters, Senior Vice President

STATE OF: New York:

ss.

COUNTY OF: New York

On this, the 13th day of October, 2000, before me, the subscriber, a Notary Public in and for the Commonwealth and County aforesaid, personally appeared Robert Masters, who acknowledged himself to be Senior Vice President of Acadia Realty Trust, a Maryland real estate investment trust, being the general partner of Acadia Realty Limited Partnership, a Delaware limited partnership, the Borrower under the within Mortgage, who I am satisfied is the person who signed the within Mortgage as such President for such general partner and who acknowledged that he executed same for such general partner on behalf of the aforesaid partnership, being authorized to do so, and that the within Mortgage is the voluntary and free act and deed of such Senior Vice President and general partner and Borrower.

WITNESS my hand and seal the day and year aforesaid.

-----  
Notary Public or Notarial Officer  
My Commission Expires::  
MONIQUE SAGE  
NOTARY PU BUC, State of Now York  
No OISA4777890  
Qualified in Now York Coun 6  
Commission Expires August 31, 2002

(Secured)

TERM LOAN AGREEMENT

dated as of March 30, 2000

among

ACADIA REALTY LIMITED PARTNERSHIP,  
as Borrower,

THE DIME SAVINGS BANK OF NEW YORK, FSB,  
as Lender,

and  
THE DIME SAVINGS BANK OF NEW YORK, FSB,  
as Administrative Agent

TERM LOAN AGREEMENT dated as of March 30, 2000 among ACADIA REALTY LIMITED PARTNERSHIP, a limited partnership organized and existing under the laws of the State of Delaware ("Borrower"), THE DIME SAVINGS BANK OF NEW YORK, FSB (in its individual capacity and not as Administrative Agent, "The Dime"), the other lenders (if any) signatory hereto and THE DIME SAVINGS BANK OF NEW YORK, FSB, as administrative agent for Lenders (in such capacity, together with its successors in such capacity, "Administrative Agent"; The Dime, the other lenders (if any) signatory hereto and such other lenders who from time to time become Lenders pursuant to Section 3.07 or 11.05, each a "Lender" and collectively, "Lenders").

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:

#### ARTICLE I

##### DEFINITIONS AND CONSTRUCTION OF TERMS

Section 1.01 Definitions. As used in this Agreement the following terms have the following meanings:

"Additional Costs" has the meaning specified in Section 3.01.

"Administrative Agent" has the meaning specified in the preamble.

"Administrative Agent's Office" means 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.

"Affected Lender" has the meaning specified in Section 3.07.

"Affected Loan" has the meaning specified in Section 3.04.

"Affiliate" means, 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.

"Applicable Interest Rate" shall mean the "LIBOR Based Rate", except as to all or any portions of the Principal Amount to which the LIBOR Based Rate is not or cannot pursuant to the terms hereof be applicable, which portions shall bear interest at the Prime Based Rate in accordance with Section 2.11 of this Agreement.

"Applicable Lending Office" means, for each Lender and for its LIBOR Loan or Prime Based Loan, 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 which its LIBOR Loan or Prime Based Loan, as applicable, is to be made and maintained.

"Assignee" has the meaning specified in Section 11.05.

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

"Authorization Letter" means a letter agreement executed by Borrower in the form of EXHIBIT A.

"Berlin Shopping Center Property" means the real property owned by Borrower located in Berlin, New Jersey.

"Borrower" has the meaning specified in the preamble.

"Borrower's Accountants" means Ernst & Young, LLP, or such other accounting firm(s) selected by Borrower and reasonably acceptable to Administrative Agent.

"Borrower's Principals" means Acadia Realty Trust, a Maryland real estate investment trust.

"Bradford Towne Centre Property" means the real property owned by Borrower located in Towanda, Pennsylvania.

"Business Day" means (1) any day on which commercial banks are not authorized or required to close in New York City and (2) whenever such day relates to a LIBOR Loan, an Interest Period with respect to a LIBOR Loan, or notice with respect to a LIBOR Loan, a day on which dealings in Dollar deposits are also carried out in the London interbank market and banks are open for business in London.

"Closing Date" means the date this Agreement has been executed by all parties.

"Code" means the Internal Revenue Code of 1986.

"Debt" means (1) indebtedness or liability for borrowed money, or for the deferred purchase price of property or services (including trade obligations), (2) obligations as lessee under Capital Leases, (3) current liabilities in respect of unfunded vested benefits under any Plan, (4) obligations under letters of credit issued for the account of any Person, (5) all obligations arising under bankers' or trade acceptance facilities, (6) all

guarantees, endorsements (other than for collection or deposit in the ordinary course of business), and other contingent obligations to purchase any of the items included in this definition, to provide funds for payment, to supply funds to invest in any Person, or otherwise to assure a creditor against loss, (7) all obligations secured by any Lien on property owned by the Person whose Debt is being measured, whether or not the obligations have been assumed and (8) all obligations under any agreement providing for contingent participation or other hedging mechanisms with respect to interest payable on any of the items described above in this definition.

"Default" means any event which with the giving of notice or lapse of time, or both, would become an Event of Default.

"Default Rate" means a rate per annum equal to (1) with respect to Prime Based Loans, a variable rate 4% above the rate of interest then in effect thereon and (2) with respect to LIBOR Loans, a fixed rate 4% above rate(s) of interest in effect thereon at the time of Default until the end of the then current Interest Period therefor and, thereafter, a variable rate 4% above the rate of interest for a Prime Based Loan.

"Dollars" and the sign "\$" mean lawful money of the United States.

"Engineering Consultant" means Cashin Associates, P.C. or other firm designated by Administrative Agent from time to time for any Property.

"Environmental Discharge" means any discharge or release of any Hazardous Materials in violation of any applicable Environmental Law.

"Environmental Law" means any applicable Law relating to pollution or the environment, including Laws relating to noise or to emissions, discharges, releases or threatened releases of Hazardous Materials into the work place, the community or the environment, or otherwise relating to the generation, manufacture, processing, distribution, use, treatment, storage, disposal, transport or handling of Hazardous Materials.

"Environmental Notice" means any written complaint, order, citation or notice from any Person (1) affecting or relating to Borrower's compliance with any Environmental Law in connection with any activity or operations at any time conducted by Borrower, (2) relating to (a) the existence of any Hazardous Materials contamination or Environmental Discharges or threatened Hazardous Materials contamination or Environmental Discharges at any of Borrower's locations or facilities or (b) remediation of any Environmental Discharge or Hazardous Materials at any such location or facility or any part thereof or (3) relating to any violation or alleged violation by Borrower of any relevant Environmental Law.

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

"ERISA Affiliate" means 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, or any trade or business which is under common control (within the meaning of Section 414(c) of the Code) with Borrower, or any organization which is required to be treated as a single employer with Borrower under Section 414(m) or 414(o) of the Code.



"Event of Default" has the meaning specified in Section 8.01.

"Extended Maturity Date" means April 1, 2006.

"Federal Funds Rate" shall mean 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.

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

"Good Faith Contest" means 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" means any authorization, consent, approval, license, permit, certification, or exemption of, registration or filing with or report or notice to, any Governmental Authority.

"Governmental Authority" means any nation or government, any state or other political subdivision thereof, and any entity exercising executive, legislative, judicial, regulatory or administrative functions of or pertaining to government.

"Hazardous Materials" means any pollutant, effluents, emissions, contaminants, toxic or hazardous wastes or substances, as any of those terms are defined from time to time in or for the purposes of any relevant Environmental Law, including asbestos fibers and friable asbestos, polychlorinated biphenyls, and any petroleum or hydrocarbon-based products or derivatives.

"Improvements" means, for each Property, all improvements now or hereafter located on such Property.

"Indemnity" means, for each Property, an agreement from Borrower and Borrower's Principals whereby, among other things, Lenders and Administrative Agent are indemnified regarding Hazardous Materials.

"Interest Period" means, with respect to any LIBOR Loan, the period commencing on the first day of the month in which same is advanced, and ending on the last day of such calendar month. In the event the Note is dated other

than the first day of a month, the first interest period shall run from the date of the Note to the last day of the calendar month and the LIBOR Rate shall be set as of the date of the Note. In the event additional funds are advanced during an Interest Period such funds shall bear interest at the rate in effect at the commencement of the Interest Period during which such advance is made.

"Law" means any federal, state or local statute, law, rule, regulation, ordinance, order, code, or rule of common law, now or hereafter in effect, and any judicial or administrative interpretation thereof, including any judicial or administrative order, consent decree or judgment.

"Ledgewood Mall Property" means the real property located in Ledgewood, New Jersey.

"Lender" and "Lenders" have the respective meanings specified in the preamble.

"Lender Reply Period" has the meaning specified in Section 11.02.

"LIBOR Based Rate" shall mean, the rate per annum (expressed as a percentage) determined by Administrative Agent to be equal to the sum of (a) the quotient of the LIBOR Rate and Interest Period in question divided by 1 minus the LIBOR Reserve Requirement (rounded up to the nearest 1/100 of 1 %) and (b) .0175.

"LIBOR Rate" shall mean the thirty (30) day rate (rounded up to the nearest 1/16 of 1%) which appears on Page 3750 of the Telerate service (or such other page of such service containing the rate information now found on said Page 3750, or in the event Telerate ceases to provide such information, any successor or other service providing such information) at approximately 11:00 a.m. (London time) on the first Business Day of the applicable Interest Period, for deposits in immediately available funds, in lawful money of the United States, of amounts comparable to the LIBOR Loan in question for the same period of time as the Interest Period, all of the foregoing to be as determined by Administrative Agent in its sole discretion.

"LIBOR Loan" means all or any portion (as the context requires) of any Lender's Loan which shall accrue interest at rate determined in relation to LIBOR Rate.

"LIBOR Reserve Requirement" means, for any LIBOR Loan, the average maximum rate at which reserves (including any marginal, supplemental or emergency reserves) are required to be maintained under Regulation D by member banks of the Federal Reserve System in New York City with deposits exceeding one billion U.S. Dollars against "Euro-Currency Liabilities", as such quoted term is used in Regulation D. Without limiting the effect of the foregoing, the LIBOR Reserve Requirement shall reflect any other reserves required to be maintained by such member banks by reason of any Regulatory Change against (a) any category of liabilities which includes deposits by reference to which the LIBOR Rate is to be determined as provided in this Agreement or (b) any category of extensions of credit or other assets which includes loans the interest rate on which is determined on the basis of rates referred to in the definition of "LIBOR Rate" set forth above.

"Lien" means any mortgage, deed of trust, pledge, security interest, hypothecation, assignment for collateral purposes, deposit arrangement, lien (statutory or other), or other security agreement or charge of any kind or nature whatsoever of any third party (excluding any right of setoff but 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, and the filing of any financing statement under the Uniform Commercial Code or comparable Law of any jurisdiction to evidence any of the foregoing).

"Loan" and "Loans" have the respective meanings specified in Section 2.01.

"Loan Allocation" (i) \$31,750,000 with respect to the Ledgewood Mall Property, (ii) \$5,000,000 with respect to the Berlin Shopping Center Property, (iii) \$8,750,000 with respect to the Bradford Towne Property, (iv) \$6,000,000 with respect to the Route 6 Mall Property and (v) \$7,500,000 with respect to the New Loudon Center Property.

"Loan Commitment" means, with respect to each Lender, the obligation to make a Loan in the principal amount set forth below (subject to change in accordance with the terms of this Agreement):

Lender	Loan Commitment
The Dime	\$59,000,000

"Loan Documents" means this Agreement, the Notes, the Mortgage and related Uniform Commercial Code financing statements for each Property, the Indemnity for each Property, the Authorization Letter and the Solvency Certificate.

"Major Lease" means any lease demising 10,000 square feet of gross leasable area or more of the Improvements on any Property.

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

"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 Administrative Agent, 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" means April 1, 2005.

"Mortgage" means, 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 Borrower 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" means 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.

"New Loudon Center Property" means the real property owned by Borrower located in Latham, New York.

"Non-Excluded Taxes" has the meaning specified in Section 11.18.

"Note" and "Notes" have the respective meanings specified in Section 2.07.

"Obligations" means 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.

"Parent" means, with respect to any Lender, any Person controlling such Lender.

"Participant" and "Participation" have the respective meanings specified in Section 11.05.

"Payor" and "Required Payment" have the respective meanings specified in Section 9.12.

"PBGC" means the Pension Benefit Guaranty Corporation and any entity succeeding to any or all of its functions under ERISA.

"Person" means an individual, partnership, corporation, limited liability company, business trust, joint stock company, trust, unincorporated association, joint venture, Governmental Authority or other entity of whatever nature.

"Plan" means 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" means, for each Property, any REA for such Property and the other "Premises Documents," as such term is defined in the Mortgage for such Property.

"presence", when used in connection with any Environmental Discharge or Hazardous Materials, means and includes presence, generation, manufacture, installation, treatment, use, storage, handling, repair, encapsulation, disposal, transportation, spill, discharge and release.

"Prime Based Rate" shall mean the greater of (a) the Federal Funds Rate plus one-half of one percent (1/2%) or (b) the prime commercial lending rate as announced from time to time by The Dime plus one half of one percent (1/2%) per annum, each change in said rates to be effective as of the date of such change.

"Prime Based Loan" means 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 Rate" means that rate of interest from time to time announced by The Dime at its principal office in New York, New York as its prime commercial lending rate.

"Principal Amount" means the aggregate principal amount advanced and outstanding under the Loan(s) from time to time.

"Property" means, respectively, each of Ledgewood Mall Property, Berlin Shopping Center Property, Bradford Towne Property, Route 6 Mall Property and New Loudon Center Property.

"Pro Rata Share" means, for purposes of this Agreement and with respect to each Lender, a fraction, the numerator of which is the amount of such Lender's Loan Commitment and the denominator of which is the Total Loan Commitment.

"Prohibited Transaction" means any transaction proscribed by Section 406 of ERISA or Section 4975 of the Code and to which no statutory or administrative exemption applies.

"Regulation D" and "Regulation U" mean, respectively, Regulation D and Regulation U of the Board of Governors of the Federal Reserve System.

"Regulatory Change" means, with respect to any Lender, any change after the date of this Agreement in federal, state, municipal 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 lenders including such Lender of or under any federal, state, municipal 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

"Release Price" means (i) \$41,275,000 with respect to the Ledgewood Mall Property, (ii) \$5,500,000 with respect to the Berlin Shopping Center Property, (iii) \$9,625,000 with respect to the Bradford Towne Property, (iv) \$6,600,000 with respect to the Route 6 Mall Property and (v) \$9,375,000 with respect to the New Loudon Center Property.

"Relevant Documents" has the meanings specified in Section 10.02.

"Reportable Event" means any of the events set forth in Section 4043(c) of ERISA, other than those events as to which the thirty (30) day notice period is waived under subsections. 13, .14, .16, .18, .19 or .20 of PBGC Reg.ss.2615.

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

"Route 6 Mall Property" means the real property owned by Borrower located in Honesdale, Pennsylvania.

"Solvency Certificate" means a certificate in the form of EXHIBIT D.

"Solvent" means, 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.

"Substitute Lender" and "Substitution Notice" have the respective meanings specified in Section 3.07. "Supplemental Fee Letter" means that certain letter agreement, dated the date hereof, between Administrative Agent and Borrower.

"The Dime" means The Dime Savings Bank of New York, FSB.

"this Agreement" means this Term Loan Agreement.

"Title Insurer" means, for each Property, the issuer(s) of the title insurance policy(ies) insuring the Mortgage thereon.

"Total Loan Commitment" means an amount equal to the aggregate amount of all Loan Commitments.

"United States" and "U.S." mean the United States of America.

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 provided otherwise, when used in this Agreement, (i) "or" is not exclusive, (ii) a reference to a Law includes any amendment, modification or supplement to, or replacement of, such Law, (iii) a reference to a Person includes its permitted successors and permitted assigns, (iv) all terms defined in the singular shall have a correlative meaning when used in the plural and vice versa. (v) a reference to an agreement, instrument or document shall include such agreement, instrument or document as the same may be amended, modified or supplemented from time to time in accordance with its terms and as permitted by the Loan Documents, (vi) all references to Articles, Sections or Exhibits shall be to Articles, Sections and Exhibits of this Agreement unless otherwise indicated, (vii) "hereunder", "herein", "hereof" and the like refer to this Agreement as a whole and (viii) all Exhibits to this Agreement shall be incorporated herein. Any table of contents and the headings and captions hereunder are for convenience only and shall not affect the interpretation or construction hereof.

## ARTICLE II

### THE LOANS

Section 2.01 The Loans. Subject to the terms and conditions of this Agreement, each Lender severally agrees to make, and Borrower agrees to accept, a loan to Borrower (each such loan by a Lender, a "Loan"; such loans, collectively, the "Loans") in an amount equal to such Lender's Loan Commitment. The Loans shall be advanced in accordance with Section 2.04 upon Borrower's satisfaction of the conditions set forth in Section 4.01. The LIBOR Loan or the Prime Based Loan, as the case may be, 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 a 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 Loan specified hereby to be made on such date.

Section 2.03 Purpose. Borrower shall use the proceeds of the Loans for working capital and repayment of existing debt. In no event shall proceeds of the Loans be used in a manner that would violate Regulation U or in connection with a hostile acquisition or for any illegal purpose.

Section 2.04. Procedures for Advances. Borrower shall submit to Administrative Agent a request for the advance of proceeds of the Loans (each, an "Advance", and the initial Advance made on the Closing Date, the "Initial Advance") no later than 11:00 a.m. (New York time) on the date which is three (3) 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 either by telephone or 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 an account of Borrower designated by Borrower in its request for advance. Each Advance made pursuant to this Agreement shall be in an amount at least equal to \$5,000,000 and in integral multiples of \$100,000. All Advances made pursuant to this Agreement must be made on or prior to the date which is twelve (12) months from the Closing Date. The Initial Advance made pursuant to this Agreement shall be in an amount at least equal to \$35,000,000. Amounts advanced hereunder and repaid shall not be readvanced.

Notwithstanding the foregoing, advances shall be limited to \$56,331,437 until such time as Administrative Agent has received evidence satisfactory to Administrative Agent that the "immediate" and "moderate" repair items set forth in the Summary of Engineering and Environmental Findings dated February 18, 2000 prepared by Cashin Associates, PC with respect to each of the Properties, copies of which are attached hereto as SCHEDULE A (collectively, the "Remedial Work"), has been satisfactorily completed as certified by the Engineering Consultant. The \$2,668,563 not available to be advanced represents 125% of the Engineering Consultant's estimate of the cost of performing the Remedial Work. Upon Administrative Agent's receipt of a contract for performance of a specific item of Remedial Work set forth on SCHEDULE A hereto, the limitation on advances provided for herein shall be adjusted upwards or downwards on the basis of 125% of the amount set forth in such contract and upon the completion of a specific item of Remedial Work, the amount available to be advanced hereunder shall be increased by the amount attributable to such item (i.e., 125% of the estimated or contract amount, as the case may be).



Section 2.05 Interest. Borrower shall pay interest to Administrative Agent for the account of the applicable Lender on the outstanding and unpaid principal amount of the Loans at the Applicable Interest Rate as follows:

(i) On the Closing Date, interest on the Principal Amount from the Closing Date to April 1, 2000;

(ii) Thereafter, commencing on May 1, 2000 and on the first day of each calendar month thereafter to the Maturity Date or the Extended Maturity Date, as the case may be, interest on the Principal Amount at the Applicable Interest Rate;

(iii) On the Maturity Date or the Extended Maturity Date, if the maturity date of the Note is extended in accordance Section 2.13 of this Agreement, the entire unpaid principal balance of the Loan, together with all accrued and unpaid interest at the Applicable Interest Rate, shall become due and payable in full;

(iv) In addition to interest on the Principal Amount at the Applicable Interest Rate, as aforesaid, there shall be payable at the time of each such interest payment commencing on May 1, 2000, an amount, as calculated by Administrative Agent, sufficient to repay the aggregate amount actually advanced hereunder through the date of such payment, whether or not then outstanding in 360 equal installments, provided, however, in the event that the Maturity Date is extended in accordance with Section 2.13 of this Agreement, commencing on the Maturity Date, the amount of such payments shall be adjusted to an amount sufficient to fully repay the Principal Amount as of the Extended Maturity Date in 300 equal installments.

The interest payable under this Agreement and the Notes shall be computed by Administrative Agent on the basis of a three hundred sixty (360) day year. Principal, interest, and all other sums payable under this Agreement and under the Notes shall be paid in lawful money of the United States in immediately available funds, free and clear of, and without deduction or offset for, any present or future taxes, levies, imposts, charges, withholdings, or liabilities with respect thereto, and free and clear of any and all other defenses, offsets, claims, counterclaims, credits or deductions of any kind.

Nothing in this Agreement or in any other Loan Document shall require the payment or permit the collection by Administrative Agent for the account of Lenders of interest in an amount exceeding the maximum amount permitted under applicable law in commercial mortgage loan transactions between parties of the character of the parties hereto (the "Maximum Interest Amount"). Borrower shall not be obligated to pay to said holder any interest in excess of the Maximum Interest Amount, and the amount of interest payable to said holder under the Loan Documents shall under no circumstance be deemed to exceed the Maximum Interest Amount. To the extent that any payment made to said holder under the Loan Documents would cause the amount of interest charged to exceed the Maximum Interest Amount, such payment shall be deemed a prepayment of principal as to which no notice shall be required, notwithstanding anything to the contrary in this Agreement, the Notes or in any other Loan Document, or, if the amount of excess interest exceeds the unpaid principal balance of the Loans, such excess shall be refunded to Borrower.

Accrued interest shall be due and payable in arrears upon and with respect to any payment or prepayment of principal on the first Business Day of each calendar month; provide , however , that interest accruing at the Default Rate shall be due and payable on demand.

Section 2.06 Notes. The Loan made by each Lender under this Agreement shall be evidenced by, and repaid with interest in accordance with, a single promissory note of Borrower in the form of EXHIBIT B, duly completed and executed by Borrower, in a principal amount equal to such Lender's Loan Commitment, payable to such Lender for the account of its Applicable Lending Office (each such note, as the same may hereafter be amended, modified, extended, severed, assigned, renewed or restated from time to time, including any substitute notes pursuant to Section 3.07 or 11.05, a "Note"; all such Notes, collectively, the "Notes"). The Notes shall mature, and all outstanding principal and accrued interest and other sums thereunder shall be paid in full, on the Maturity Date, as the same may be accelerated.

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 Prepayments Borrower may prepay the Loans in whole or in part as specified below. During the first eighteen (18) months of the term of the Loans, Borrower may, upon ten (10) days' prior written notice, prepay the Loans in whole or in part subject to the payment of a prepayment charge equal to the greater of (i) 1% of the then-outstanding Principal Amount or (ii) any applicable Breakage Fees (as defined in Section 3.05 of this Agreement). From and after the nineteenth (19th) month through and including the Maturity Date of the Loans or the Extended Maturity Date if the Loans have been extended pursuant to Section 2.13 hereof, Borrower may, upon ten (10) days prior written notice, prepay the Loans in whole or in part subject to the payment of a prepayment charge equal to any applicable Breakage Fees (any fee due and payable in connection with the prepayment of the Loans, hereinafter, a "Prepayment Charge").

Section 2.08 Method of Payment. 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 in Dollars 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 and rate(s) of interest under the Notes of all Lenders) of the payments of principal and interest in like funds for the account of such Lender's Applicable Lending Office and (ii) fees payable to such Lender in accordance with the terms hereof.

Except to the extent otherwise provided herein, whenever any payment to be made hereunder 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 other fees, as the case may be.

Section 2.09 Application of Payments. All payments made under this Agreement and under the Notes other than with respect to Breakage Fees (as hereinafter defined) shall be applied as follows: first, to the payment of interest on the principal balance outstanding hereunder from time to time; second, to the payment of sums payable by Borrower to Administrative Agent for the account of Lenders under any Loan Document other than on account of principal and interest; and third, to the payment of principal.

Section 2.10 Applicable Interest Rate Borrower shall, subject to the terms and conditions hereinafter set forth, pay interest on the Principal Amount at the LIBOR Based Rate. All or any portions of the Principal Amount to which the LIBOR Based Rate is not or cannot pursuant to the terms hereof be applicable shall bear interest at the Prime Based Rate.

Notwithstanding anything herein to the contrary, if, at the time of or prior to the determination of the LIBOR Based Rate, the Administrative Agent determines (which determination shall be conclusive) that (i) by reason of circumstances affecting the London interbank market generally, adequate and fair means do not or will not exist for determining the LIBOR Based Rate applicable to an Interest Period or (ii) the LIBOR Rate, as determined by Administrative Agent, will not accurately reflect the cost to Administrative Agent of making or maintaining the Loan (or any portion thereof) at the LIBOR Based Rate, then Administrative Agent shall give Borrower prompt notice thereof, and the Principal Amount in question shall bear interest, or continue to bear interest, as the case may be, at the Prime Based Rate. If at any time subsequent to the giving of such notice, Administrative Agent determines that because of a change in circumstances the LIBOR Based Rate is again available to Borrower hereunder, Administrative Agent shall so advise Borrower and, within two (2) Business Days, the rate of interest payable hereunder shall be converted from the Prime Based Rate to the LIBOR Based Rate.

Section 2.11 Late Payment Premium If all or a portion of any monthly payment required to be made to Administrative Agent for the account of Lenders (whether pursuant to this Agreement, the Notes or any other Loan Document) is not received on or before the tenth day after the date such payment is due (without reference to any grace period provided for in the Loan Documents), a late charge of four percent (4%) of the amount so overdue ("Late Charge") shall immediately be due to Administrative Agent for the account of Lenders. Any such Late Charge shall be secured by the security for the Loan, shall be paid no later than the due date of the next subsequent installment of interest payable under this Agreement and the Notes and, if not so paid, shall bear interest at the rate then in effect with respect to the Principal Amount as set forth in this Agreement. In addition, if Borrower shall fail to make timely payment in full of any sum payable under this Agreement, the Notes or any of the Loan Documents, Borrower shall pay all costs of collection, including, but not limited to, reasonable attorneys' fees and disbursements, whether or not suit is filed hereon. Notwithstanding anything to the contrary in this paragraph, the Late Charge shall not be applied to any portion of the Principal Amount due and payable on the Maturity Date (or, if the Maturity Date is extended, the Extended Maturity Date), which is overdue and not received.

Section 2.12 Extension Option. Borrower, at Borrower's option, may extend the Maturity Date to the Extended Maturity Date, subject to the following terms and conditions:

(1) Borrower shall give Administrative Agent written notice (the "Extension Notice") not less than sixty (60) days nor earlier than one hundred eighty (180) days prior to the Maturity Date;

(2) There shall not exist, beyond any applicable grace period, a default hereunder or under the Mortgage or any of the Loan Documents on the date Borrower exercises its option to extend the Maturity Date of the Loan or on the Maturity Date;

(3) Borrower shall pay to Administrative Agent at least thirty (30) days prior to the Maturity Date an extension fee equal to one-quarter of one percent (.25%) of the Principal Amount on the Maturity Date, which fee shall not be applied towards the payment of the Loan but shall be retained by Administrative Agent for the account of Lenders in consideration of extending the maturity date of the Loan;

(4) On the date Borrower exercises its option to extend the maturity of the Loan and on the Maturity Date, the outstanding Principal Amount does not exceed sixty percent (60%) of the appraised value of the Premises as reflected in a new MAI appraisal of the Premises, which meets FIRREA guidelines (the "Appraisal"), obtained by Administrative Agent, at Borrower's expense, following Administrative Agent's receipt of the Extension Notice;

(5) Administrative Agent has received and reasonably approved the Appraisal; and

(6) On the date Borrower exercises its option to extend the maturity of the Loan and on the Maturity Date, the Net Operating Income (as defined below) for the Property for the six (6) calendar month period preceding (i) Administrative Agent's receipt of the Extension Notice and (ii) the Maturity Date exceeds one hundred thirty-five percent (135%) of the Debt Service (as defined below) for the applicable period, as determined by Administrative Agent in its sole discretion. As used herein, "Net Operating Income" shall mean (a) the gross income from the ownership and operation of the Improvements (as defined in the Mortgage), including, without limitation, payments to Borrower from tenants under leases, less (b) operating expenses for the Improvements, including without limitation (i) real estate taxes and insurance premiums, (ii) reasonable management fees paid in accordance with the property management contract (which is approved by Administrative Agent), (iii) non-capital repairs and maintenance, and (iv) reserves for replacement, all to the reasonable satisfaction of Administrative Agent. As used herein, "Debt Service" shall mean the principal and interest payments due for the applicable period during the term of the Loan, as calculated by Administrative Agent.

### ARTICLE III

#### YIELD PROTECTION; ILLEGALITY; ETC.

Section 3.01 Additional Costs. Borrower shall pay directly to each Lender from time to time on demand such amounts as such Lender may determine to be necessary to compensate it for any increased costs which such Lender determines are attributable to its making or maintaining a LIBOR Loan, or its obligation to make or maintain a LIBOR Loan, or if a Prime Based Loan must be converted into a LIBOR Loan in accordance with Section 2.11 of this Agreement, or any reduction in any amount receivable by such Lender hereunder in respect of its LIBOR Loan or such obligations (such increases in costs and reductions in amounts receivable being herein called "Additional Costs"), in each case resulting from any Regulatory Change which:

(1) changes the basis of taxation of any amounts payable to such Lender under this Agreement or the Notes in respect of any such LIBOR Loan (other than changes in the rate of general corporate, franchise, branch profit, net income or other income tax imposed on such Lender or its Applicable Lending Office by the jurisdiction in which such Lender has its principal office or such Applicable Lending Office); or

(2) (other than to the extent the LIBOR Reserve Requirement is taken into account in determining the LIBOR Rate at the commencement of the applicable Interest Period) imposes or modifies any reserve, special deposit, deposit insurance or assessment, minimum capital, capital ratio or similar requirements relating to any extensions of credit or other assets of, or any deposits with or other liabilities of, such Lender (including any LIBOR Loan), or any commitment of such Lender (including such Lender's Loan Commitment hereunder); or

(3) imposes any other condition affecting this Agreement or the Notes (or any of such extensions of credit or liabilities).

Without limiting the effect of the provisions of the first paragraph of this Section, in the event that, by reason of any Regulatory Change, any Lender either (i) incurs Additional Costs based on or measured by the excess above a specified level of the amount of a category of deposits of other liabilities of such Lender which includes deposits by reference to which the LIBOR Rate is determined as provided herein or a category of extensions of credit or other assets of such Lender which includes loans based on the LIBOR Rate or (ii) becomes subject to restrictions on the amount of such a category of liabilities or assets which it may hold, then, if such Lender so elects by notice to Borrower (with a copy to Administrative Agent), the obligation of such Lender to maintain the Loan (or portions thereof) at the LIBOR Based Rate (and Borrower's right to request same) shall be suspended (in which case the provisions of Section 3.04 shall be applicable) until such Regulatory Change ceases to be in effect.

Determinations and allocations by a Lender for purposes of this Section of the effect of any Regulatory Change pursuant to the first or second paragraph of this Section, on its costs or rate of return of making or maintaining its Loan or portions thereof or on amounts receivable by it in respect of its Loan or portions thereof, and the amounts required to compensate such Lender under this Section, shall be conclusive absent manifest error.

Notwithstanding any other provisions in the Note or this Agreement to the contrary, if the Additional Costs to Borrower pursuant to this Section 3.01 exceed 1% per annum Borrower shall have the right to prepay this Loan during the first eighteen (18) months from the date hereof without a Prepayment Charge.

Section 3.02 Limitation on Types of Loans. Anything herein to the contrary notwithstanding, if on or prior to the determination of the LIBOR Rate for any Interest Period:

(1) Administrative Agent determines (which determination shall be conclusive) that quotations of interest rates for the relevant deposits referred to in the definition of "LIBOR Rate" in Section 1.01 are not being provided in the relevant amounts or for the relevant maturities for purposes of determining rates of interest for the LIBOR Loans as provided herein; or

(2) a Lender determines (which determination shall be conclusive) and promptly notifies Administrative Agent that the relevant rates of interest referred to in the definition of "LIBOR Interest Rate" in Section 1.01 upon the basis of which the rate of interest for LIBOR Loans for such Interest Period is to be determined do not adequately cover the cost to such Lender of making or maintaining such LIBOR Loan for such Interest Period;

then Administrative Agent shall give Borrower prompt notice thereof, and so long as such condition remains in effect, Lenders (or, in the case of the circumstances described in clause (2) above, the affected Lender) shall be under no obligation to maintain the Loan at the LIBOR Based Rate and Borrower shall, on the last day of the then current Interest Period for the affected outstanding LIBOR Loans, either (x) prepay the affected LIBOR Loans or (y) convert the affected LIBOR Loans into Prime Based Loans in accordance with Section 2.11.

Section 3.03 Illegality . Notwithstanding any other provision of this Agreement, in the event that it becomes unlawful for any Lender or its Applicable Lending Office to honor its obligation to make or maintain a LIBOR Loan hereunder, to convert a Prime Based Loan into a LIBOR Loan in accordance with Section 2.11, then such Lender shall promptly notify Administrative Agent and Borrower thereof and such Lender's obligation to make or maintain a LIBOR Loan or to convert its Prime Based Loan into a LIBOR Loan shall be suspended (in which case the provisions of Section 3.04 shall be applicable) until such time as such Lender may again make and maintain a LIBOR Loan.

Section 3.04 Treatment of Affected Loans. If the obligations of any Lender to make or maintain a LIBOR Loan or to convert a Prime Based Loan into a LIBOR Loan, are suspended pursuant to Sections 3.01 or 3.03 (each LIBOR Loan so affected being herein called an "Affected Loan"), such Lender's Affected Loan shall be automatically converted into a Prime Based Loan on the last day of the then current Interest Period for the Affected Loan.

To the extent that such Lender's Affected Loan has been so Converted (or the interest rate thereon so converted), all payments and prepayments of principal which would otherwise be applied to such Lender's Affected Loan shall be applied instead to its Prime Based Loan. If subsequent to such suspension and conversion to a Prime Based Loan the reasons for such suspension have ceased to be in effect, Administrative Agent will so advise Borrower and, within two (2) Business Days, the rate of interest payable under this Agreement and the Notes with respect to the Principal Amount bearing interest at the Prime Based Rate shall be converted to the LIBOR Based Rate.

Section 3.05 Certain Compensation. Borrower shall pay to Administrative Agent, immediately upon request and notwithstanding contrary provisions contained in the Mortgage or other Loan Documents, such amounts (the "Breakage Fee") as shall, in the conclusive judgment of Administrative Agent, compensate Administrative Agent for the account of Lenders 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 LIBOR Based Rate on a date other than the last day of an applicable Interest Period or (ii) the conversion (for any reason whatsoever, whether voluntary or involuntary) of the rate of interest payable hereunder from the LIBOR Based Rate, on a date other than the last day of an applicable Interest Period, which amounts shall include, without limitation, an amount equal to the excess, if any, of (x) the amount of interest that would have accrued at the LIBOR Based Rate on the amount so prepaid, converted, not advanced or not borrowed, as the case may be, for the period from the date of occurrence to the last day of the applicable Interest Period over (y) the amount of interest (as determined in good faith by Administrative Agent) that Administrative Agent for the account of Lenders would have paid to Borrower (and other customers) on a deposit placed by Administrative Agent with leading banks in the London interbank market for an amount comparable to the amount so prepaid, converted, not advanced or not borrowed, as the case may be, for the period from the date of occurrence to the last day of the applicable Interest Period.

Section 3.06 Capital Adequacy. If any Lender shall have determined that, after the date hereof, the adoption of any applicable law, rule or regulation regarding capital adequacy, or any change therein, or any change in the interpretation or administration thereof by any Governmental Authority, central bank or comparable agency charged with the interpretation or administration thereof, or any request or directive regarding capital adequacy (whether or not having the force of law) of any such Governmental Authority, central bank or comparable agency, has or would have the effect of reducing the rate of return on capital of such Lender (or its Parent) as a consequence of such Lender's obligations hereunder to a level below that which such Lender (or its Parent) could have achieved but for such adoption, change, request or directive (taking into consideration its policies with respect to capital adequacy) by an amount deemed by such Lender to be material, then from time to time, within fifteen (15) days after demand by such Lender (with a copy to Administrative Agent), Borrower shall pay to such Lender such additional amount or amounts as will compensate such Lender (or its Parent) for such reduction. A certificate of any Lender claiming compensation under this Section, setting forth in reasonable detail the basis therefor, shall be conclusive absent manifest error.

Section 3.07 Substitution of Lenders. If any Lender (an "Affected Lender") (i) makes demand upon Borrower for (or if Borrower is otherwise required to pay) Additional Costs pursuant to Section 3.01 or (ii) gives notice to Borrower that such Lender is unable to make or maintain a LIBOR Loan as a result of a condition described in Section 3.03 or clause (2) of Section 3.02, Borrower may, within ninety (90) days of receipt of such demand or notice (or the occurrence of such other event causing Borrower to be required to pay Additional Costs or causing said Section 3.03 or clause (2) of Section 3.02 to be applicable), as the case may be, give notice (a "Substitution Notice") to Administrative Agent and to each Lender of Borrower's intention either (x) to prepay in full the Affected Lender's Note and to terminate the Affected Lender's entire Loan Commitment or (y) to replace the Affected Lender with another financial institution (a "Substitute Lender") designated in such Substitution Notice.

In the event Borrower opts to give the notice provided for in clause (x) above, and if the Affected Lender shall not agree within thirty (30) days of its receipt thereof to waive the payment of the Additional Costs in question or the effect of the circumstances described in Section 3.03 or clause (2) of Section 3.02, then, so long as no Default or Event of Default shall exist, Borrower may terminate the Affected Lender's entire Loan Commitment, provide that in connection therewith it pays to the Affected Lender all outstanding principal and accrued and unpaid interest under the Affected Lender's Note, together with all other amounts, if any, due from Borrower to the Affected Lender, including all amounts properly demanded and unreimbursed under this Article III.

In the event Borrower opts to give the notice provided for in clause (y) above, and if (A) Administrative Agent shall, within thirty (30) days of its receipt of the Substitution Notice, notify Borrower and each Lender in writing



that the proposed Substitute Lender is reasonably satisfactory to Administrative Agent and (B) the Affected Lender shall not, prior to the end of such thirty (30)-day period, agree to waive the payment of the Additional Costs in question or the effect of the circumstances described in Section 3.03 or clause (2) of Section 3.02, then the Affected Lender shall, so long as no Default or Event of Default shall exist, assign its Note and all of its rights and obligations under this Agreement to the Substitute Lender, and the Substitute Lender shall assume all of the Affected Lender's rights and obligations, pursuant to an agreement, substantially in the form of an Assignment and Assumption Agreement, executed by the Affected Lender and the Substitute Lender. In connection with such assignment and assumption, the Substitute Lender shall pay to the Affected Lender an amount equal to the outstanding principal amount under the Affected Lender's Note plus all interest accrued thereon, plus all other amounts, if any (other than the Additional Costs in question), then due and payable to the Affected Lender; provide, however, that prior to or simultaneously with any such assignment and assumption, Borrower shall have paid to such Affected Lender all amounts properly demanded and unreimbursed under this Article III. Upon the effective date of such assignment and assumption and the payment by the Substitute Lender to Administrative Agent of a fee, for Administrative Agent's own account, in the amount of \$2,500, the Substitute Lender shall become 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 Affected Lender shall be released from its obligations hereunder, and no further consent or action by any party shall be required. Upon the consummation of any assignment pursuant to this Section, a substitute Note shall be issued to the Substitute Lender by Borrower, in exchange for the return of the Affected Lender's Note. The obligations evidenced by such substitute note shall constitute "Obligations" for all purposes of this Agreement and the other Loan Documents and shall be secured by the Mortgages. 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 Substitute Lender 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 9.13. Each Substitute Lender shall be deemed to have made the representations contained in, and shall be bound by the provisions of, Section 9.13.

Borrower, Administrative Agent and Lenders shall execute such modifications to the Loan Documents as shall be reasonably required in connection with and to effectuate the foregoing.

Section 3.08 "Lender" to Include Participants. For purposes of Sections 3.01 through 3.06 and of the definition of "Additional Costs", the term "Lender" shall, at each Lender's option, be deemed to include such Lender's present and future Participants in its 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 . The obligations of Lenders hereunder and the obligation of each Lender to advance the proceeds of the Loans are subject to the condition precedent that Administrative Agent shall have received and approved on or before the Closing Date each of the following documents (it being understood that the documents set forth in paragraphs (3) through (15) below are required for each Property), and each of the following requirements shall have been fulfilled:

(1) Fees and Expenses. The payment of (i) all fees and expenses incurred by The Dime, as Lender and Administrative Agent (including, without limitation, the reasonable fees and expenses of legal counsel, the Engineering Consultant and any valuation, environmental or insurance consultants); and (ii) a commitment fee of \$295,000 and a fee of .15% of the excess of \$59,000,000 over the amount of the Initial Advance;

(2) Notes. The Notes for The Dime and each of the other Lenders (if any) signatory hereto, each duly executed by Borrower;

(3) Mortgage and UCCs. The Mortgage, duly executed by Borrower and recorded in the appropriate land records, together with duly executed financing statements filed under the Uniform Commercial Code of all jurisdictions necessary or, in the reasonable opinion of Administrative Agent, desirable to perfect the lien created by each Mortgage;

(4) Indemnity The Indemnity, duly executed by Borrower and Borrower's Principals;

(5) Title Policy . A paid title insurance policy in the amount of the Mortgage, in form approved by Administrative Agent and issued by the Title Insurer, which shall insure the Mortgage to be a valid first lien on Borrower's interests in the Property and Improvements, free and clear of all liens, defects, encumbrances and exceptions other than those previously approved by Administrative Agent, and shall contain (i) a reference to the survey but no survey exceptions, (ii) if such policy is dated earlier than the date of the advance of the proceeds of the Loans, an endorsement to such policy, in a form approved by Administrative Agent, setting forth no additional exceptions other than those approved by Administrative Agent and (iv) such affirmative insurance and endorsements as Administrative Agent may require; and shall be accompanied by such reinsurance agreements between the Title Insurer and title companies approved by Administrative Agent, in ALTA facultative form approved by Administrative Agent and with direct access provisions, as Administrative Agent may require;

(6) Survey A current ALTA/ACSM survey, certified to Administrative Agent 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 lines and street lines;

(7) Appraisal. An independent M.A.I. appraisal, commissioned by Administrative Agent, of the value of the Property, which appraisal shall comply in all respects with the standards for real estate appraisals established pursuant to the Financial Institutions Reform, Recovery, and Enforcement Act of 1989;

(8) Insurance Policies. The policies and certificates of hazard and other insurance required by the Mortgage, together with evidence of the payment of the premiums therefor;

(9) Hazardous Materials Report/Certification . A detailed report and certification by a properly qualified engineer with regard to Hazardous Materials affecting the Property, which shall include, inter alia, a certification that such engineer has examined a list of prior owners, tenants and other users of the Property, and has made an on-site physical examination of the Property and Improvements, and a visual observation of the surrounding areas, and disclosing the extent of past or present Hazardous Materials activities or of the presence of Hazardous Materials;

(10) Consultant's Repo A detailed report from the Engineering Consultant to the effect that (i) the Improvements are in satisfactory condition and have been constructed in accordance with the plans and specifications therefor approved by all applicable Governmental Authorities, (ii) the Improvements comply with all applicable zoning and other Laws, all Major Leases and the Premises Documents, (iii) all roads and utilities necessary for the full utilization of the Improvements for their intended purposes have been completed and (iv) there exists a sufficient number of parking spaces necessary to satisfy the requirements of the Premises Documents and any leases and all zoning and other applicable Laws with respect to the Property, and all required landscaping, sidewalks and other amenities, and all off-site improvements, related to the Improvements have been completed;

(11) Pen-nits and Other Approvals. Copies of any and all authorizations, including plot plan and subdivision approvals, zoning variances, sewer, building and other permits, required by all Governmental Authorities for the use, occupancy and operation of the Property and/or

Improvements in accordance with all applicable building, environmental, ecological, landmark, subdivision and zoning Laws;

(12) Leases. Copies, certified to be true and complete, of all executed leases of the Improvements, accompanied by notices of assignments in the form of EXHIBIT J and, in the case of Major Leases (i) estoppel certificates from the tenants thereunder, (ii) at Administrative Agent's option, subordination nondisturbance and attornment agreements and (iii) certified copy of the standard form of lease Borrower is using in connection with the leasing of space in the Improvements, if any, and of the rent roll for each Property;

(13) Premises Documents. A copy, certified to be true and complete, of the Premises Documents, together with estoppel certificates with respect thereto from each of the parties thereto and, if available, current financial statements of such parties;

(14) 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;

(15) UCC Searches. Uniform Commercial Code searches with respect to Borrower and advice from the Title Insurer to the effect that searches of the proper public records disclose no leases of personalty or financing statements filed or recorded against Borrower or the Mortgaged Property;

(16) Financials of Borrower. Unaudited operating statements and aged accounts receivable reports for each Property, certified by the chief financial officer of Borrower's general partner;

(17) Organizational Documents. If Borrower or any general partner or member of Borrower 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,

(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 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 or any general partner or member of Borrower 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 jurisdiction of its formation, 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 and 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; (18) Solvency Certificate. A duly executed Solvency Certificate;

(19) Opinion of Counsel for Borrower . A favorable opinion, dated the Closing Date, of counsel for Borrower, as to such matters as Administrative Agent may reasonably request;

(20) Authorization Letter. The Authorization Letter, duly executed by Borrower;

(21) Request for Advance. A request for an advance in accordance with Section 2.04;

(22) Certificate The following statements shall be true and Administrative Agent shall have received a certificate dated the Closing Date signed by a duly authorized signatory of Borrower stating, to the best of the certifying party's knowledge, the following:

(i) All representations and warranties contained in this Agreement and in each of the other Loan Documents are true and correct on and as of the Closing Date as though made on and as of such date,

(ii) No Default or Event of Default has occurred and is continuing, or could result from the transactions contemplated by this Agreement and the other Loan Documents, and

(iii) None of the Improvements on any Property has been materially injured or damaged by fire or other casualty;

(23) Covenant Compliance. A covenant compliance certificate of the sort required by paragraph (3) of Section 6.09; and

(24) Additional Materials. Such other approvals, documents, instruments or opinions as Administrative Agent may reasonably request.

ARTICLE V

REPRESENTATIONS AND WARRANTIES

Borrower represents and warrants to Administrative Agent and each Lender as follows:

Section 5.01 Due Organization Borrower (and if Borrower is a partnership or limited liability company, its general partners or members, as the case may be) is duly organized, validly existing and in good standing under the Laws of the jurisdiction of its organization, has the power and authority to own its assets and to transact the business in which it is now engaged, and, if applicable, is duly qualified for the conduct of business and in good standing under the Laws of each jurisdiction where a Property is located and each other jurisdiction in which such qualification is required.

Section 5.02 Power and Authority; No Conflicts: Compliance Wit Laws. The execution, delivery and performance of the obligations required to be performed by Borrower of the Loan Documents does not and will not (i) require the consent or approval of its shareholders, partners or members, as the case may be, or such consent or approval has been obtained, (ii) contravene its certificate of incorporation, bylaws, partnership agreement or other organizational documents, (iii) violate any provision of, or require any filing, registration, consent or approval under, any Law (including, without limitation, Regulation U), order, writ, judgment, injunction, decree, determination or award presently in effect having applicability to it, (iv) result in a breach of or constitute a default under or require any consent under any indenture or loan or credit agreement or any other agreement, lease or instrument to which it may be a party or by which it or its properties may be bound or affected except for consents which have been obtained, (v) result in, or require, the creation or imposition of any Lien, upon or with respect to any of its properties now owned or hereafter acquired or (vi) cause it to be in default under any such Law, order, writ, judgment, injunction, decree, determination or award or any such indenture, agreement, lease or instrument; Borrower is in compliance with all Laws applicable to it and its properties.

Section 5.03 Legally Enforceable Agreements. Each Loan Document is a legal, valid and binding obligation of Borrower, enforceable against Borrower 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 5.04 Litigation. There are no actions, suits or proceedings pending or, to its knowledge, threatened against Borrower or any of its Affiliates, any Property, the Improvements thereon, the validity or

enforceability of any Mortgage or the priority of the Lien thereof, at law or in equity, before any court or arbitrator or any Governmental Authority except actions, suits or proceedings which have been disclosed to Administrative Agent in writing and which are fully covered by insurance or would, if adversely determined, not substantially impair the ability of Borrower to pay when due any amounts which may become payable under the Notes or other Loan Documents or to otherwise pay and perform its obligations in connection with the Loans.

Section 5.05 Good Title to Properties. Borrower has good, marketable and legal title to all of the properties and assets each of them purports to own (including, without limitation, those reflected in the December 31, 1999 financial statements referred to in Section 5.13), only with exceptions which do not materially detract from the value of such property or assets or the use thereof in Borrower's business. Borrower enjoys peaceful and undisturbed possession of all leased property necessary in any material respect in the conduct of its businesses. All such leases are valid and subsisting and are in full force and effect.

Section 5.06 Taxes. 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 without the imposition of a penalty, including interest and penalties, except to the extent they are the subject of a Good Faith Contest.

Section 5.07 ERIS . Borrower is in compliance in all material respects with all applicable provisions of ERISA. Neither a Reportable Event nor a Prohibited Transaction has occurred with respect to any Plan which could result in liability of Borrower; no notice of intent to terminate a Plan has been filed nor has any Plan been terminated within the past five (5) years; no circumstance exists which constitutes grounds under Section 4042 of ERISA entitling the PBGC to institute proceedings to terminate, or appoint a trustee to administer, a Plan, nor has the PBGC instituted any such proceedings; Borrower and the ERISA Affiliates have not completely or partially withdrawn under Sections 4201 or 4204 of ERISA from a Multiemployer Plan; Borrower and the ERISA Affiliates have met the minimum funding requirements of Section 412 of the Code and Section 302 of ERISA of each with respect to the Plans of each and there is no material "Unfunded Current Liability" (as such quoted term is defined in ERISA) with respect to any Plan established or maintained by each; and Borrower and the ERISA Affiliates have not incurred any liability to the PBGC under ERISA (other than for the payment of premiums under Section 4007 of ERISA). No part of the funds to be used by Borrower in satisfaction of its obligations under this Agreement 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 U.S. Department of Labor in rules, regulations, releases, bulletins or as interpreted under applicable case law. Neither the extension of credit evidenced by the Notes nor any other transaction contemplated under the Loan Documents constitutes a Prohibited Transaction.

Section 5.08 No Default on Outstanding Judgments or Order. Borrower has satisfied all judgments which are not being appealed or which are not fully covered by insurance, and are not in default with respect to any judgment, order, writ, injunction, decree, rule or regulation of any court, arbitrator or federal, state, municipal or other Governmental Authority, commission, board, bureau, agency or instrumentality, domestic or foreign.

Section 5.09 No Defaults on Other Agreements. Except as disclosed to Administrative Agent in writing, Borrower is not a party to any indenture, loan or credit agreement or any lease or other agreement or instrument or subject to any partnership, trust or other restriction which is likely to result in a Material Adverse Change. Borrower is not in default in any respect in the performance, observance or fulfillment of any of the obligations, covenants or conditions contained in any agreement or instrument which is likely to result in a Material Adverse Change.

Section 5.10 Government Regulation. Borrower is not subject to regulation under the Investment Company Act of 1940 or any statute or regulation limiting its ability to incur indebtedness for money borrowed as contemplated hereby.

Section 5.11 Environmental Protection . To the best of Borrower's knowledge, none of Borrower's properties contains any Hazardous Materials that, under any Environmental Law currently in effect, (i) would impose liability on Borrower that is likely to result in a Material Adverse Change or (ii) is likely to result in the imposition of a Lien on any assets of Borrower in each case if not properly handled in accordance with applicable Law. To the best of Borrower's knowledge, neither it nor any portion of any Property or the Improvements thereon is in violation of, or subject to any existing, pending or threatened investigation or proceeding by any Governmental Authority under, any Environmental Law. Borrower is not aware of any matter, claim, condition or circumstance which would reasonably cause a Person to make further inquiry with respect to such matters in order to ascertain whether any Hazardous Materials or their effects have been disposed of or released on or to any portion of any Property, the Improvements thereon or any surrounding areas; Borrower is not required by any Environmental Law to obtain any permits or license to construct or use any improvements, fixtures, or equipment with respect to any Property, or if such permit or license is required it has been obtained; and, to the best of Borrower's knowledge, the prior use of each Property has not resulted in the disposal or release of any Hazardous Materials on or to any portion of the Property or any surrounding areas in violation of applicable Law.

Section 5.12 Solvency . Borrower is, and upon consummation of the transactions contemplated by this Agreement, the other Loan Documents and any other documents, instruments or agreements relating thereto, will be, Solvent.

Section 5.13 Financial Statement . Borrower's financial statements most recently delivered to Lenders pursuant to the terms of this Agreement are in all material respects complete and correct and fairly present the financial condition of the subjects thereof as of the dates of and for the periods covered by such statements, all in accordance with GAAP. There has been no Material Adverse Change since the date of such most recently delivered Borrower's financial statements, and no borrowings which might give rise to a Lien or claim against all or any portion of the Mortgaged Property under any Mortgage or



against the proceeds of the Loans have been made by Borrower or others since the dates of such most recently delivered Borrower's financial statements.

Section 5.14 Insurance. Borrower has in force paid insurance as required by the Mortgages and, generally, Borrower has in force paid insurance with financially sound and reputable insurance companies or associations in such amounts and covering such risks as are usually carried by companies engaged in the same type of business and similarly situated.

Section 5.15 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 to Administrative Agent or any 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 (other than projections which are made by Borrower in good faith), 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 or, so far as Borrower can now foresee, will materially affect adversely any of the Mortgaged Property under the Mortgages or the business, prospects, profits or financial condition of Borrower or the ability of Borrower to perform this Agreement and the other Loan Documents.

Section 5.16 Separate Tax and Zoning Lot. Each Property constitutes a distinct parcel for purposes of zoning and of taxes, assessments and impositions (public or private) and is not otherwise considered as part of a larger single lot for purposes of zoning or of taxes, assessments or impositions (public or private).

Section 5.17 Zoning and other Laws: Covenants and Restrictions. As to each Property, (i) the Improvements and the uses thereof comply with applicable zoning, environmental, ecological, landmark and other applicable Laws, and all requirements for such uses have been satisfied and (ii) Borrower and the Property are in compliance with all applicable restrictions and covenants.

Section 5.18 Utilities Available . As to each Property, all utility services necessary for the 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 5.19 Creation of Lien . 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 all or part of the Mortgaged Property prior to any Mortgage.

Section 5.20 Roads. As to each Property, 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 5.21 Premises Documents and Leases. As to each Property, the Premises Documents and all leases are unmodified and in full force and effect, there are no defaults 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.

## ARTICLE VI

### AFFIRMATIVE COVENANTS

So long as any of the Notes shall remain unpaid or the Loan Commitments remain in effect, or any other amount is owing by Borrower to Administrative Agent or any Lender under any Loan Document or otherwise in respect of the Loans, Borrower shall:

Section 6.01 Maintenance of Existence. Preserve and maintain its legal existence and good standing in the jurisdictions of its organization and (in the case of Borrower only) where each Property is located, and qualify and remain qualified as a foreign entity in each other jurisdiction in which such qualification is required.

Section 6.02 Maintenance of Records. Keep adequate records and books of account, in which complete entries will be made reflecting all of its financial transactions, in accordance with GAAP.

Section 6.03 Maintenance of Insurance. At all times, maintain and keep in force (i) (in the case of Borrower only) the insurance required by each of the Mortgages and (ii) insurance with financially sound and reputable insurance companies or associations in such amounts and covering such risks as are usually carried by companies engaged in the same type of business and similarly situated, which insurance shall be acceptable to Administrative Agent and may provide for reasonable deductibility from coverage thereof

Section 6.04 Compliance with Laws: Payment of Taxes. Comply in all respects with all Laws applicable to it or to any of its properties or any part thereof, such compliance to include, without limitation, paying before the same become delinquent all taxes, assessments and governmental charges imposed upon it or upon its property, except to the extent they are the subject of a Good Faith Contest.

Section 6.05 Right of Inspection. At any reasonable time and from time to time upon reasonable notice, permit Administrative Agent or any Lender or any agent or representative thereof to examine and make copies and abstracts from its records and books of account and visit and inspect its properties and to discuss its affairs, finances and accounts with the independent accountants of Borrower; and cooperate with the Engineering Consultant to enable it to perform its functions hereunder.

Section 6.06 Compliance With Environmental Laws. Comply in all material respects with all applicable Environmental Laws and timely pay or cause to be paid all costs and expenses incurred in connection with such compliance, except to the extent the same are the subject of a Good Faith Contest; and (in the case

of Borrower only) at its sole cost and expense, promptly remove, or cause the removal of, any and all Hazardous Materials or the effects thereof at any time identified as being on, in, under or affecting any Property or the Improvements thereon in violation of applicable Environmental Law.

Section 6.07 Maintenance of Properties. Do all things reasonably necessary to maintain, preserve, protect and keep its properties in good repair, working order and condition.

Section 6.08 Payment of Costs. Pay all costs and expenses required for the satisfaction of the conditions of this Agreement, 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 and (ii) any taxes, assessments, impositions (public or private), insurance premiums, Liens, security interests or other claims or charges against any Property.

Section 6.09 Reporting and Miscellaneous Document Requirements. Furnish directly to each Lender:

(1) Annual Financial Statements. As soon as available and in any event within one hundred (100) days after the end of each Fiscal Year, financial statements of General Partner of Borrower as of the end of and for such Fiscal Year, in reasonable detail and stating in comparative form the respective figures for the corresponding date and period in the prior Fiscal Year, audited by its Accountants;

(2) 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;

(3) 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 material 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;

(4) 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;

(5) Offices. Thirty (30) days' prior written notice of any change in the chief executive office or principal place of business of Borrower;

(6) 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,

(7) Insurance Coverage. Promptly, such information concerning Borrower's insurance coverage as Administrative Agent may reasonably request;

(8) 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;

(9) Leasing Reports and Property Information. As soon as available and in any event within ninety (90) days after the end of each Fiscal Year, a rent roll, leasing report, tenant sales report and operating and cash statements for each Property; and

(10) General Information. Promptly, such other information respecting the condition or operations, financial or otherwise, of Borrower or any properties of Borrower as Administrative Agent may from time to time reasonably request.

Section 6. 10 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. 11 Premises Documents: Leases. As to each Property, deliver to Administrative Agent, promptly following the execution thereof, certified copies of (i) all amendments or supplements to any Premises Documents or any lease and (ii) all leases, together with (to the extent available) current financial statements of the tenants thereunder (and of any guarantors of such tenants' obligations), and, in the case of Major Leases, notices of assignment in the form of EXHIBIT J; keep all Premises Documents and leases in full force and effect and at all times do all things necessary to compel performance by the parties to the Premises Documents or the tenants under such leases, as the case may be, of all obligations, covenants and agreements by such parties or tenants, as the case may be, to be performed thereunder; and not enter into or modify (other than de minimis modifications) any Premises Documents or Major Lease without the prior written consent of Administrative Agent.

Section 6.12 Compliance with Covenants, Restrictions and Easements. Comply with all restrictions, covenants and easements affecting each Property or the Improvements thereon and cause the satisfaction of all conditions of this Agreement.

Section 6.13 Maintenance. Management, Service and Leasing Contracts. Deliver to Administrative Agent, as and when executed, certified copies of all management and leasing contracts entered into with respect to any Property, each of which shall be entered into with a party, and on terms and conditions, reasonably acceptable to Administrative Agent; and contemporaneously with entering into each such contract, at Administrative Agent's option, cause each of the foregoing to be collaterally assigned to Administrative Agent for the benefit of Lenders as additional security for the Loans and/or cause the service provider under each such contract to undertake, inter alia, to continue performance on Lenders' behalf without additional cost in the event of a Default; and keep in full force and effect and not materially modify the management and leasing agreement(s) approved pursuant to paragraph (14) of Section 4.01 without Administrative Agent's prior written consent.

Section 6.14 Remedial Work. Perform the Remedial Work to the satisfaction of the Engineering Consultant within two hundred seventy (270) days from the date hereof

ARTICLE VII

NEGATIVE COVENANTS

So long as any of the Notes shall remain unpaid, or the Loan Commitments remain in effect, or any other amount is owing by Borrower to Administrative Agent or any Lender under any Loan Document or otherwise in respect of the Loans, Borrower shall not do any or all of the following:

Section 7.01 Mergers Etc. Merge or consolidate with any Person without the prior written consent of Administrative Agent, or sell, assign, lease or otherwise dispose of (whether in one transaction or in a series of transactions) all or substantially all of its assets (whether now owned or hereafter acquired) (or enter into any agreement to do any of the foregoing) provided, however, that in the case of a merger or consolidation where the net worth of the entity following such merger or consolidation is equal to or greater than Borrower's net worth immediately prior thereto, Administrative Agent's consent shall not be unreasonably withheld.

ARTICLE VIII

EVENTS OF DEFAULT

Section 8.01 Events of Default Any of the following events shall be an "Event of Default":

- (1) If Borrower shall: fail to pay the principal of any Notes as and when due; or fail to pay interest accruing on any Notes as and when due, and such failure to pay shall continue unremedied for five (5) Business

Days after the due date of such interest; or fail to pay any fee or any other amount due under this Agreement, any other Loan Document or the Supplemental Fee Letter as and when due and such failure to pay shall continue unremedied for two (2) Business Days after notice by Administrative Agent of such failure to pay; or

(2) If any representation or warranty made by Borrower in this Agreement or in any other Loan Document or which is contained in any certificate, document, opinion, financial or other statement furnished at any time under or in connection with a Loan Document shall prove to have been incorrect in any material respect on or as of the date made; or

(3) If Borrower shall fail to perform or observe any term, covenant or agreement contained in this Agreement (other than obligations specifically referred to elsewhere in this Section 8.01) or any other Loan Document, or any other document executed by Borrower and delivered to Administrative Agent or Lenders in connection with the transactions contemplated hereby and such failure under this clause shall remain unremedied for thirty (30) consecutive days after notice thereof to Borrower (or such shorter cure period as may be expressly prescribed in the applicable document); provide , however , that if any such default under clause (ii) above cannot by its nature be cured within such thirty (30) day, or shorter, as the case may be, grace period and so long as Borrower shall have commenced cure within such thirty (30) day, or shorter, as the case may be, grace period and shall, at all times thereafter, diligently prosecute the same to completion, Borrower shall have an additional period, not to exceed sixty (60) days, to cure such default; in no event, however, is the foregoing intended to effect an extension of the Maturity Date; or

(4) If Borrower shall fail (i) to pay any Debt (other than the payment obligations described in paragraph (1) of this Section) in an amount equal to or greater than \$250,000 in any such case when due (whether by scheduled maturity, required prepayment, acceleration, demand, or otherwise) after the expiration of any applicable grace period; or (ii) to perform or observe any material term, covenant, or condition under any agreement or instrument relating to any such Debt, when required to be performed or observed, if the effect of such failure to perform or observe is to accelerate, or to permit the acceleration of, after the giving of notice or the lapse of time, or both, the maturity of such Debt, or any such Debt shall be declared to be due and payable, or required to be prepaid (other than by a regularly scheduled or otherwise required prepayment), prior to the stated maturity thereof; or

(5) If Borrower shall (i) generally not, or be unable to, or shall admit in writing its inability to, pay its debts as such debts become due; or (ii) make an assignment for the benefit of creditors, petition or apply to any tribunal for the appointment of a custodian, receiver or trustee for it, all or any portion of any Property or a substantial part of its other assets; or (iii) commence any proceeding under any bankruptcy, reorganization, arrangement, readjustment of debt, dissolution or liquidation Law of any jurisdiction, whether now or hereafter in effect; or

(iv) have had any such petition or application filed or any such proceeding shall have been commenced, against it or all or any portion of any Property, in which an adjudication or appointment is made or order for relief is entered, or which petition, application or proceeding remains undismissed or unstayed for a period of ninety (90) days or more; or (v) be the subject of any proceeding under which all or any portion of any Property or all or a substantial part of its other assets may be subject to seizure, forfeiture or divestiture; or (vi) by any act or omission indicate its consent to, approval of or acquiescence in any such petition, application or proceeding or order for relief or the appointment of a custodian, receiver or trustee for all or any portion of any Property or all or any substantial part of its other property; or (vii) suffer any such custodianship, receivership or trusteeship for all or any portion of any Property or all or any substantial part of its other property, to continue undischarged for a period of ninety (90) days or more; or

(6) If one or more judgments, decrees or orders for the payment of money in excess of \$250,000 (excluding any such judgments, decrees or orders which are fully covered by insurance) in the aggregate shall be rendered against Borrower, and any such judgments, decrees or orders shall continue unsatisfied and in effect for a period of thirty (30) consecutive days without being vacated, discharged, satisfied or stayed or bonded pending appeal; or

(7) If any of the following events shall occur or exist with respect to Borrower or any ERISA Affiliate: (i) any Prohibited Transaction involving any Plan; (ii) any Reportable Event with respect to any Plan; (iii) the filing under Section 4041 of ERISA of a notice of intent to terminate any Plan or the termination of any Plan; (iv) any event or circumstance which would constitute grounds for the termination of, or for the appointment of a trustee to administer, any Plan under Section 4042 of ERISA, or the institution by the PBGC of proceedings for any such termination or appointment under Section 4042 of ERISA; or (v) complete or partial withdrawal under Section 4201 or 4204 of ERISA from a Multiemployer Plan or the reorganization, insolvency, or termination of any Multiemployer Plan; and in each case above, if such event or conditions, if any, could in the reasonable opinion of any Lender subject Borrower to any tax, penalty, or other liability to a Plan, Multiemployer Plan, the PBGC or otherwise (or any combination thereof) which in the aggregate exceeds or is likely to exceed \$50,000; or

(8) If any Mortgage shall at any time and for any reason cease to create a valid and perfected first priority Lien on the Mortgaged Property purported to be subject thereto or to be in full force and effect; or shall be declared null and void; or the validity or enforceability thereof shall be contested by any party thereto, or any party thereto shall deny any further liability or obligation thereunder; or

(9) If an "Event of Default" shall occur under any Mortgage (as such quoted term is defined therein).

Section 8.02 Remedies. If any Event of Default shall occur and be continuing, Administrative Agent shall, upon request of the Required Lenders, (i) declare the outstanding balance of the Notes, all interest thereon, and all

other amounts payable under this Agreement and the other Loan Documents to be forthwith due and payable, whereupon such balance, all such interest, and all such amounts due under this Agreement and under the other Loan Documents shall become and be forthwith due and payable, without presentment, demand, protest, or further notice of any kind, all of which are hereby expressly waived by Borrower and/or (ii) exercise any remedies provided in any of the Loan Documents or by Law.

## ARTICLE IX

### ADMINISTRATIVE AGENT; RELATIONS AMONG LENDERS

Section 9.01 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 to 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 any Lender 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 or for any failure by Borrower 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 9.02 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 the Loan made by it for all purposes hereof and shall not be required to deal with any Person who has acquired a Participation in any Loan or Participation 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, hereunder 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 Lenders and any other holder of all or any portion of any Loan or Participation.

Section 9.03 Defaults. Administrative Agent shall not be deemed to have knowledge of the occurrence of a Default or 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 Default or Event of Default that Administrative Agent sends to Borrower. Administrative Agent, following consultation with Lenders, shall (subject to Section 9.07) take such action with respect to such Default or Event of Default which is continuing 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 advisable in the best interest of Lenders. In no event shall Administrative Agent be required to take any such action which it determines to be contrary to the Loan Documents or to Law. Each Lender 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 9.04 Rights of Administrative Agent as a Lender. With respect to its Loan Commitment and the Loan provided by it, 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 term "Lender" or "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 (and any Affiliates of Borrower) as if it were not acting as Administrative Agent.

Section 9.05 Sharing of Costs by Lenders\* Indemnification of Administrative Age. Each Lender agrees to 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 or otherwise to preserve the Lien of any of the Mortgages or to preserve or protect any 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 Base Rate from the date of payment by Administrative Agent and/or the other Lender(s). In addition, each Lender agrees to indemnify Administrative Agent (to the extent not reimbursed under Section 11.04 or under other applicable provisions of any Loan Document, but without limiting the obligations of Borrower under Section 11.04 or such other provisions), for its ratable share, based upon the 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 11.04 or under any other 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; provide, 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 Loan.

Section 9.06 Non-Reliance on Administrative Agent and Other Lender Each Lender agrees 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 Loans and of the credit of Borrower, 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, any Property) 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 any Affiliate of Borrower) 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 9.07 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 9.05 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 an additional indemnity and cease, or not commence, the action indemnified against until such additional indemnity is furnished.

Section 9.08 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 any such resignation or removal of Administrative Agent, the Required Lenders shall have the right to appoint a successor Administrative Agent which successor Administrative Agent, so long as it is reasonably acceptable to the Required Lenders, shall be that Lender then having the greatest Loan Commitment. 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 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. 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 removal hereunder as Administrative Agent, the provisions of this Article IX 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 9.09 Amendments Concerning Agency Function Notwithstanding anything to the contrary contained herein, Administrative Agent shall not be bound by any waiver, amendment, supplement or modification hereof or of any other Loan Document which affects its duties, rights, and/or functions hereunder or thereunder unless it shall have given its prior written consent thereto.

Section 9.10 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 9.11 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, provide that Administrative Agent shall promptly notify Borrower and Lenders thereof

Section 9.12 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 the proceeds of a Loan 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 for three (3) Business Days and thereafter at the Prime Based 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 9.13 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 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 or Borrower 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 a U.S. Internal Revenue Service Form W-8ECI in respect of all payments to be made to such Lender by Borrower or Administrative Agent under this Agreement or any other Loan Document or a U.S. Internal Revenue Service Form W-8BEN establishing such Lender's complete exemption from United States withholding tax in respect of payments to be made to such Lender by Borrower or Administrative Agent under this Agreement or any other Loan Document, or such other forms, certifications, statements or documents, duly executed and completed by such Lender as evidence of such Lender's exemption from the withholding of U.S. tax with respect thereto. Administrative Agent shall not be obligated to make any payments hereunder to such Lender in respect of any Loan or Participation or such Lender's Loan Commitment or obligation to purchase Participations until such Lender shall have furnished to Administrative Agent the requested form, certification, statement or document.

Section 9.14 Pro Rata Treatment. Except to the extent otherwise provided, the advance of proceeds of the Loans shall be made by Lenders shall be made for the account of Lenders, ratably according to the amounts of their respective Loan Commitments.

Section 9.15 Sharing of Payments Among Lenders. If a Lender shall obtain payment of any principal of or interest on any Loan made by it through the exercise of any right of setoff, banker's lien, 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 Loans made by the other Lenders 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 9.16 Possession of Document. Each Lender shall keep possession of its own Note. Administrative Agent shall hold all the other Loan Documents and related documents in its possession and maintain separate records and accounts with respect thereto, and shall permit Lenders and their representatives access at all reasonable times to inspect such Loan Documents, related documents, records and accounts.

Section 9.17 Minimum Commitment by The Dim. Until the earlier to occur of (i) twelve (12) months from the Closing Date or (ii) the date upon which the Loan has been fully funded or Borrower is otherwise no longer entitled to request Advances, The Dime agrees that it shall retain a Loan Commitment of \$59,000,000 and thereafter The Dime hereby agrees to maintain a Loan Commitment in an amount no less than \$20,650,000, and further agrees to hold and not to participate or assign any of such amount other than an assignment to a Federal Reserve Bank or to the Parent.

ARTICLE X

NATURE OF OBLIGATIONS

Section 10.01 Absolute and Unconditional Obligations. Borrower acknowledges and agrees that its obligations and liabilities under this Agreement and under the other Loan Documents shall be absolute and unconditional irrespective of (i) any lack of validity or enforceability of any of the Obligations, any Loan Documents or any agreement or instrument relating thereto, (ii) any change in the time, manner or place of payment of, or in any other term in respect of, all or any of the Obligations, or any other amendment or waiver of or consent to any departure from any Loan Documents or any other documents or instruments executed in connection with or related to the Obligations, (iii) any exchange or release of any collateral, if any, or of any other Person from all or any of the Obligations or (iv) any other circumstances which might otherwise constitute a defense available to, or a discharge of, Borrower or any other Person in respect of the Obligations.

The Obligations shall not be conditioned or contingent upon the pursuit by any Lender or any other Person at any time of any right or remedy against Borrower or any other Person which may be or become liable in respect of all or any part of the Obligations or against any collateral or security or guarantee therefor or right of setoff with respect thereto.

Section 10.02 Exculpation, Neither Borrower nor any Principal of Borrower 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 Administrative Agent for the account of Lenders or a duly appointed receiver of the Premises; (viii) any failure to deliver to Administrative Agent or 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 to Lenders for the reimbursement to Administrative Agent, for the account of Lenders, together with interest as provided in the Loan Documents, of all sums advanced or expended by Lenders after or in respect of any default under the Loan Documents; (xii) liability as landlord under any lease(s) relating to the Mortgaged Property which Lenders are or become obligated for by virtue of Lenders succeeding to the interests of Borrower; (xiii) liability under any agreement relating to the operation or maintenance of the Mortgaged Property which Lenders are or become obligated for by virtue of Lenders succeeding to the interests of Borrower; (xiv) 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 (xv) liability for Hazardous Substances that may exist upon or be discharged from the Mortgaged Property. Borrower and any Principal of Borrower 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 Principal of Borrower 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 Administrative Agent or a receiver in Administrative Agent's or such receiver's efforts to collect Rents directly from tenants after a default under the Loan Documents.

#### ARTICLE XI

#### MISCELLANEOUS

Section 11.01 Binding Effect of Request for Advance Borrower agrees that, by its acceptance of the advance of proceeds of the Loans under this Agreement, it shall be bound in all respects by the request for advance submitted on its behalf in connection therewith with the same force and effect as if Borrower had itself executed and submitted the request for advance and whether or not the request for advance is executed and/or submitted by an authorized person.

Section 11.02 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 therefrom shall in any event be effective unless the same shall be in writing and signed by the Required Lenders and, solely for purposes of its acknowledgment thereof, Administrative Agent, and then such waiver or consent shall be effective only in the specific instance and for the specific purpose for which given; provide, 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) amend this Section or any other provision requiring the consent of all Lenders; (v) waive any default under paragraph (5) of Section 8.01; (vi) release, in whole or in part, any guarantor of Borrower's obligations under the Loans other than in accordance with the Loan Documents; or (vii) release any material portion of the Mortgaged Property under any Mortgage or of any other collateral now or hereafter given for the Loans other than in accordance with the Loan Documents. Any advance of proceeds of the Loans made prior to or without the fulfillment by Borrower of all of the conditions precedent thereto, whether or not known to Administrative Agent and Lenders, shall not constitute a waiver of the requirement that all conditions, including the non-performed conditions, shall be required with respect to all future advances, if any. No failure on the part of Administrative Agent or any Lender to exercise, and no delay in exercising, any right hereunder shall operate as a waiver thereof or preclude any other or further exercise thereof or the exercise of any other right. The remedies herein provided are cumulative and not exclusive of any remedies provided by Law.

All communications from Administrative Agent to Lenders requesting Lenders' determination, consent, approval or disapproval (x) shall be given in the form of a written notice to each Lender, (y) 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 (z) 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 Loans) 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 11.03 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 11.04 Expenses: Indemnification. Borrower covenants and agrees to pay all reasonable costs, expenses and charges (including, without limitation, all reasonable fees and expenses of counsel, engineers, appraisers and consultants) incurred by Administrative Agent 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; provide, however, that Borrower shall not be responsible for (x) the fees and expenses of legal counsel for any Lender other than The Dime incurred in connection with said counsel's review of this Agreement and the other Loan Documents prior to execution and (y) costs, expenses and charges incurred by Administrative Agent and Lenders in connection with the administration or syndication of the Loan. In connection with the foregoing, Lenders agree, to the extent practicable, to appoint a single counsel and local counsel, selected by Administrative Agent, to act on behalf of all Lenders in connection with the enforcement of the Loan Documents. 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 for Prime Based Loans from the date of demand. Borrower agrees to indemnify Administrative Agent and each Lender and their respective directors, officers, employees and agents from, and hold each of them harmless against, any and all losses, liabilities, claims, damages or expenses incurred by any of them arising out of or by reason of (A) any claims by brokers due to acts or omissions by Borrower or (B) 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 Loans, including without limitation, the reasonable fees and disbursements of counsel incurred in connection with any such investigation or litigation or other proceedings (but excluding any such losses, liabilities, claims, damages or expenses incurred by reason of the gross negligence or willful misconduct of the Person to be indemnified).

The obligations of Borrower under this Section and under Article III shall survive the repayment of all amounts due under or in connection with any of the Loan Documents and the termination of the Loans.

Section 11.05 Assignment: Participation This Agreement shall be binding upon, and shall inure to the benefit of, Borrower, Administrative Agent, Lenders and their respective successors and permitted assigns. Borrower may not assign or transfer its rights or obligations hereunder.

Any Lender may at any time grant to one or more banks or other institutions (each a "Participant") participating interests in its Loan ("Participations"). In the event of any such grant by a Lender of a Participation to a Participant, whether or not Borrower or Administrative Agent was given notice, 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; provide, however, that such participation agreement may provide that such Lender will not agree to any modification, amendment or waiver of this Agreement described in clauses (i) through (vii) of Section 11.02 without the consent of the Participant.

Subject to the provisions of Section 9.17, any Lender may at any time assign to any bank or other institution with the consent of Administrative Agent and, provided there exists no Event of Default, of Borrower, which consents shall not be unreasonably withheld or delayed, 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 such consented to bank or other institution, 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, provide that, in each case, after giving effect to such assignment the Assignee's Loan Commitment, and, in the case of a partial assignment, the assigning Lender's Loan Commitment, each will be equal to or greater than \$10,000,000; provide, further, however, that the assigning Lender shall not be required to maintain a Loan Commitment in the minimum amount aforesaid in the event it assigns all of its rights and obligations under this Agreement and its Note. 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 \$2,500, such Assignee shall be a Lender under 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 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 original Note of the assigning Lender. The obligations evidenced by such substitute notes shall constitute "Obligations" for all purposes of this Agreement and the other Loan Documents and shall be secured by the Mortgages. 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 9.13.

Each Assignee shall be deemed to have made the representations contained in, and shall be bound by the provisions of, Section 9.13.

Any Lender may at any time freely 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 or the Loans may be exhibited to and retained by any such Participant or assignee or prospective Participant or assignee. In connection with a Lender's delivery of any financial statements and appraisals to any such Participant or assignee or prospective Participant or assignee, such Lender shall also indicate that the same are delivered on a confidential basis. Borrower agrees to provide all assistance reasonably requested by a Lender to enable such Lender to sell Participations or make assignments of its Loan as permitted by this Section. Each Lender agrees to provide Administrative Agent and Borrower with notice of all Participations sold by such Lender.

Section 11.06 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.

Section 11.07 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 11.08 Setoff Borrower agrees that, in addition to (and without limitation of) any right of setoff, bankers' lien or counterclaim a Lender may otherwise have, Administrative Agent and each Lender shall be entitled, at its option, 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, in Dollars or in any other currency, against any amount payable by Borrower to Administrative Agent or such Lender under this Agreement or such Lender's Note or 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 setoff by a Lender) Administrative Agent thereof; provide, however, that 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 11.09 Severability. The provisions of this Agreement are intended to be severable. If for any reason any provision of this Agreement shall be held invalid or unenforceable in whole or in part in any jurisdiction, such provision shall, as to such jurisdiction, be ineffective to the extent of such invalidity or unenforceability without in any manner affecting the validity or enforceability thereof in any other jurisdiction or the remaining provisions hereof in any jurisdiction.

Section 11.10 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 11.11 Integration. The Loan Documents and Supplemental Fee Letter set forth the entire agreement among the parties hereto relating to the transactions contemplated thereby and supersede any prior oral or written statements or agreements with respect to such transactions.

Section 11.12 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 11.13 Waivers. In connection with the obligations and liabilities as aforesaid, Borrower hereby waives (i) promptness and diligence, (ii) notice of any actions taken by Administrative Agent or any Lender under this Agreement, any other Loan Document or any other agreement or instrument relating 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 the Obligations, the omission of or delay in which, but for the provisions of this Section, might constitute grounds for relieving Borrower of its obligations hereunder, (iv) any requirement that Administrative Agent or any Lender protect, secure, perfect or insure any Lien on all or any portion of the Mortgaged Property under any Mortgage or on any other collateral or exhaust any right or take action against Borrower or any other Person or against all or any portion of the Mortgaged Property under any Mortgage or any other collateral, (v) any right or claim of right to cause a marshalling of the assets of Borrower and (vi) all rights of subrogation or contribution, whether arising by contract or operation of law (including, without limitation, any such right arising under the Federal Bankruptcy Code) or otherwise by reason of payment by Borrower, either jointly or severally, pursuant to this Agreement or other Loan Documents.

Section 11.14 Year 2000. Borrower represents, warrants and covenants that it has taken and shall take all action reasonably necessary to assure that its data processing (including internal accounting and bookkeeping) systems, information technology systems and building systems (including microprocessors for building systems) are capable of effectively processing data and information, including dates on and after January 1, 2000, and shall not cease

to perform, or provide, or cause any software and/or system which is material to its operations or any interface therewith to provide, invalid or incorrect results as a result of date functionality and/or data, or otherwise experience any material degradation of performance or functionality arising from, relating to or including date functionality and/or data which represents or references different centuries or more than one century or leap years, and that all such systems shall be reasonably effective and accurate in managing and manipulating data derived from, involving or relating in any way to dates (including single century formulas and multi-century or leap year formulas), and will not cause a material abnormally ending scenario within such systems or in any software and/or system with which such systems interface, or generate materially incorrect values or invalid results involving such dates. At the request of Administrative Agent, Borrower shall provide Administrative Agent with reasonably acceptable assurance of Borrower's year 2000 capability.

Section 11.15 Jurisdiction: Immunities. Borrower, Administrative Agent and each Lender hereby irrevocably submit to the jurisdiction of any New York State or U.S. federal court sitting in New York City over any action or proceeding arising out of or relating to this Agreement, the Notes or any other Loan Document. Borrower, Administrative Agent, and each Lender irrevocably agree that all claims in respect of such action or proceeding may be heard and determined in such New York State or U.S. federal court. Borrower, Administrative Agent, and each Lender irrevocably consent to the service of any and all process in any such action or proceeding by the mailing of copies of such process to Borrower, Administrative Agent or each Lender, as the case may be, at the addresses specified herein. Borrower, Administrative Agent and each Lender agree that a final judgment in any such action or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by Law. Borrower, Administrative Agent and each Lender further waive any objection to venue in the State of New York and any objection to an action or proceeding in the State of New York on the basis of forum non conveniens.

Nothing in this Section shall affect the right of Borrower, Administrative Agent or any Lender to serve legal process in any other manner permitted by Law.

To the extent that Borrower, Administrative Agent or any Lender have or hereafter may acquire any immunity from jurisdiction of any court or from any legal process (whether from service or notice, attachment prior to judgment, attachment in aid of execution, execution or otherwise) with respect to itself or its property, Borrower, Administrative Agent and each Lender hereby irrevocably waive such immunity in respect of its obligations under this Agreement, the Notes and any other Loan Document.

BORROWER, ADMINISTRATIVE AGENT AND EACH LENDER WAIVE ANY RIGHT EACH SUCH PARTY MAY HAVE TO JURY TRIAL IN CONNECTION WITH ANY SUIT, ACTION OR PROCEEDING BROUGHT WITH RESPECT TO THIS AGREEMENT, THE NOTES OR THE LOANS. IN ADDITION, 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 (X) INJUNCTIVE RELIEF, (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 11.16 Gross-Up For Taxes. All payments made by Borrower under this Agreement and the Notes shall be made free and clear of, and without deduction or withholding for or on account of, any present or future income, 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 a Lender as a result of a present or former connection between such 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 such Lender's having executed, delivered or performed its obligations or received a payment under, or enforced, this Agreement or its Note). If any such non-excluded taxes, levies, imposts, duties, charges, fees, deductions or withholdings ("Non-Excluded Taxes") are required to be withheld from any amounts payable to such Lender hereunder or under its Note, the amounts so payable to such Lender shall be increased to the extent necessary to yield to such Lender (after payment of all Non-Excluded Taxes) interest or any such other amounts payable with respect to the its Loan at the rates or in the amounts specified in this Agreement and its Note; provide , however , that Borrower shall not be required to increase any such amounts payable to such Lender if such Lender is not organized under the Laws of the United States or a state thereof and such Lender fails to comply with the requirements of Section 9.13. Whenever any Non-Excluded Taxes are payable by Borrower, as promptly as possible thereafter Borrower shall send to Administrative Agent for the account of such 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 Administrative Agent the required receipts or other required documentary evidence, Borrower shall indemnify such Lender for any incremental taxes, interest or penalties that may become payable by such 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 Notes and all other amounts payable hereunder.

Section 11.17 Exculpation of Trustees, This Loan Agreement is executed by certain Trustees of Acadia Realty Trust (the "Trust"), the general partner of Borrower, not individually, but solely in their representative capacities as trustees of the Trust. Administrative Agent waives any rights to bring a cause of action against the individuals executing this Loan Agreement as trustees of the Trust (except for any cause of action based upon lack of authority or fraud), and Administrative Agent agrees to look solely to the Mortgaged Property or, if permitted under this Loan Agreement or any other Loan Document, the other assets of Borrower, for the enforcement of any claim Administrative Agent at any time may have under this Loan Agreement or under the Loan Documents.

Section 11. 18 Release of Collateral. 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 (1) Borrower pays to Administrative Agent, for the account of the Lenders, an amount equal to the lesser of (x) the Release Price for the Property that is the subject of such release 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 an endorsement to the title insurance policy insuring that the lien of the Mortgages not so released will not be impaired by virtue of said release 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 Loan Allocation for such Property.

[Remainder of page intentionally left blank.]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed and delivered as of the day and year first above written.

ACADIA REALTY LIMITED PARTNERSHIP, a Delaware limited partnership (as Borrower)

By: Acadia Realty Trust, a Maryland real estate investment trust, its general partner

By:

Title:

Address for notices:

c/o Acadia Realty Trust  
20 Soundview Marketplace  
Port Washington, New York 11050  
Attention: Robert Masters, Esq.  
Telephone: 516/767-8830, ext. 339  
Telecopy: 516/767-8839

THE DIME SAVINGS BANK OF NEW YORK, FSB  
(as Lender and Administrative Agent)

By

Name:

Title:

Address for notices, Administrative Agent's Office and Applicable Lending Office:

The Dime Savings Bank of New York, FSB  
EAB Plaza, 13th Floor  
Uniondale, New York 11556  
Attention: Mr. Arthur Bellini  
Telephone: 212/642-7434  
Telecopy: 212/642-7460



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 paragraph 10.02 hereof.

ACADIA REALTY TRUST

By

Name:

Title:

EXHIBIT

AUTHORIZATION LETTER

\_\_\_\_\_, 2000

[Name and address of Administrative Agent]

Re: Term Loan Agreement dated as of \_\_\_\_\_, 2000  
(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:

[NAMES]

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.

Without limiting the foregoing, we hereby unconditionally authorize any  
one of the above-designated persons to execute and the request for advance of  
proceeds of the Loans to you under the Loan Agreement with the identical force  
and effect in all respects as if executed and submitted by us.

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,

[BORROWER]

By

Name:

Title:

EXHIBIT B

NOTE

New York, New York  
2000

For value received, [BORROWER] a \_\_\_\_\_ ("Borrower"), hereby promises to pay to the order of \_\_\_\_\_ or its successors or assigns (collectively, "Lender"), at the principal office of \_\_\_\_\_ located at \_\_\_\_\_ ("Administrative Agent") for the account of the Applicable Lending Office of Lender, the principal sum of \_\_\_\_\_ Dollars (\$\_\_\_\_\_), or if less, the amount loaned by 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. Borrower also 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. The Loan Agreement provides in certain cases for the accrual of interest at the Default Rate.

The date and amount of the 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 continuation thereof.

This Note is one of the Notes referred to in the Term Loan Agreement dated as of ~ 2000 (as the same may be amended from time to time, the "Loan Agreement") among Borrower, the "Lenders" named therein (including Lender) 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 each of the Mortgage is hereby made for a description of the "Mortgaged Property" encumbered thereby and the rights of Borrower and Lenders (including Lender) with respect to such Mortgaged Property. In addition, the Loan Agreement contains, among other things, provisions for the prepayment of and acceleration of this Note upon the happening of certain stated events.

Borrower 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 any of the Mortgaged Property under any of the Mortgages, whether with or without notice to

Borrower, and Borrower 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, Borrower 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.

No recourse shall be had under this Note against Borrower's Principals except as and to the extent set forth in Section 10.02 of the Loan Agreement.

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, 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); provide 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.

[BORROWER]

By Name:  
Title:

EXHIBIT C

ASSIGNMENT AND ASSUMPTION AGREEMENT

ASSIGNMENT AND ASSUMPTION AGREEMENT, dated as of 2000, between [insert name of assigning Lender] ("Assignor") and [insert name of Assignee] ("Assignee").

Preliminary Statement

1. This Assignment and Assumption Agreement (this "Agreement") relates to the Tenn Loan Agreement dated , 2000 (as the same may be amended from time to time, the "Loan Agreement") among \_\_\_\_\_ ("Borrower"), \_\_\_\_\_ the lenders party thereto (each a "Lender" and, collectively, "Lenders") and \_\_\_\_\_, as administrative agent for Lenders ("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 a Loan Commitment to Borrower in an aggregate principal amount of ("Assignor's Loan Commitment").

3. The aggregate outstanding principal amount of Assignor's Loan made pursuant to Assignor's Loan Commitment at 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 its Loan and Loan Commitment thereunder in an amount equal to \$ \_\_\_\_\_ (collectively, the "Assigned Loan and Commitment"); 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. Upon the execution and delivery hereof by Assignor, Assignee, Administrative Agent (and, if applicable, Borrower), 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 a Loan and a Loan Commitment in amounts equal to the Assigned Loan and Commitment and (2) the Loan and 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 I hereof, Assignee shall pay to Assignor on the date hereof in immediately available funds an amount equal to \$ . Except as otherwise agreed by Assignor and Assignee, it is understood that any fees paid to Assignor under the Loan Agreement are for the account of Assignor. Each of Assignor and Assignee here by 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. Consents. Execution and Delivery of Notes. This Agreement is conditioned upon the consent of Administrative Agent and, provided there exists no Event of Default, of Borrower pursuant to Section 11.05 of the Loan Agreement. The execution of this Agreement by Borrower (if required) and Administrative Agent is evidence of this consent. [Consents not required for certain assignments to entities related to a Lender.] Pursuant to Section 11.05 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.

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 Loans, credit analysis of Borrower and the other parties to the Loan Documents, and decision to enter into this Agreement, and will continue to be responsible for making its own independent appraisal of the collateral, if any, for the Loans 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 and warrants 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 9.13 of the Loan Agreement.

[Remainder of page intentionally left blank.]



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.

(as Assignor)

By

Name:  
Title:

By

Name:  
Title:

(as Assignee)

By

Name:  
Title:

By

Name:  
Title:

Applicable Lending, Office and Address  
for notices:

Attention:  
Telephone:  
Telecopy:

(as Administrative Agent)

By

Name:  
Title:

By

Name:  
Title:

(as Borrower)

By

Name:  
Title:

EXHIBIT D

SOLVENCY CERTIFICATE

The person executing this certificate is the \_\_\_\_\_ of [BORROWER], 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(18) of the Term Loan Agreement dated the date hereof (the "Loan Agreement") among Borrower, the lenders party thereto (each a "Lender" and collectively, "Lenders") and \_\_\_\_\_, 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 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 or she 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 or she 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 2000.

EXHIBIT E

NOTICE-OF-ASSIGNMENT OF LEASE  
(On Letterhead of Borrower)

, 2000

[Name and Address of Tenant]

Re: Lease Dated:  
Mortgagee: (as administrative agent)  
for itself and other lenders)  
Address of Mortgagee:  
Mortgage Dated:

Dear Sir/Madam:

The undersigned has assigned by a mortgage or deed of trust (the "Mortgage") dated as shown above to the Mortgagee identified above (hereinafter "Mortgagee") 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, said 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 Mortgagee or upon the lenders for whom Mortgagee is acting as administrative agent, or their respective successors or assigns.

Pursuant to said assignment you are hereby notified that in the event of a demand on you by Mortgagee 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 Mortgagee and we hereby agree that the receipt by you of such a demand shall be conclusive evidence of Mortgagee's right to the receipt thereof and that the payment of the rents by you to Mortgagee pursuant to such demand shall constitute performance in full of your obligation under the Lease for the payment of rent to the undersigned.

NOT: 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 Mortgagee 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 Mortgagee that it shall notify Mortgagee 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 shall be effective unless Mortgagee 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.

[NAME OF TENANT]

By: its authorized officer

SCHEDULE A

SUMMARY  
ENGINEERING AND ENVIRONMENTAL FINDINGS

Property Address	461 State Route 10 Ledgewood	Report Date	2119/00
Dime Reference No.	00-01-000021	CA Job No.	0039.1
Dime Account officer	An Bellini		

ENGINEERING

Immediate Repair Items:

Repair asphalt parking lot.	\$ 3,000
Repair current roof leaks.	\$ 4,000
Allocate funding towards tenant fitout of vacant retail space. (See Note No. 1)	\$ 171,000
Total Immediate Repair Items	\$ 178,000

Moderate Term Repair Items:

Replace roofing	\$1,550,000
Allocate funding for repairs to asphalt pavement.	\$ 6,000
Allocate funding towards replacement of six common area HVAC units.	\$ 390,000
Moderate Term Repair Items	\$1,646,000

Long Term Repair Items:

Allocate funding for repair to asphalt pavement	\$ 9,000
Allocate funding towards periodic curbing repairs	\$ 34,000
Allocate funding towards periodic repairs to HVAC units (See Vote "No. 1)	\$ 340,000
Total Long Term Repair Items	\$ 53,000
Total All Items	\$4,384,000

Note No. 1: party incurring the cost of this work will depend upon the terms of the lease agreement between the owner and the tenant

SUMMARY  
ENGINEERING AND ENVIRONMENTAL FINDINGS

Property Address      300-328 White Horse Pike, Berlin, NJ      Report Date      2118;00  
Dime Reference No.      00-01-000021      CA Job No.      0039.1  
Dime Account Officer      Art Bellini

ENGINEERING

Immediate Repair Items:

Repair restaurant building roof.	\$ 15,000
Repair canopy drainage piping.	\$ 4,000
Repair concrete sidewalks.	\$ 2,000
Allocate funding towards tenant fitout of vacant retail space. (See Note No. 1)	\$ 118,000
Allocate funding towards renovation to vacant restaurant. (See Note No. 1)	\$ 215,000
Total Immediate Repair Items	\$ 354,000

Moderate Term Repair Items:

Repair K-Mart roof (lashing)	\$ 4,000
New parapet capping between K-Mart and Acme.	\$ 2,000
Allocate funding for repairs to asphalt pavement.	\$ 5,000
Provide eight additional handicapped parking spaces.	\$ 3,000
Total Moderate Term Repair Items	\$ 514,000

Long Term Repair Items: Reseal and restripe pavement

Allocate funding, towards periodic curbing repairs.	\$ 50,000
Allocate funds towards periodic repairs to HVAC unit. (see Note No. 1)	\$ 32,000
Allocate funds towards periodic repairs to HVAC unit. (see Note No. 1)	\$ 20,000
Total Long Term Repair Items	\$ 770,000
Total All Items	\$1,638,000

Note No. 3: The party incurring the cost of this work will depend upon the terms of the Ica agreement between the owner and the tenant.

CASHIN ASSOCIATES, P.C.  
SUMMARY  
ENGINEERING AND ENVIRONMENTAL FINDINGS

Property Address New Loudon Center, 873 New Loudon Road Report Date 2-18-00.  
Latham, New York 12110 CA Job No. 0039.1  
Dime Reference No. 00-01-000021  
Dime Account Officer Arthur Bellini

ENGINEERING

Immediate Repair Items:

Repair asphalt traffic bumpers at rear of property.	\$ 1,000
Replace roof over vacant Homeplace store.	\$ 120,000
Remove combustible materials from the vicinity or the main electrical distribution equipment.	No cost
Scrape peeling paint, seal and re-paint rear exterior walls or original section of shopping center.	\$ 10,000
Allocate funding towards tenant fit-out of 411,327 square feet of vacant Homeplace space (see note no. 1).	\$ 500,000
Allocate funding towards tenant fit-out of 76,641 square feet of vacant Bradlee's space, including new HVAC equipment and moderate electrical modifications (see note no. 1).	\$1,150,000
Make repairs to aluminum stormwater gutters and leaders.	\$ 2,000
Make repairs to damaged wall-mounted exterior lighting.	\$ 7,500
Make repairs to front wing-wall of vacant Bradlees store.	3750
Total Immediate Repair Items	\$1,784,500

Moderate Term Repair Items:

Replace roofs over AC Moore, Apple Beeper. Latham Liquors and Marshalls stores.	\$ 150,000
Paint exterior metal surfaces such as overhangs, safety railings and pipe bollards.	\$ 7,500
Scale approximately 40,000 square yards of asphalt parking lot.	\$ 28,000
Re-stripe asphalt parking lot.	\$ 1,750
Allocate funding towards periodic repairs to all HVAC equipment, exclusive of Pricechopper equipment.	\$ 7,501
Allocate funding towards patching of parking lot.	\$ 1,000
Total Moderate Term Repair Items	\$ 195,750

Long Term Repair Items.

Allocate funding towards periodic repairs to gutters/leaders.	\$ 1,000
Allocate funding towards periodic repairs to rooftop HVAC equipment at Pricechopper (see note no. 2)	\$ 7,500
Allocate funding towards periodic repairs to all remaining rooftop HVAC equipment, exclusive of Pricechopper equipment.	\$ 7,500
Allocate funding towards periodic exterior lighting repairs.	\$ 3,000
Allocate funding towards periodic curbing repairs.	\$ 1,500
Allocate funding towards patching of parking lot.	\$ 51,500
Allocate funding towards repair of Pricechopper roof after warranty period expires.	\$ 3,000

Total Long Term Repair Items	\$ 125,000
Total All Items	50

Note no. 1: The party incurring The cost of this work  
will depend upon the terms of the lease  
agreement between the owner and the tenant

Note no. 2. This cost is reported to be the responsibility  
of Pricechopper



CASHIN ASSOCIATES\* P.C.  
SUMMARY  
ENGINEERING AND ENVIRONMENTAL FINDINGS

Property Address	Route 6 Mall Honesdale, Pennsylvania	Report Date	2-118-00
Dime Reference No.	00-01-000021	CA Job No.	0039.1
Dime Account Officer	Arthur Bellini		

ENGINEERING

Immediate Repair Items.

Make repairs to roof leaks at southwest corner or K-Mart store (adjacent to electrical room and in electrical room).	No cost (under warranty)
Make repairs to aluminum stormwater leaders.	\$ 5,750
Allocate funding towards tenant fit-out of 2,000 square feet of vacant National Music Center space (see note no. 1).	\$ 20,000
Allocate funding towards tenant fit-out of* 4.000 square feet or vacant Fireplace Shop space (see note no. 1),	\$ 40,000
Allocate funding towards tenant fit-out of a 4,984 square feet of vacant Mauri Maurices Inc. space (see note no. 1).	\$ 49,840
<b>Total Immediate Repair Items</b>	<b>\$110,390</b>

Moderate Term Repair Rents:

Paint exterior metal surfaces, such as safety tailings and pipe bollards.	\$ 4,000
Seal approximately 50.000 square yards of asphalt parking lot.	\$ 35,000
Re-stripe asphalt parking lot.	\$ 32,000
Allocate funding towards patching or parking lot.	\$ 1,000
<b>Total Moderate Terns Repair Items</b>	<b>\$ 34,000</b>

Long, Term Repair Items:

Allocate funding towards periodic repairs to gutters/leaders	\$ 1,500
Allocate funding towards periodic repairs to rooftop HVAC equipment at K-Mart (see note no. 2)	
Allocate funding towards periodic repairs, to all remaining rooftop HVAC equipment exclusive of K-Mart equipment.	
Allocate funding towards periodic exterior lighting repairs.	\$ 3,500
Allocate funding towards periodic curbing repairs.	\$ 2,000
Allocate funding towards patching of parking lot.	\$ 1,500
Allocate funding towards repair of K-Mart roof.	\$ 2,000
<b>TWO Long Term Repair Items</b>	<b>\$ 33,000</b>
<b>Total All Items</b>	<b>\$185,598</b>

Note no. 1. The part incurring the cost of this work will depend upon the terms of the Igoe agreement between the owner and the tenant.

Note no 2. This cost is reported to be the responsibility of K-Mart

CASHIN ASSOCIATES, P.C.  
SUMMARY  
ENGINEER-ING AND ENVIRONMENTAL FINDINGS

Property Address    Bradford Towne Centre, RR #6 West.      Report Date      2-18-00  
                          Towanda, Pennsylvania                      CA Job No.      0039.1  
 Dime Reference No. 00-01-000021  
 Dime Account Officer Arthur Bellini

ENGINEERING

Immediate Repair Items:

Remove materials that are stored within the open ceiling joists	No cost
in the K-Mart warehouse area, obstructing the sprinkler heads from proper operation in the event of a fire.	
install concrete-filled pipe bollards in front of electrical equipment and gas meters mounted to exterior was.	\$ 7,000
Allocate funding towards tenant fit-out of 1,500 square feet or	\$45,000
vacant Hou Feng Guo space (see note no. 1).	
Allocate funding towards tenant fit-out of 2,000 square feet of vacant Corey V. Sickler Jr. space (see note no. 1).	\$20,000
Allocate funding towards tenant fit-out of 6,000 square feet or vacant Shoeteria Inc./Post space (see note no. 1).	\$60,000
Allocate funding towards tenant fit-out of 2,200 square feet of vacant The's My Team, Inc. space (see note no. 1).	\$22,000
Allocate funding towards tenant III-out of 4,000 square feet or vacant Kurt Hahn space (see note no. 0.)	\$40,000
Allocate funding towards tenant fit-out of 5,000 square feet of vacant Mauri Maurices, Inc. space (see note no. 1).	\$ 50,000
Total Immediate Repair Items	\$244,000

Moderate Term Repair Items:

Paint exterior metal surfaces such as safety railings and pipe bollards.	\$ 4,000
Seal approximately 70,000 square yards of asphalt parking lot.	\$ 50,000
Re-stripe asphalt parking lot.	\$ 2,000
Allocate funding towards patching of parking lot	\$ 1,000
Total Moderate Term Repair Items	\$ 57,000

Long Term Repair Items:

Allocate funding towards periodic rer-air; to gutters/leaders	\$ 1,500
Allocate funding towards periodic repairs to rooftop HVAC equipment at JC Penney (see note no. 2)	\$ 10,000
Allocate funding towards periodic repairs to all remaining rooftop HVAC equipment, exclusive of JC Penney equipment.	\$ 28,000
Allocate funding towards war--- tank/pump repairs.	\$ 2,500
Allocate funding towards periodic exterior lighting repairs.	\$ 4,000
Allocate funding towards periodic curbing repairs.	\$ 2,000
Allocate funding towards patching of parking lot.	\$ 1,500
Allocate funding towards repair or roofs after warranty period expires in 2004.	\$ 5,000
Total Long Term Repair Items	\$154,500

Total All Items

Note no. 1. The party incurring the cost of this work will depend upon the terms of the lease agreement between the owner and the tenant.  
 Note no. 2. This cost is reported to be the responsibility of JC Penney.

Note: This same form was executed in connection with mortgages on Berlin Shopping Center, Ledgewood Mall, New Loudon Center, and Route 6 Shopping Center

THIS MORTGAGE IS AN OPEN-END MORTGAGE AND SECURES FUTURE ADVANCES  
(All notices to be given to Mortgagee pursuant to 42 Pa. C.S.A.ss.8143 shall be given as set forth in Section 4.2 of this Mortgage.)  
Pennsylvania Tax Parcel Identification Nos.

Route 6 Mall	27-14-28
27-10-15	
Bradford Towne	62-087.07-004

ACADIA REALTY LIMITED PARTNERSHIP,  
Mortgagor,  
and  
THE DIME SAVINGS BANK OF NEW YORK, FSB,  
as Administrative Agent for Lenders  
(as hereinafter defined) (together with its  
successors in such capacity, "Mortgagee")

MORTGAGE, ASSIGNMENT OF LEASES  
AND RENTS AND SECURITY AGREEMENT

Dated as of March 30th, 2000

Mortgage Amount: \$59,000,000

RECORD AND RETURN TO:

Dewey Ballantine LLP  
1301 Avenue of the Americas  
New York, New York 100 19-6092  
Attention: Val A. Souplos, Esq.

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THE AMOUNT OF THIS MORTGAGE IS \$59,000,000  
(THE "MORTGAGE AMOUNT").

THIS MORTGAGE, ASSIGNMENT OF LEASES AND RENTS AND SECURITY AGREEMENT, made as of the 30th day of March, 2000, from Acadia Realty Limited Partnership, a Delaware limited partnership, having an address at c/o Acadia Realty Trust, 20 Soundview Marketplace, Port Washington, New York 11050 ("Mortgagor"), to THE DIME SAVINGS BANK OF NEW YORK, FSB, a banking corporation chartered under the laws of the United States, as Administrative Agent for Lenders (as hereinafter defined) having an address at EAB Plaza, Thirteenth Floor, Uniondale, New York 11556-0123 (together with its successors in such capacity, "Mortgagee"),

WITNESSET THAT:

WHEREAS, Mortgagor is on the date of this Mortgage the owner of fee title to that certain parcel of land and improvements thereon commonly known as Bradford Towne Center, located in Bradford County, Pennsylvania and more particularly described in Schedule A-1 annexed hereto and made part hereof and of fee title to that certain parcel of land and improvements thereon commonly known as U.S. Route 6 Mall, located in Wayne County, Pennsylvania and more particularly described in Schedule A-2 annexed hereto and made part hereof,

WHEREAS, concurrently with the execution and delivery of this Mortgage, Assignment of Leases and Security Agreement (this "Mortgage"), Mortgagor will borrow up to FIFTY NINE MILLION AND NO/100THS DOLLARS (\$59,000,000) from Lenders, which loan will be secured by this Mortgage, pursuant to the Loan Agreement identified below;

WHEREAS, Mortgagor has executed and delivered its note, dated the date hereof, in the amount of \$59,000,000 to The Dime Savings Bank of New York, FSB (in its individual capacity as a Lender and not as Mortgagee, "The Dime"), which note obligates Mortgagor to pay the Mortgage Amount, or so much thereof as may be advanced from time to time in accordance with the terms of the Loan Agreement (said note, as the same may hereafter be amended, modified, extended, severed, assigned, renewed, replaced, or restated, and including any substitute or replacement notes executed pursuant to Sections 3.07 or 11.05 of the Loan Agreement, is hereinafter referred to individually and collectively as the "Note");

WHEREAS, this Mortgage is an "Open-End Mortgage" as set forth in 42 Pa. C.S.A. ss.8143 and secures obligations up to a maximum amount of principal indebtedness outstanding at any time of Seventy Five Million Dollars (\$75,000,000), plus accrued and unpaid interest and other sums thereon, including, but not limited to, advances, whenever made, for the payment of taxes, assessments, maintenance charges, insurance premiums, costs incurred for the protection of the Premises or the lien of this Mortgage, expenses incurred by Mortgagee by reason of any default by Mortgagor under this Mortgage, including, without limitation, legal fees and costs incurred by Mortgagee in connection therewith, and advances for alteration or renovation on the Premises,

together with all other sums due hereunder or under the Note or the Loan Agreement and other Loan Documents (as defined in the Loan Agreement) or secured hereby; and

WHEREAS, in order to secure the payment of the Note, Mortgagor has duly authorized the execution and delivery of this Mortgage.

NOW, THEREFORE, in consideration of the premises and of the mutual covenants herein contained,

TO SECURE (a) the full, faithful and punctual (i) payment by Mortgagor of all sums payable under the Note or any other Loan Document (as hereinafter defined) up to the Mortgage Amount and (ii) performance of and compliance with each and every term, condition, agreement, undertaking, covenant and provision to be performed or complied with by Mortgagor pursuant to the Loan Documents, and (b) the truth, accuracy and completeness of all representations and warranties made by Mortgagor to Mortgagee in the Loan Documents or otherwise in connection with the Loan, Mortgagor does hereby creates in favor of Mortgagee a security interest in, and, by these presents, intending to be legally bound, does hereby irrevocably give, grant, bargain, sell, warrant, alien, enfeoff, remise, release, convey, assign, transfer, mortgage, hypothecate, deposit, pledge, set over and confirm unto Mortgagee, its successors and assigns, all of Mortgagor's estate, right, title, interest, claim and demand (whether at law or in equity, in possession or expectancy) in, to and under the following described property (collectively, the "Mortgaged Property"), whether now owned or held or hereafter acquired by Mortgagor:

(i) the premises described in Schedule, including all easements, rights, privileges and appurtenances that in any way belong or appertain to such premises, and all estate, right, title, interest, claim or demand whatsoever of Mortgagor therein and in the streets and ways adjacent thereto, whether in law or in equity, in possession or expectancy, now or hereafter acquired, together with any and all options held by Mortgagor to purchase, lease, or sublease or otherwise acquire such premises or any portion thereof or interest therein, and any greater estate in such premises now owned or hereafter acquired by Mortgagor (collectively, the "Premises");

(ii) all structures, buildings or other improvements now or hereafter located upon the Premises or on any part thereof, including all plant, equipment, apparatus, machinery and fixtures forming part of said structures, buildings and other improvements (all, collectively, the "Improvements");

(iii) all fixtures, fittings, furniture, furnishings, appliances, apparatus, equipment, machinery and other articles of personal property (including without limitation all building service equipment and building materials and supplies), other than those owned by lessees, now or at any time hereafter attached to, placed upon, or used or to be used in any way in connection with the use, enjoyment, occupancy or operation of the Premises or the Improvements (all, collectively, the "Chattels");

(iv) all leases, subleases, tenancies, subtenancies and rental and occupancy agreements for the use and occupancy of all or any portion of the

Mortgaged Property which are now in existence or which may exist at any time during the period that this Mortgage is in effect, together with any modifications, amendments, renewals or extensions of any of the foregoing, whether or not written and, if written, whether or not recorded (all of which present and future leases, subleases, tenancies, subtenancies and rental and occupancy agreements, as modified, amended, renewed or extended, are hereinafter referred to, each as a "Lease" and, collectively, as the "Leases"), and all estate, right, title, interest, claim and demand of Mortgagor under the Leases, including, without limitation, any cash or securities deposited by lessees or others to secure their performance, the rents and all other sums payable thereunder and the right to receive and collect the rents, revenues, receipts, income, earnings, issues, accounts receivable and profits derived from the Mortgaged Property (collectively, the "Rents") (subject, however, to any license to collect the Rents granted by Mortgage to Mortgagor herein and all guaranties of the performance of lessees and other obligors under such leases and other agreements and instruments;

(v) all Authorizations (as hereinafter defined), agreements, franchises, applications, and other authorizations relating to the use, occupation, development, subdivision or operation of the Mortgaged Property or any business or activity conducted by or on behalf of Mortgagor on the Mortgaged Property, including, without limitation, all trade names and other names under or by which the Mortgaged Property or any of the Improvements may at any time be operated or known and all rights to conduct business under any such names or any variant thereof, and all trademarks, good will, operating agreements, contract rights, service rights, accounts receivable, books and records and general intangibles (as such term is defined in the Uniform Commercial Code in effect in the state where the Premises are situated (as same may hereafter be amended from time to time, the "Uniform Commercial Code")) now owned or hereafter acquired, in any way relating to the Mortgaged Property;

(vi) all shares of stock or other evidence of ownership of any part of the Mortgaged Property that is owned by Mortgagor in common with others and all rights of Mortgagor in any owners' or members' association or similar group having responsibility for managing or operating any part of the Mortgaged Property;

(vii) all present and future insurance policies now or hereafter in effect insuring the Mortgaged Property or any portion thereof or any Rents derived therefrom, and any unearned premiums therefor accrued or to be accrued and all proceeds payable thereunder, together with all moneys now or hereafter on deposit for the payment of premiums in respect of such policies and Impositions (as defined in Section 1.7(a)), and all refunds of real estate taxes and assessments;

(viii) all proceeds of the conversion, voluntary or involuntary, of any of the foregoing into cash or liquidated claims, including, without limitation, proceeds of insurance and condemnation awards, judgments, awards of damages and settlements made as a result or in lieu of any condemnation, together with all claims, demands, causes of action and recoveries for any loss or diminution in value of any of the foregoing;



(ix) all warranties, guarantees, plans and specifications, shop and working drawings, soil tests and other environmental site tests and all other documents and materials (of any and every kind and nature) now or hereafter existing in respect of the Mortgaged Property;

(x) all betterments, renewals, extensions and replacements of, all substitutions for, and all additions, accessions and appurtenances to, the Mortgaged Property, hereafter acquired by or released to Mortgagor or constructed, assembled or placed by or for Mortgagor at, on or beneath the Premises or attached to the Premises or the Mortgaged Property, as more particularly provided in Section 1.6 of this Mortgage; and

(xi) all claims (of any and every kind and nature) relating to the foregoing components of the Mortgaged Property.

TO HAVE AND TO HOLD unto Mortgagee, its successors and assigns forever. Mortgagor further agrees as follows:

#### CERTAIN DEFINITIONS

Unless the context otherwise specifies or requires, each term specified below shall have the meaning ascribed to it below.

"Authorizations" (each, an "Authorization") means all permits, certificates, approvals, consents, licenses and authorizations (including, without limitation, Environmental Authorizations) required to be obtained from Governmental Authorities (as hereinafter defined) in order that the Mortgaged Property shall be owned, used, operated and maintained, and that Mortgagor's business thereat shall be conducted, in accordance with pertinent Requirements (as hereinafter defined).

"Default Rate" means the rate (or, if more than one, the highest of the rates) of interest as set forth in the Loan Agreement, but in no event to exceed the maximum rate allowed by law.

"Environmental Authorizations" means all Authorizations that pertain to health, Hazardous Substances (as hereinafter defined) or environmental or ecological conditions at, on, under or about the Mortgaged Property.

"Environmental Conditions" (each, an "Environmental Condition") means all conditions relating to Hazardous Substances present at or emanating from the Mortgaged Property, including, without limitation, the past, present or future Release (as hereinafter defined) of Hazardous Substances and their presence in the environment. This term also includes the residual contamination of equipment and/or facilities and off-site treatment, recycling, reclamation, transportation, storage, handling or disposal of Hazardous Substances from the Mortgaged Property.

"Environmental Laws" (each, an "Environmental Law") means all Requirements pertaining to health, Hazardous Substances or environmental or ecological conditions at, on, under or about the Mortgaged Property.

"Event of Default" is defined in Section 2.1.

"Governmental Authority" (collectively, "Governmental Authorities" means the United States of America, the state and city, town or other municipality in which the Premises are situated, any agency, court, department, commission, board, bureau, instrumentality or political subdivision of any of the foregoing, and any arbitration panel or tribunal, in each instance now existing or hereafter created, having or claiming jurisdiction over Mortgagor, the Mortgaged Property or the use, occupancy, operation or condition of the Mortgaged Property or any portion thereof.

"Hazardous Substances" (each, a "Hazardous Substance") means (i) asbestos and asbestos-containing materials, radon, polychlorinated biphenyls, formaldehyde, flammable explosives, radioactive materials, petroleum and products containing or derived from petroleum, underground storage tanks and other underground storage facilities (i.e., any tank or facility and related piping system of which ten percent (10%) or more by volume is underground), (ii) any and all materials, substances, pollutants, contaminants and wastes subject to, or defined as "hazardous substances", "hazardous waste", "hazardous material", "hazardous air pollutant", or "petroleum products" under, any Environmental Law, and (iii) any and all other hazardous or toxic materials, substances, pollutants, contaminants and wastes.

"Lenders" means, collectively, The Dime and such other lending institutions who become "Lenders" pursuant to the Loan Agreement, together with their successors and permitted assigns in accordance with the terms of the Loan Agreement.

"Loan" means Mortgagee's loan made to Mortgagor the same day as this Mortgage, in an amount equal to the principal amount of the Note.

"Loan Agreement" means that certain Term Loan Agreement, dated as of the date hereof, among Mortgagor, as Borrower, and Mortgagee, as Lender and Administrative Agent, as the same may hereafter be amended, modified or supplemented from time to time.

"Loan Documents" (each, a "Loan Document") means, collectively, the Loan Agreement, this Mortgage; the Note; any guaranty(ies) executed in connection with the Loan (including, without limitation, the Agreement of Guaranty, Undertaking and Indemnity); and any and all other instruments delivered (whether now or hereafter and whether by Mortgagor or any other person) to the holder of the Note in connection with this Mortgage and the Loan including, but not limited to, the Mortgages of certain real property owned by Mortgagor and more particularly described herein.

"Loan Maturity Date" means the maturity date of the Note.

"Note" means the Promissory Note dated the same day as this Mortgage executed by Mortgagor in favor of Mortgagee in the amount of Fifty-Nine Million Dollars (\$59,000,000), together with any and all amendments, extensions, renewals, modifications, refinancings and increases in the amount of, and substitutions for, same.

"Notices" (each, a "Notice") means: (i) citizen or governmental notices of intent to sue under an Environmental Law or common law cause of action; (ii) requests for information under the authority of an Environmental Law; (iii) notices of administrative actions or orders seeking penalties, fines, or remedial activity under any Environmental Law; (iv) any "potentially responsible party" letters under the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. ss.ss. 6902 et seq. ("CERCLA"); (v) judicial complaints; (vi) notices of administrative or judicial enforcement actions related to any Environmental Law; (vii) notices of violation related to any Environmental Law received by any Guarantor, or (viii) any notice of formal or informal investigation by any agency, or any consent order, whether proposed or final.

"Prepayment Charge" means the Prepayment Charge provided for in the ID Note, if any.

"Principal(s) of Mortgagor" means Acadia Realty Trust, a Maryland real estate investment trust.

"Requirements" (each, a "Requirement") means all laws, statutes, regulations, ordinances, codes, rules, rulings, directives, determinations, judgments, decrees, orders, injunctions, arbitral decisions, Authorizations, Environmental Laws and other requirements of every Governmental Authority now or hereafter in effect (including any of the foregoing that heretofore have been promulgated but which are not yet in effect), in each instance as modified, amended, renewed and/or extended, which are applicable to Mortgagor, to the Mortgaged Property or any portion thereof, to the use, manner of use, occupancy, possession, condition, operation, maintenance, alteration, repair, replacement, or restoration of the Mortgaged Property or any portion thereof or to the conduct of Mortgagor's business at the Mortgaged Property.

"To the best of Mortgagor's knowledge" means, with respect to any representation, warranty or certification contained in this Mortgage as to which such phrase is expressly applied, that, after due inquiry, Mortgagor knows of no fact(s) and has received no communication(s), oral or written, which would cause a reasonably prudent person in the position of Mortgagor to refrain from making the representation, warranty or certification in question.

#### ARTICLE I

##### Mortgagor's Covenants

Mortgagor covenants and agrees for the benefit of Mortgagee as follows:

1.1. Title. This Mortgage is and shall remain a valid and enforceable first lien on the Mortgaged Property, subject solely to the exceptions referred to in Section 3. 1. At Mortgagor's sole cost and expense, Mortgagor shall defend and fully protect and preserve such title and the validity and priority of the lien of this Mortgage against the claims of all other persons and entities.

1.2. Security Agreement. This Mortgage shall constitute a security agreement with respect to such components of the Mortgaged Property as to which a security interest may attach under the Uniform Commercial Code and, with respect to such of the Chattels as at any time may be fixtures, a fixture filing under the Uniform Commercial Code. The Mortgaged Property consists of both real and personal property. The filing of UCC-1 financing statements ("UCC-1s") in the records customarily pertaining to personal property shall not be construed as in any way derogating from the intention of the parties hereto that all Chattels and other property used in connection with the production of Rents or which are referred to in this Mortgage are, and at all times and for all purposes and in all proceedings, both legal and equitable, shall be, regarded as real estate whether or not (a) any such item is physically attached to the Premises or any of the Improvements, (b) serial numbers are used for the better identification of certain of the Chattels capable of being thus identified in a recital contained herein or (c) any such item is referred to in any UCC-1 so filed at any time. Similarly, the mention in the UCC- of (x) the rights in the proceeds of any fire and/or hazard insurance policy, (y) any award in condemnation or eminent domain proceedings for a taking or for loss of value, or (z) the debtor's interest as lessor in any present or future Lease or rights to income growing out of the use or occupancy of the Mortgaged Property, whether pursuant to a Lease or otherwise, shall never be construed as in any way derogating from, or altering any of the rights of Mortgagee set forth in this Mortgage or impugning the priority of Mortgagee's lien granted hereby or by any other recorded instrument, but such mention in the UCC-1s is declared to be for the protection of Mortgagee in the event any court or judge shall at any time hold with respect to (x), (y) or (z) above that notice of Mortgagee's priority of interest, to be effective against a particular class of persons, must be filed in the Uniform Commercial Code records. The addresses of Mortgagor (Debtor) and Mortgagee (Secured Party) are set forth on page I of this Mortgage. This Mortgage is to be filed for record with the recorder of deeds of the county or counties in which the Premises are situated. Mortgagor is the record owner of the Mortgaged Property.

1.3. Recordation: Certain Costs and Expenses. (a) Recording and Filing Upon the execution and delivery of this Mortgage, and thereafter from time to time, whether or not Mortgagee so demands, Mortgagor, at Mortgagor's sole cost and expense, shall cause this Mortgage and any other instrument creating or evidencing Mortgagee's lien upon, or security interest in, the Mortgaged Property and each Document of Further Assurance (as defined in Section 1.26) to be filed, registered or recorded, as the case may be, in such manner and in such places as may be required by any Requirement in order to publish notice of, and fully to protect and preserve, the liens and security interests created by and granted pursuant to this Mortgage with respect to the Mortgaged Property.

(b) Fees and Costs of Mortgage. Related Documents. Mortgagor shall punctually pay in strict compliance with applicable Requirements (i) all filing, registration or recording fees with respect to, and all other expenses incident to, the execution, acknowledgment and filing, registration or recording of this Mortgage, any amendment, extension, renewal or modification hereof, any mortgage supplemental hereto, any other security instrument with respect to the Mortgaged Property, any Document of Further Assurance, and any other Loan Document, and (ii) all stamp taxes and other taxes, duties, imposts, assessments and charges imposed by Governmental Authorities arising out of or in connection with the execution, delivery, filing, registration, or recording of any of the foregoing.

1.4. Obligation to Pay. Mortgagor shall punctually pay in strict compliance with the Loan Documents (a) the principal, interest, Prepayment Charge and all other sums evidenced by the Note and (b) all other moneys, indebtedness, obligations and liabilities (of any and every kind or nature) now or hereafter owing (whether to Mortgagee, any Governmental Authority or any other third party) pursuant to any one or more of the Loan Documents. All of the foregoing shall be deemed to be indebtedness secured by this Mortgage and shall be paid without any abatement, credit, reduction, deduction, claim, counterclaim, set-off or offset whatsoever, and free and clear of all defenses.

1.5. Compliance with Requirements. (a) Legal Requirements. Mortgagor shall fully, faithfully and punctually comply (and shall cause all lessees and other persons and entities that occupy or enter upon the Mortgaged Property at all times so to comply) with all applicable Requirements, including, without limitation, Requirements that, if violated, would cause the Mortgaged Property or a part thereof to be subject to forfeiture. Mortgagor, if a corporation, partnership, trust or other legal entity, shall do all things necessary to preserve and keep in full force and effect in all jurisdictions where the same presently are in force and effect Mortgagor's existence, franchises, rights and privileges.

(b) Insurance Policy Requirements. Mortgagor shall fully, faithfully and punctually comply (and shall cause all lessees and other persons and entities that occupy or enter upon the Mortgaged Property so to comply) with all provisions of all insurance policies covering or applicable to any portion of the Mortgaged Property, all requirements of the issuer of any such policies and all orders, rules, regulations, directives, codes and other requirements of the National Board of Fire Underwriters (or any successor body or other body performing similar functions) applicable to Mortgagor, to the Mortgaged Property or to the use, manner of use, occupancy, possession, operation, maintenance, alteration or repair of the Mortgaged Property or any portion thereof, except that Mortgagor shall not effect any such compliance that necessitates structural changes to any of the Improvements without the prior written consent of Mortgagee.

(c) Senior Liens. If this Mortgage is a second or more junior mortgage on the Mortgaged Property, then: (i) Mortgagor shall fully, faithfully and punctually perform and comply with each and every term, covenant, and condition of any more senior mortgage (a "Senior Mortgage") and never permit the same to go into default; (ii) the occurrence of any circumstance or event that would permit the holder of any Senior Mortgage to exercise any remedy under such Senior Mortgage shall automatically and immediately (upon the expiration of any applicable' grace period provided for under the Senior Mortgage) and without notice from Mortgagee constitute an Event of Default under this Mortgage; (iii) Mortgagor shall not make any agreement with the holder of any Senior Mortgage that shall in any way modify, change, alter or extend any of the terms or conditions set forth in such Senior Mortgage or in any instrument executed in connection therewith, nor shall Mortgagor request or accept any future advances under such Senior Mortgage or any such other instrument, without Mortgagee's express written consent; and (iv) so long as the Senior Mortgage has not

been discharged, notwithstanding anything to the contrary in this Mortgage, the relative priorities of this Mortgage and the Senior Mortgage(s) shall be governed by otherwise applicable law.

1.6. Scope of Security All right, title and interest of Mortgagor in and to all betterments, renewals, extensions and replacements of, all substitutions for, and all additions, accessions and appurtenances to, the Mortgaged Property, hereafter acquired by, or released to, Mortgagor or constructed, assembled or placed by or for Mortgagor at, on or beneath the Premises or attached to the Improvements, and all conversions of any of the foregoing, immediately upon such acquisition, release, construction, assembling, placement or conversion, as the case may be, without any further mortgage, conveyance, assignment or other act of Mortgagor, shall become subject to the liens and security interests created by or pursuant to this Mortgage as fully and completely, and with the same effect, as if now owned by Mortgagor and specifically described herein. Mortgagor shall, however, execute and deliver to Mortgagee any and all such further assurances, mortgages, conveyances or assignments thereof as Mortgagee may reasonably require for the purpose of expressly and specifically subjecting the same to the lien of this Mortgage.

1.7. Payment of Impositions for Mortgaged Property. (a) Taxes. Charges, Etc. Except to the extent that Mortgagee exercises the right specified in Section 1. 11, Mortgagor shall, at least ten days before the applicable due date, pay and discharge all taxes and other charges of every kind and nature imposed upon or assessed against Mortgagor or the Mortgaged Property or any portion thereof or upon the Rents derived therefrom or arising in respect of the occupancy, use, possession or transfer thereof, including, without limitation, real estate, school, personal property, income, gross receipts and franchise taxes; water, water meter and sewer rents, rates and charges; service charges with respect to police protection, fire protection, street and highway construction, maintenance and lighting, sanitation and water supply; assessments and levies; permit, inspection and license fees; and all other public and private charges, general and special, ordinary and extraordinary, foreseen and unforeseen, together with all interest, fines and penalties applicable thereto (each of the foregoing, an "Imposition" and, collectively, "Impositions"). Mortgagor shall, upon Mortgagee's request, promptly deliver to Mortgagee documentation reasonably satisfactory to Mortgagee evidencing such payments.

(b) Liens and Claims. Mortgagor shall promptly pay all lawful claims and demands of mechanics, materialmen, laborers and others that, if not timely paid, might result in, or permit the creation of, a lien, other encumbrance or charge on the Mortgaged Property or any part thereof, or on the Rents derived therefrom, or lead to the interruption or suspension of any business of Mortgagor. Mortgagor shall, upon Mortgagee's request, promptly deliver to Mortgagee evidence reasonably satisfactory to Mortgagee of any such payment. Mortgagor shall not create or permit to be created any mortgage, lien, other encumbrance or charge on the Mortgaged Property or any part thereof or on the interest of Mortgagor or Mortgagee or any Lender therein other than this Mortgage and promptly shall cause any such mortgage, lien, other encumbrance or charge to be discharged, bonded or otherwise secured to Mortgagee's satisfaction.

(c) Mortgagor's Right to Contest. Mortgagor, in good faith and at Mortgagor's sole cost and expense and after Mortgagee shall have received written notice

thereof from Mortgagor, may contest the amount or the validity of any Imposition by appropriate legal proceedings, provided that (1) Mortgagor shall prosecute such proceedings diligently; (ii) no Event of Default shall exist during the pendency of any such proceedings; (iii) Mortgagor shall have paid same in full under protest unless such proceedings shall operate to suspend the collection of any such Imposition or other realization thereon and neither the Mortgaged Property nor any part thereof nor interest therein nor any of the Rents derived therefrom would, by reason of such suspension, be forfeited or lost, or subjected to any lien, other encumbrance or charge and neither Mortgagor nor Mortgagee would, by reason thereof, be subject to civil or criminal liability; (iv) during such contest Mortgagor shall, at the option of Mortgagee, provide security satisfactory to Mortgagee assuring the payment of the contested Imposition and of any additional charge, fine, penalty or expense arising from or incurred as a result of such contest and any costs or expenses incurred or to be incurred by Mortgagee in connection with or as a consequence of Mortgagor's contest; and (v) if at any time nonpayment of any Imposition would result in the delivery of a tax deed or similar instrument to the Mortgaged Property or any portion thereof or any forfeiture with respect to the Mortgaged Property, then Mortgagor shall pay such Imposition (together with all applicable fines, penalties and other governmental charges and any interest or costs with respect thereto) in time to prevent the delivery of such deed or instrument or the effectuation of such forfeiture.

1.8. Indemnity by Mortgagor. Mortgagor shall defend and indemnify Mortgagee and all directors, officers, shareholders, employees, attorneys and agents of Mortgagee (collectively, the "Indemnified Parties") against, and save the Indemnified Parties harmless from, and shall reimburse the Indemnified Parties with respect to, any and all claims, demands, actions, causes of action, injuries, orders, losses, liabilities (statutory or otherwise), obligations, damages (including, without limitation, consequential damages), fines, penalties, taxes, costs and expenses (including, without limitation, reasonable attorneys' fees and expenses) incurred by, imposed upon or asserted against the Indemnified Parties or any one or more of them by reason of, or in connection with, (a) Mortgagee's interest in any Loan Document or the Mortgaged Property, (b) any misrepresentation or other incorrect statement or certification by Mortgagor or any Guarantor contained in this Mortgage or any other Loan Document, (c) any failure by Mortgagor to comply with any of the terms, conditions or other provisions set forth in this Mortgage or any other Loan Document or in any recorded instrument that affects the Mortgaged Property, (d) any acts or omissions of Mortgagee in connection with the exercise by Mortgagee of any right, power or remedy available to Mortgagee under this Mortgage or any other Loan Document, (e) any use, non-use, possession, occupancy, alteration, repair, condition (whether patent or latent), operation, maintenance or management of the Mortgaged Property or any portion thereof, or (f) any accident, injury (including death at any time resulting therefrom) or damage to any person or property occurring in, on or about the Mortgaged Property or any portion thereof, whether resulting from any act or omission of Mortgagor or any agent, employee, contractor, lessee, sublessee, licensee or invitee of Mortgagor or otherwise. Mortgagor shall pay, and save Mortgagee harmless from, any taxes, impositions, charges, assessments or levies except income and franchise taxes imposed on Mortgagee by reason of Mortgagee's ownership of the Note or this Mortgage or any other Loan Document or by reason of a sale or other transfer of the Mortgaged Property or any

portion thereof. All amounts payable to Mortgagee under this Section 1.8 shall be payable upon demand by Mortgagee, together with interest at the Default Rate from the date of such demand until the date of receipt by Mortgagee of full payment, and shall be secured by this Mortgage. Mortgagor's obligations under this Section 1.8 shall survive payment in full of the Note and the other Loan Documents and any discharge, release or satisfaction of this Mortgage, any complete or partial foreclosure of this Mortgage and/or the delivery of one or more deeds in lieu of any such foreclosure.

1.9. Insurance and Casualty. (a) Casualty Insurance. Mortgagor shall keep the Improvements and Chattels insured for the benefit of Mortgagee for one hundred percent (100%) of full replacement cost in so-called "all-risk" form. The applicable policies shall include (i) coverage against loss or damage by fire, flood, earthquake, underground hazards, collapse and explosion and such other hazards as may be specified at any time by Mortgagee, (ii) replacement cost and agreed amount endorsements or the equivalent thereof (with no reduction for depreciation), an endorsement covering the costs of demolition and the increased costs of construction attributable to the enforcement of laws, building codes and/or ordinances, and (iii) "time element" coverage, which shall ensure payment to Mortgagee of all moneys due Mortgagee under the Loan Documents and "extra expense" (i.e., soft costs) coverage.

(b) Other Insurance. Mortgagor shall also maintain (i) policies that provide boiler and machinery comprehensive coverage for all mechanical and electrical equipment at the Premises insuring against breakdown or explosion of such equipment on a replacement cost value basis; such policies shall provide the coverage specified in clause (iii) of the preceding paragraph (a); (ii) business interruption or loss of rental income insurance for a period of not less than one year in connection with all policies of property and boiler and machinery insurance; (iii) commercial general liability insurance (including contractual liability) covering the Premises and Mortgagor's operations in an amount not less than One Million Dollars (\$1,000,000) per occurrence and Two Million Dollars (\$2,000,000) in the aggregate per location; (iv) commercial automobile liability insurance with a limit of not less than One Million Dollars (\$1,000,000) combined single limit and endorsed to cover owned, hired and non-owned automobiles; (v) worker's compensation insurance covering all of Mortgagor's employees situated at the Premises in accordance with statutory requirements of the State of New York and including an endorsement for employer's liability coverage; and (vi) umbrella liability insurance in excess of the foregoing liability coverage with a limit of not less than Five Million Dollars (\$5,000,000) or such higher limits as Mortgagee may specify. The foregoing commercial general liability and umbrella liability policies shall also contain a so-called "products-completed operations endorsement." If any part of the Premises is at any time used for the sale or dispensing of beer, wine or any other alcoholic beverages, so-called "Dram Shop" or "Liquor Law Liability Insurance" against claims brought by, or liability arising directly or indirectly to, persons or property on account of such sale or dispensing of beer, wine or other alcoholic beverages shall also be furnished (including coverage against loss of means of support), all in such amounts as Mortgagee may specify. To the extent applicable, special coverages must also be furnished for other operations of Mortgagor or any tenants at the Premises, including garage operations, asbestos removal and such other operations as may be designated by Mortgagee from time to time. In addition, if any underground fuel storage tank is situated at the Premises, then Mortgagor



shall maintain, in such amounts as Mortgagee may specify, "Environmental Impairment Liability Insurance" covering the cost of clean up and/or removal (on or off the Premises) associated with a spill or a leak emanating from such tank.

(c) No Separate Insurance. Mortgagor shall not procure separate insurance concurrent in form or contributing in the event of loss with that required to be maintained under this Section 1.9.

(d) Flood Insurance. If the Mortgaged Property is located in an area that has been, or at any time is, identified by the secretary of Housing and Urban Development as a flood hazard area, Mortgagor shall keep the Improvements and Chattels insured against loss by flood in such amount as Mortgagee shall require. All proceeds of any such insurance shall be payable to Mortgagee and may be applied as set forth in Section 1.9(h) below.

(e) Policy Requirements. All insurance required or permitted to be maintained pursuant to this Section 1.9 shall (i) be maintained at the sole cost and expense of Mortgagor; (ii) be written in such forms and by such companies as are satisfactory to Mortgagee (each such company, in any event, shall be authorized to do business in the state where the Premises are situated and shall have an Alfred M. Best Company, Inc. rating of "A-:X" or higher); (iii) contain the standard New York State Mortgagee Clause or an equivalent satisfactory to Mortgagee or, with respect to any insurance as to which the foregoing shall not be applicable, provide for Mortgagee to be named as an additional insured; (iv) name Mortgagee as the loss payee; (v) include waivers by all insurers of all rights of subrogation against any named or additional insured, the indebtedness secured hereby and the Mortgaged Property; (vi) except as otherwise agreed to in writing by Mortgagee, provide for no deductible in excess of 10,000 per loss; and (vii) provide that no cancellation (including, without limitation, for nonpayment of premiums), reduction in amount or material change in coverage shall be effective until at least thirty (30) days after receipt by Mortgagee of written notice thereof; (viii) provide that no act or omission or negligence of Mortgagor or any other named insured or violation of warranties, declarations or conditions by Mortgagor or any other named insured shall affect or limit the obligation of the insurer to pay the amount of any loss sustained; and (ix) contain such other provisions as Mortgagee may require. Mortgagor shall deliver the original policies of insurance to Mortgagee, but Mortgagee shall under no circumstance be deemed to have knowledge of the contents of such policies by reason of its custody thereof. Mortgagor shall deliver to Mortgagee new or renewal policies to replace expiring policies at least thirty (30) days before their respective expiration dates. Each such new or renewal policy shall bear a notation by the insurer or its authorized agent evidencing payment of the required premium. If any policy shall be cancelled by the insurer, become void by reason of any act(s) or omission(s) of Mortgagor or any other person or entity or by reason of the impairment of the capital of the insurer thereunder, or if for any reason in Mortgagee's sole discretion said policy shall become unsatisfactory to Mortgagee, Mortgagor shall immediately procure new or additional insurance satisfactory to Mortgagee. Mortgagor's approval of any insurance procured by Mortgagor shall not be construed, or relied upon by Mortgagor, as a representation of the solvency of any insurer or the sufficiency of any amount of insurance. If Mortgagor shall fail in a timely manner either to keep in force

any insurance required under this Mortgage or to deliver to Mortgagee any policy required hereunder, Mortgagee shall have the right, but shall not be obligated, to remedy any such failure by the expenditure of moneys or otherwise, in which event the provisions of Section 1.10 below shall be applicable.

Unearned Premiums. Mortgagor hereby irrevocably and unconditionally assigns to Mortgagee the unearned premiums on all insurance policies furnished hereunder and consents to the cancellation of such policies (and the refund of all unearned premiums to Mortgagee) if Mortgagee purchases the Mortgaged Property at foreclosure sale. Any such unearned premiums shall be applied against sums due to Mortgagee under the Note or this Mortgage.

(a) Effect of Foreclosure . Upon a foreclosure of this Mortgage or other transfer of title to the Mortgaged Property in full or partial payment of the Loan, all right, title, and interest of Mortgagor in and to any insurance policies then in force shall pass to the purchaser or grantee or other person designated by the holder of the Note, and Mortgagor hereby irrevocably and unconditionally appoints Mortgagee as Mortgagor's true and lawful attorney-in-fact, coupled with an interest, in Mortgagor's name and stead, with full power of substitution, to assign and transfer all such policies and the proceeds thereof to such purchaser, grantee or other person.

(h) Casualty: Application of Insurance Proceeds. Mortgagor shall give Mortgagee immediate notice of any damage or destruction affecting the Mortgaged Property. Promptly thereafter Mortgagor shall make proof of loss and diligently undertake (if necessary, by means of legal proceedings) to obtain payment of the proceeds under applicable insurance policies, except that Mortgagee shall have the right to join Mortgagor in adjusting any loss in excess of Two Hundred Fifty Thousand Dollars (\$250,000). All insurance proceeds shall be paid directly to Mortgagee, and all insurance companies are hereby irrevocably and unconditionally directed by Mortgagor to make payment for any covered loss to Mortgagee. Whether or not repairs or restoration shall have been made, Mortgagee shall have the right to apply such proceeds (i) first to reimbursing Mortgagee for all costs incurred by it in the collection of such proceeds, (ii) second to the prepayment of the principal of the Note, in whole or in part (to installments in inverse order of maturity), all accrued and unpaid interest thereon and Prepayment Charge, and (iii) third to the payment of such other obligations and/or liabilities of Mortgagor under the Loan Documents as Mortgagee shall determine. The balance, if any, of such proceeds shall be paid to whoever may be legally entitled to the same.

(i) Application of Insurance Proceeds. Notwithstanding anything to the contrary set forth in the preceding Section 1.9(h), if the Mortgaged Property is damaged or destroyed and Mortgagee determines that all of the conditions specified in this Section 1.9(i) have been satisfied, then Mortgagee shall apply the proceeds of insurance (i) first to reimbursing itself for all costs incurred by it in the collection of such proceeds and (ii) second to reimbursing Mortgagor for such actual costs as shall have been incurred by Mortgagor in restoring the Mortgaged Property and shall be approved by Mortgagee. Insurance proceeds shall be applied to such restoration solely if (A) Mortgagee determines that: (i) the Mortgaged Property is capable of being suitably restored in accordance with applicable Requirements to the value, condition, character and general utility existing prior to such damage or destruction, and, in any event, to a

value at least 1.35 times the amount then outstanding under the Note; (ii) sufficient funds are unconditionally available (from proceeds of insurance and/or from funds of Mortgagor) to enable Mortgagor promptly to commence, and thereafter diligently to prosecute to completion, such restoration; (iii) Mortgagor is not in default or in breach of any obligations under any Loan Document, no uncured Event of Default exists under any Loan Document and no facts or circumstances exist that would constitute an Event of Default with the passage of time or the giving of notice or both; and (iv) neither the validity, enforceability nor priority of the lien of this Mortgage shall be adversely affected; (B) Mortgagor has entered into a written agreement, satisfactory in form and substance to Mortgagee, containing such conditions to disbursements as are employed at the time by Mortgagee for construction loans; (C) Mortgagor has delivered to Mortgagee such security as Mortgagee might have reasonably required to assure completion of restoration in accordance with the standards specified above; and (D) Mortgagor has complied with such further reasonable requirements as Mortgagee might have specified.

1.10. Advances, Etc. by Mortgagee. If Mortgagor falls fully, faithfully or punctually to perform or comply with any obligation set forth in or to be performed or complied with pursuant to any Loan Document, then Mortgagee shall have the right, but shall not be obligated, to perform or comply with the same and make such advances therefor as, in Mortgagee's opinion, may be necessary or appropriate, all for the account and at the expense of Mortgagor. To the extent of all sums so advanced (including, without limitation, attorneys' fees and disbursements), Mortgagee shall have a lien upon the Mortgaged Property which shall be secured by this Mortgage. Mortgagor shall repay on demand all sums so advanced on Mortgagor's behalf with interest computed at the Default Rate on each such sum from the date advanced by Mortgagee until the date Mortgagee has received repayment thereof. Mortgagee's exercise of its rights under this Section 1.10 shall not be deemed to cure any circumstance that would otherwise constitute an Event of Default or to impair any of Mortgagee's other rights or remedies with respect thereto, and the obligations of Mortgagor under this Section 1.10 shall pertain irrespective of whether the failure of Mortgagor referred to in the initial sentence of this Section results in the existence of an Event of Default. Mortgagor shall permit Mortgagee and its agents and representatives to enter the Mortgaged Property at all reasonable times for the purposes of (a) inspecting the same, (b) determining whether Mortgagor is in compliance with all of Mortgagor's obligations under this Mortgage, (c) performing or complying with, in Mortgagee's sole election, any one or more of Mortgagor's obligations under the Loan Documents and (d) undertaking such other acts as are consistent with the provisions of this Mortgage. No such entry shall make Mortgagee a "mortgagee in possession," nor shall Mortgagee be liable for inconvenience, annoyance, disturbance, loss of business or other damage arising out of, or in connection with, actions taken by Mortgagee in good faith under this Section 1.10.

1.11. Escrow Requirements. Notwithstanding anything to the contrary set forth in any Loan Document, Mortgagor shall pay to Mortgagee, at the time of each payment of a monthly installment of interest or principal under the Note, a sum equal to one-twelfth of the estimated annual amount of all Impositions, and, at Mortgagee's option following a default in the payment thereof, a sum equal to one-twelfth of the annual amount of any other recurring charges with respect to the Mortgaged Property (such as insurance premiums), so that at least one month before the due date of each such charge

Mortgagee shall hold sufficient funds to pay each such charge in full. The determination of the amount so payable and of the fractional part thereof to be deposited with Mortgagee, so that the aggregate of such deposits shall be sufficient for this purpose, shall be made by Mortgagee. Such amounts shall be held by Mortgagee, but not in trust and without interest, and applied to the payment of such charges in such order or priority as Mortgagee shall determine, on or before the respective dates on which the same or any of them would become delinquent. If at any time before the date payment of any such charge is due, Mortgagee determines that the amounts then on deposit therefor shall be insufficient for the payment of such obligation in full, then Mortgagor, within ten days after demand, shall deposit the amount of the deficiency with Mortgagee. This Section 1.11 does not affect any right or remedy of Mortgagee under any provisions of this Mortgage or of any statute or rule of law to pay any such amount and to add the amount so paid, together with interest at the Default Rate, to the indebtedness secured by this Mortgage, as more fully described in Section 1.10. Upon the occurrence of an Event of Default, Mortgagee may, at its option and without notice to Mortgagor, apply any funds held pursuant to this Section in payment of any of the obligations described above or to any unpaid principal or interest under the Note in such order as Mortgagee may determine.

1.12. Financial Reporting (a) Mortgagor's Books and Records. Mortgagor shall keep proper books and records of account in accordance with the applicable provisions of the Loan Agreement.

(b) Financial Statements. Mortgagor shall deliver to Mortgagee, and shall cause the Guarantor(s), if any, to deliver to Mortgagee, such financial statements and balance sheets as are required pursuant to the applicable provisions of the Loan Agreement.

1.13. Maintenance and Operation of Mortgaged Property. Mortgagor shall not commit any waste on the Mortgaged Property or make any change in the use of the Mortgaged Property that would in Mortgagee's judgment in any way increase the likelihood of fire or other hazard, increase any insurance rates for the Mortgaged Property, or reduce the value or utility of the Mortgaged Property. Mortgagor shall, at all times, maintain the Mortgaged Property in good and efficient operating order and condition and shall promptly make, from time to time, all necessary or desirable repairs, renewals, replacements, additions and improvements thereto, whether structural or nonstructural, exterior or interior, ordinary or extraordinary, foreseen or unforeseen. Mortgagor shall promptly comply with all requirements necessary to preserve and extend any and all rights, licenses, permits, privileges, franchises and concessions that apply to the Mortgaged Property or have been (or subsequently are) granted to or contracted for by Mortgagor in connection with any existing or proposed use of the Mortgaged Property. The Improvements shall not be removed, demolished or substantially altered without the prior written consent of Mortgagee. (If, however, Article VI recites that this Mortgage is a construction mortgage or a building loan mortgage, then Mortgagor's strict compliance with the Building Loan Agreement shall not constitute a violation of the preceding sentence.) No Chattels shall be removed without Mortgagee's prior written consent, unless Mortgagor immediately makes appropriate replacements free of superior title, liens and claims and of a quality and value at least equal to that of the Chattels so

removed. Mortgagor shall cause all lessees and other persons and entities occupying the Mortgaged Property to comply with the obligations imposed upon Mortgagor in this Section 1.13.

1.14. Condemnation Mortgagor, immediately upon obtaining knowledge of the institution of any proceeding for either (a) the condemnation of the 1.2 Mortgaged Property or any portion thereof, or (b) the change of grade or widening of streets affecting or abutting the Premises shall notify Mortgagee of the pendency of such proceeding. Mortgagee may participate in any such proceeding, in its own name and/or as Mortgagor's attorney-in-fact, as hereinbelow provided (with Mortgagee being represented in either case by attorneys selected by Mortgagee, whose fees and expenses Mortgagor shall pay upon demand), and, upon Mortgagee's request, Mortgagor shall deliver to Mortgagee instruments which shall facilitate such participation. Mortgagor hereby irrevocably and unconditionally (x) assigns to Mortgagee all of Mortgagor's right, title and interest in and to any award or other compensation payable pursuant to or in connection with any such proceeding, and agrees to pay (and directs all Governmental Authorities to pay) to Mortgagee any such award or other compensation, and (y) appoints Mortgagee as Mortgagor's true and lawful attorney-in-fact coupled with an interest, in Mortgagor's name and stead, with full power of substitution to commence, appear in and prosecute any such proceeding, to settle or compromise any claim in connection therewith, to collect and receive such award or other compensation and to take such other actions as Mortgagee may determine are necessary or desirable. Mortgagee shall be under no obligation to question the amount of any such award or other compensation and may accept the same in the amount in which the same shall be paid. The proceeds of any award or other compensation so received (including any award for change of grade or widening of streets affecting, or abutting the Premises) shall be applied (i) first to reimbursing Mortgagee for all costs incurred by it in any such proceeding, (ii) second to the prepayment of the principal of the Note, in whole or in part (to installments in inverse order of maturity), all accrued and unpaid interest thereon at the rate of interest provided therein and in the Loan Agreement, including any applicable Prepayment Charge, and (iii) third to the payment of such other obligations and/or liabilities of Mortgagor under the Loan Documents as Mortgagee shall determine. The balance, if any, of such proceeds shall be payable to whoever may be legally entitled to the same. Unless and until Mortgagee has actually received moneys with respect to the subject matter of this Section 1.14 and applied such moneys to reduction of the indebtedness secured by this Mortgage, Mortgagor shall continue to make all payments provided for in the Loan Documents strictly in accordance with the provisions thereof. Notwithstanding the provisions of the immediately preceding paragraph, provided no default exists hereunder, Mortgagee agrees to apply any such condemnation award proceeds received by it to the reimbursement of Mortgagor's costs of restoring the Improvements. Advances of condemnation award proceeds shall be made to Mortgagor from time to time in the same manner and subject to the same conditions as advances of building loan proceeds are made under the Loan Agreement, or if this Mortgage is not a building loan mortgage, in accordance with Mortgagee's standard construction lending practices, terms and conditions; amounts not required for such purposes shall be applied, at Mortgagee's option, to the prepayment of the Note and to interest accrued and unpaid thereon (at the rate of interest provided therein regardless of the rate of interest payable on the award by the condemning authority) in such order and proportions as Mortgagee may elect. In no

event shall Mortgagee be required to advance such proceeds to Mortgagor unless Mortgagee shall have (i) received satisfactory evidence that the funding expiration dates of the commitment, if any, for the permanent financing of the Improvements have been extended for such period of time as is reasonably necessary to complete said restoration and (ii) reasonably determined that the restoration of the Improvements to an economically viable architectural whole can be completed by the then Maturity Date of the Note at a cost which does not exceed the amount of available condemnation award proceeds or, in the event that such proceeds are reasonably determined by Mortgagee to be inadequate, Mortgagee shall have received from Mortgagor a cash deposit equal to the excess of said estimated cost of restoration over the amount of said available proceeds. If the conditions for the advance of condemnation award proceeds for restoration set forth in clauses (i) and (ii) above are not satisfied within sixty (60) days of Mortgagee's receipt thereof or if the actual restoration shall not have been commenced within such period, Mortgagee shall have the option at any time thereafter to apply such condemnation award proceeds to the payment of the Note and to interest accrued and unpaid thereon (at the rate of interest provided therein regardless of the rate of interest payable on the award by the condemning authority) in such order and proportions as Mortgagee may elect.

1.15. Leasing of Mortgaged Property. (a) Existing Leases. Mortgagor represents and warrants to Mortgagee that, as to each existing Lease, (i) the Lease has been duly executed by the lessor and lessee thereunder, is in full force and effect and is valid, binding and enforceable against each of said parties in accordance with its terms; (ii) the copy of the Lease heretofore delivered to Mortgagee by Mortgagor is a true, correct and complete copy of the entire Lease; (iii) neither the lessor nor the lessee has failed to comply with any obligation imposed upon such party thereunder; (iv) neither the Lease nor any Rents payable thereunder have heretofore been sold, assigned, transferred or set over by any instrument now in force, nor, unless indicated to the contrary herein, is the Lease other than a direct lease from Mortgagor to a lessee; (v) Mortgagor is entitled to receive and enjoy all Rents payable under the Lease; (vi) no installment of Rents has been paid more than thirty (30) days prior to the due date for such installment; (vii) the lessee does not have and has not claimed any defense, abatement, deduction, offset, claim or counterclaim affecting the payment of Rents or compliance with the lessee's other obligations thereunder, and all Rents provided for in the Lease are currently being collected free thereof and without any violation of any law or other governmental regulation or requirement; (viii) the Lease contains no option to buy or right of first refusal with respect to an offer to sell the Mortgaged Property or any part thereof, (ix) Mortgagor has the sole and unconditional right and power to sell, assign, transfer and set over the Lease to Mortgagee and to confer upon Mortgagee the rights, interests, power and authority herein granted and conferred; and (x) the Lease is, by its express terms, unconditionally subject and subordinate to the lien of this Mortgage.

(b) Covenants by Mortgagor. Mortgagor covenants that, with respect to each Lease, it will not, without Mortgagee's prior written consent: (i) accept prepayment of any installment of Rents payable thereunder other than prepayment of one month's Rents; (ii) amend or modify the Lease so as to reduce the unexpired term thereof, decrease the amount of Rents payable thereunder or otherwise diminish any obligation imposed therein upon the lessee; (iii) unless the lessee has failed to comply with a material obligation imposed upon it in the Lease, terminate, accept surrender of or permit

cancellation of the Lease if the unexpired term thereof is one year or longer; (iv) modify, amend, extend, renew, terminate or accept the surrender of the Lease if twenty-five percent (25%) or more of the rentable area of the Premises is demised thereunder (any such Lease, a "Major Lease"); (v) pledge, mortgage, assign or otherwise transfer the Lease or any interest of Mortgagor therein or all or any portion of the Rents payable by the lessee thereunder as security for any obligation; (vi) subordinate the Lease to any mortgage (other than this Mortgage) or other encumbrance; (vii) sell, assign, transfer or set over the Lease or any interest therein or Rents thereunder, except in connection with a conveyance of the Premises and then only if expressly made subject to this Mortgage and permitted by the express terms of the Mortgage;

(viii) consent to, waive or permit to continue any violation of any obligation imposed upon the lessee under the Lease; or (ix) consent to or permit the modification, amendment, termination or surrender of any guaranty of the Lease. In addition, Mortgagor covenants that it will not, without Mortgagee's prior written consent, (A) enter into a Major Lease; execute, consent to or permit an assignment of a Major Lease; or consent to or permit the subletting, in whole or in part, of any space leased pursuant to a Major Lease (Mortgagee's consent with respect to the transactions referred to in this clause (A) not to be unreasonably withheld or delayed); or (B) enter into any Lease (x) except for actual occupancy by the lessee of all of the space demised thereunder, (y) unless the Lease, by its express terms, (1) is unconditionally subject and subordinate to the lien of this Mortgage and provides that, in the event Mortgagee or its designee or nominee succeeds to the interest of Mortgagor under such Lease, the lessee thereunder shall, at the option of Mortgagee or such designee or nominee, promptly attorn to Mortgagee or such successor in interest and recognize such party as lessor under the Lease and confirm such attornment and recognition in writing, and (2) requires the lessee upon demand to duly execute, acknowledge and deliver to Mortgagee a certificate (an "Estoppel Certificate") with respect to the status of such Lease and such matters relating to the status of such Lease as any mortgagee may reasonably require, or (z) pursuant to which the lessee or any other person or entity shall have an option, right of first refusal or other right with respect to the acquisition by it of the Premises or any part thereof.

(c) Additional Covenants by Mortgagor. Mortgagor covenants that, with respect to each Lease, it will: (i) fully, faithfully and punctually comply with all of the obligations imposed upon the lessor thereunder; (ii) within five days after request therefor by Mortgagee, (A) deliver to Mortgagee copies of executed originals of all Leases and other instruments affecting the Mortgaged Property and (B) request an Estoppel Certificate from any lessee designated by Mortgagee; (iii) give prompt notice to Mortgagee of the failure by either the lessor or the lessee to comply with any obligation imposed upon such party under the Lease, with a copy of any notice of default or other communication with respect thereto given by either the lessor or the lessee to the other; and (iv) enforce compliance by the lessee with all obligations imposed upon it therein.

To the extent that any part of the Premises is located in the State of New York, reference is hereby made to Section 291-f of the Real Property Law of the State of New York for the purpose of obtaining for Mortgagee the benefits of said Section in connection with this Mortgage.

(d) List of Lessee. Mortgagor shall furnish to Mortgagee, within fifteen days after Mortgagee's request, a written statement containing the names and social security or taxpayer identification numbers of all lessees of the Mortgaged Property or any portion thereof, the terms of their respective Leases, the space occupied and the rentals payable and security deposited thereunder.

(e) Effect of Event of Default. Notwithstanding anything to the contrary in this Mortgage, during the pendency of any uncured Event of Default, Mortgagor shall not enter into any Lease, relocate any existing lessee, or make or permit any modification, amendment, extension or assignment of an existing Lease or the subletting, in whole or in part, of any space leased pursuant to an existing Lease without Mortgagee's prior written consent.

1.16. Casualty to Mortgaged Property. In the event of any damage or destruction affecting the Mortgaged Property (other than damage or destruction that, in Mortgagee's good faith judgment, renders the Mortgaged Property unsuitable for restoration), Mortgagor shall promptly commence and thereafter diligently prosecute to completion, at the sole cost and expense of Mortgagor, in accordance with all applicable Requirements and in a good and workmanlike manner the replacement, repair or restoration of the Mortgaged Property as nearly as practicable to the value, condition, character and general utility thereof immediately prior to such damage or destruction, whether or not the insurance proceeds paid in respect of such damage or destruction shall be made available to Mortgagor or, if made available, shall be sufficient for such purpose. The lien of this Mortgage shall continue to apply to the Mortgaged Property as replaced, repaired or restored.

1.17. Interest after Default. If an Event of Default shall occur under this Mortgage, then all interest required to be paid by Mortgagor with respect to the entire principal of the Note then outstanding and other components of the indebtedness secured by the Loan Documents (including, without limitation, expenses referred to in Article II of this Mortgage) shall be computed at the Default Rate from and after the occurrence of the default that is the basis of such Event of Default until the date that payment of such indebtedness in its entirety is received by Mortgagee in accordance with the Loan Agreement.

1.18. Due on Transfer. Mortgagor shall not without the prior written consent of the "Required Lenders" (as such term is defined in the Loan Agreement) (a) sell, assign, lease, convey, mortgage, pledge, hypothecate, make the subject of any security interest, exchange, subdivide or permit to be divided into multiple condominium units, or in any other manner whatever transfer or encumber all or part of, or any interest in, or any of the Rents derived from, or control of, the Mortgaged Property, or suffer or permit any of the foregoing to occur, whether by operation of law or otherwise; or (b) agree in writing (whether on a conditional or unconditional basis) to do any of the foregoing; or (c) effectuate or permit a reduction in the ownership interests of Acadia Realty Trust in Mortgagor below 51 %; or (d) effectuate or permit a closing of any public or private offering of ownership interests in Mortgagor; or (e) effectuate or permit a transfer of the controlling interest in Mortgagor, other than to an entity owned and controlled by Acadia Realty Trust. Other than as set forth in the immediately preceding sentence, "transfer of the controlling interest in Mortgagor" includes: (i) the sale,



assignment, issuance, redemption, diminution or pledge, whether through a single transaction or a series of transactions, of the direct or indirect controlling ownership interest of Mortgagor; (ii) the modification of any organizational documents of Mortgagor or of any entity that directly or indirectly controls Mortgagor if the effect of such modification is to transfer ownership or control of such entity; and (iii) the dissolution or termination, whether by operation of law or otherwise, of Mortgagor or of any entity that directly or indirectly controls Mortgagor. Nothing in this Section 1.18 shall, however, prohibit (y) Leases that comply with this Mortgage and all other applicable Loan Documents, or (z) if Mortgagor is a cooperative apartment corporation, the transfer and mortgaging from time to time of Lease(s) to individual apartment units and the appurtenant shares.

1.19. Costs of Litigation and Certain Proceedings. If any action or proceeding of any kind (including, without limitation, any bankruptcy, insolvency, arrangement, reorganization or other debtor relief proceeding or any action arising under or in respect of any Lease) is commenced, or if there occurs any other event or is created any circumstance that Mortgagee determines might affect Mortgagor's or Mortgagee's interest in the Mortgaged Property, or the validity, enforceability or priority of the lien of this Mortgage, or Mortgagee's rights or remedies under any of the Loan Documents, then Mortgagee may, without notice (Mortgagor expressly waiving any such notice) and at Mortgagee's option, make such appearances, disburse such sums and take any such other actions (including, without limitation, the commencement and prosecution of any action against Mortgagor to enforce the terms of any Loan Document) as Mortgagee deems necessary or desirable. If Mortgagee takes any action referred to in the preceding sentence, then Mortgagor shall, upon demand by Mortgagee, pay all reasonable fees and costs incurred by Mortgagee in connection therewith (including, without limitation, attorneys' fees and expenses). Mortgagee's right to receive any payment provided for hereinabove shall be deemed to have accrued upon the commencement of the applicable action or proceeding and shall be enforceable by Mortgagee whether or not same is prosecuted to judgment. At Mortgagee's direction, any payment(s) that Mortgagor is obligated to make pursuant to this Section 1.19 shall be made to third parties rather than to Mortgagee.

1.20. Late Charge. If all or any portion of any payment required to be made to Mortgagee (whether pursuant to the Note, the Loan Agreement or any other Loan Document) is not received on or before the tenth (10th) day after the date such payment is due (without reference to any grace period provided for in the Loan Documents), a late charge of four percent (4%) of the amount so overdue shall immediately be due to Mortgagee in accordance with Section 2.11 of the Loan Agreement. At the option of Mortgagee, the charges specified in this section may be deducted from the funds held by Mortgagee pursuant to Section 1.11.

1.21. Trust Fund. If the Mortgaged Property is situated in New York State, this Mortgage is made subject to the trust fund provisions of Section 13 of the New York Lien Law, and Mortgagor covenants that it shall receive all moneys and advances secured hereby and shall hold the right to receive such advances as a trust fund to be applied first for the purpose of paying costs of improvement before using any part of the same for any other purpose.

1.22. Charges for Tax Searches, Etc. Mortgagor shall pay the reasonable fees and costs (including attorneys' fees and expenses) incurred by Mortgagee in obtaining tax searches and tax bills and of processing, or otherwise dealing with, ownership transfers, insurance payments, releases, modifications, prepayments, extensions, consents, assignments, reduction certificates, satisfactions and other matters. At the option of Mortgagee, charges for these items may be deducted from the funds held by Mortgagee pursuant to Section 1.11.

1.23. Prepayment. The Note may not be prepaid in whole or in part except in accordance with the provisions of the Loan Agreement.

1.24. Restrictions Affecting Mortgaged Property. Mortgagor shall not (a) initiate, join in, execute or consent to any change in any covenant, condition, restriction, declaration, zoning ordinance, or other public or private restriction limiting, defining or otherwise controlling construction on, or use(s) of, all or any part of the Mortgaged Property (collectively, "Restrictions"), (b) suffer or permit any building or other improvement situated on land that is not part of the Mortgaged Property to rely on the Premises in order to comply with any Requirement or (c) impair the integrity of the Mortgaged Property as a zoning lot separate and apart from all other premises. Mortgagor shall at all times strictly comply with all Restrictions.

1.25. Hazardous Substances. (a) Compliance With Environmental Laws. Mortgagor shall at all times promptly comply, and shall cause all lessees and other persons and entities which occupy or enter upon the Mortgaged Property at all times promptly to comply, with all Environmental Laws insofar as same apply to the Mortgaged Property. Without limiting the generality of the foregoing, (i) Mortgagor shall cause all Environmental Authorizations to be maintained in full force and effect, (ii) Mortgagor shall not cause, suffer or permit (or suffer or permit any lessee or any other person or entity to cause, suffer or permit) any Hazardous Substance to be used, received, handled, generated, manufactured, produced, processed, treated, stored, released, placed, spilled, discharged, disposed of or dispersed at, on under or about the Mortgaged Property except pursuant to and in accordance with Environmental Laws, and (iii) if, other than in accordance with the provisions of the immediately preceding clause (ii), any Hazardous Substance(s) shall at any time be present at, on or under the Mortgaged Property, Mortgagor, whether or not so directed by Mortgagee, shall undertake the appropriate Remedial Work (as defined below) or take such other action as shall be necessary in order to cause said Hazardous Substance(s) promptly to be removed therefrom.

(b) If any lien shall be filed against, or imposed upon, the Mortgaged Property with respect to non-compliance with any Environmental Law, Mortgagor promptly shall (i) give Mortgagee notice thereof and (ii) cause such lien to be discharged or bonded or otherwise secured to Mortgagee's satisfaction.

(c) Notice to Mortgagee. If Mortgagor shall (i) obtain knowledge of any fact or circumstance which might render inaccurate any representation or warranty contained in Section 3.14 below, Mortgagor shall promptly give Mortgagee notice thereof, or (ii) receive any summons, citation, directive, order, Notice or other communication from any Governmental Authority relating to the application of any

Environmental Law to the Mortgaged Property, Mortgagor shall promptly send a copy of same to Mortgagee. In addition, if any Environmental Law requires that an Environmental Condition be reported (as, for example, when a Release of Hazardous Substances occurs), Mortgagor shall promptly make such report in accordance with such Environmental Law and simultaneously provide Mortgagee with all information contained therein, "Release" shall have the definition set forth in Section 101(22) of the Environmental Response, Compensation and Liability Act, 42 U.S.C. ss. 6902 et seq.

(d) Representations. Etc. Mortgagor shall not take or omit to take (or suffer or permit any lessee or other person or entity occupying the Mortgaged Property to take or omit to take) any action which, if taken or omitted to be taken, would render inaccurate any representation or warranty contained in Section 3.14.

(e) Remedial Work. If Mortgagee, acting in its sole and absolute discretion,

(i) determines that any investigation, site monitoring, environmental audit and risk assessment, containment, clean-up, encapsulation, removal, restoration or other remedial work of any kind (any of the foregoing, "Remedial Work") is necessary or desirable in connection with (A) the known or suspected presence at, on, under or about the Mortgaged Property of any Hazardous Substance(s) or (B) the requirements of any Environmental Law or the suspected violation of any Environmental Law, or

(ii) determines that the condition of the Mortgaged Property or the validity, priority or enforceability of the lien of this Mortgage has been or may be impaired or in any way adversely affected by reason of (A) any failure to comply with any Environmental Law as the same pertains to the Mortgaged Property, (B) any other failure by Mortgagor fully to comply with any obligation imposed upon Mortgagor in this Section 1.25, or (C) the inaccuracy of any representation or warranty contained in Section 3.14, then, in any such event, Mortgagor shall, promptly after written demand by Mortgagee for performance thereof, either (I) commence to perform and thereafter diligently prosecute to completion the Remedial Work, or (II) take such other action as Mortgagee may specify. All Remedial Work shall be performed by contractors employed by Mortgagor and in accordance with plans that first shall have been approved by an independent consultant employed by Mortgagee but paid by Mortgagor.

For the purpose of making a determination pursuant to this Section 1.25(e), (i) Mortgagor shall provide, upon twenty-four (24) hours advance notice, access to Mortgagee and its agents and employees to the Mortgaged Property and all applicable books and records (including, without limitation, those which pertain to Authorizations), and (ii) Mortgagee shall be entitled, from time to time, in addition to all of Mortgagee's other rights and remedies under this Mortgage, to cause an environmental audit and risk assessment of the Mortgaged Property to be conducted by an independent engineering firm or other environmental audit manager designated by Mortgagee. In the event Mortgagor fails timely to commence or diligently to prosecute to completion any Remedial Work or other action required to be undertaken pursuant to this Section 1.25, Mortgagee may, but shall not be required to (and without any liability or obligation by Mortgagee to Mortgagor

with respect thereto), arrange for same to be performed. All costs and expenses incurred pursuant to, or with respect to the subject matter of, this Section 1.25 shall be borne by Mortgagor, and all moneys paid by Mortgagee and all costs and expenses incurred by Mortgagee in connection with this Section 1.25, together with interest thereon computed at the Default Rate, shall be repaid to Mortgagee in accordance with the provisions of Section 1.10 above.

Indemnification. Mortgagor shall defend and indemnify the Indemnified Parties against, and shall save the Indemnified Parties harmless from, and shall reimburse the Indemnified Parties with respect to, any and all Liabilities and Expenses (as hereinafter defined) incurred by, imposed upon or asserted against the Indemnified Parties or any one or more of them by reason of, or in connection with:

(i) the presence, existence, use, handling, generation, manufacture, production, processing, treatment, storage, release, placement, spill, discharge, disposal or dispersal of any Hazardous Substance(s) on, at or under the Mortgaged Property, or any threatened occurrence of any of the foregoing, or any Remedial Work or other action taken by Mortgagee or any of the Indemnified Parties with respect to any of the foregoing pursuant to this Section 1.25; or

(ii) the inaccuracy of any representation or warranty made by Mortgagor in Section 3.14 below; or

(iii) the failure of Mortgagor or anyone else to comply with any Environmental Law(s) as same pertain to the Mortgaged Property or any provision of the Loan Documents that pertains to the subject matter of this Section 1.25.

For the purposes of this Section 1.25, "Liabilities and Expenses" shall mean (i) all claims, demands, actions, causes of action, injuries, orders, losses, liabilities (statutory or otherwise), obligations, damages (including, without limitation, consequential damages), fines, penalties, costs and expenses in any manner arising out of or relating to the subject matter of this Section 1.25 (including, without limitation, any of the foregoing relating to loss of life, injury to persons, property or business, or damage to natural resources), and (ii) any and all moneys payable to Mortgagee pursuant to this Section 1.25; as used herein, "costs and expenses" shall, without limitation, include all fees charged by and expenses of attorneys, accountants, engineers, contractors, environmental specialists and other professional consultants and advisors with respect to the subject matter of this Section 1.25 and the enforcement or attempted enforcement of Mortgagee's rights under the Loan Documents with respect to said subject matter (whether incurred in connection with litigation or bankruptcy proceedings or negotiations with Mortgagor, lienors or other parties in interest (such as receivers and trustees) or otherwise). Liabilities and Expenses shall not be limited to the amount of the Loan. All amounts payable to Mortgagee under this Section 1.25(f) shall be payable upon demand by Mortgagee, together with interest at the Default Rate from the date of such demand until the date of receipt by Mortgagee of full payment, and shall be secured by this Mortgage. Mortgagor's obligations under this Section 1.25(f) shall survive payment in full of the Note and the other Loan Documents and any discharge, release or satisfaction of this Mortgage, any complete or partial

foreclosure of this Mortgage and/or the delivery of one or more deeds in lieu of any such foreclosure.

(g) Release. Mortgagor releases and discharges the Indemnified Parties from, and relinquishes and waives, any and all claims, actions, causes of action, demands and suits which Mortgagor now or hereafter may or shall have against the Indemnified Parties or any one or more of them with respect to the subject matter of this Section 1.25.

1.26. Further Assurances. Mortgagor shall, at Mortgagor's sole cost and expense, promptly deliver to Mortgagee all Documents of Further Assurance and undertake such further acts as Mortgagee shall from time to time request in order to (a) confirm the lien of this Mortgage and the mortgaging to Mortgagee of the Mortgaged Property (including, without limitation, all betterments, renewals, extensions and replacements of, all substitutions for, and all additions, accessions and appurtenances to any portion of the Mortgaged Property), (b) confirm the security interests herein granted to Mortgagee in portions of the Mortgaged Property and (c) satisfy any Requirement that restricts, establishes conditions to, burdens, limits or otherwise affects Mortgagee's exercise of Mortgagee's rights and remedies under, or with respect to the subject matter of, this Mortgage. "Documents of Further Assurance" shall include, without limitation, deeds, mortgages, security agreements, UCC-1s, UCC continuation statements, assignments, title insurance updates, affidavits, certificates, opinions of counsel, estoppel letters, insurance certificates and consent letters. If Mortgagee certifies to Mortgagor that the Note has been misplaced, lost or mutilated and that Mortgagee has not endorsed, assigned or otherwise transferred the Note, Mortgagor shall deliver to Mortgagee an original duplicate note in the same form as the Note, Mortgagee hereby agreeing to indemnify Mortgagor against any loss or expense incurred by Mortgagor as a consequence of Mortgagor's having delivered such duplicate note. All documentation to be delivered by Mortgagor pursuant to this Section 1.26 shall be in form and substance reasonably satisfactory to Mortgagee.

1.27. Notice to Mortgage. Mortgagor shall give notice to Mortgagee promptly upon the occurrence of (a) any Event of Default or any fact, event or circumstance that after notice or passage of time or both would constitute an Event of Default; (b) any litigation, proceeding or investigation commenced by, or that involves, any Governmental Authority that might result in the impairment of Mortgagee's security for the Loan or any other fact, event or circumstance that might result in the impairment of such security; and (c) any material adverse change in the operations or financial or other condition of the Mortgaged Property or any portion thereof.

1.28. Set-Off Mortgagor, to further secure Mortgagor's full, faithful and punctual compliance with the obligations imposed upon it in the Loan Documents, hereby (i) pledges and grants to Mortgagee, and grants to Mortgagee a security interest in and to, any and all deposits (general or special, time or demand, provisional or final) at any time held and other indebtedness at any time owing by Mortgagee to or for the credit or account of Mortgagor (collectively, "Deposits") and (ii) irrevocably authorizes and directs Mortgagee at any time and from time to time upon the occurrence of an Event of Default, without notice to Mortgagor (any such notice being expressly waived by Mortgagor) and to the fullest extent permitted by law, to set off and apply any Deposits

against any and all obligations of Mortgagor now or hereafter existing under the Loan Documents, irrespective of whether or not Mortgagee shall have made any demand under the Loan Documents and although such obligations may be contingent or unmatured. From and after the date of the occurrence of any Event of Default, Mortgagee shall have dominion and control over such Deposits and shall have the sole ability to make withdrawals with respect to such Deposits. The rights of Mortgagee under this section are in addition to such other rights and remedies (including, without limitation, other ID rights of set-off) as may be available to Mortgagee under the Loan Documents, at law or in equity.

1.29. Obligations Secured. Whenever in this Mortgage or any other I Loan Document it is stated that Mortgagor shall be obligated to pay or repay any moneys to Mortgagee or to any third party or to reimburse Mortgagee in respect of costs and expenses incurred by Mortgagee or anyone employed by, or acting on behalf of, Mortgagee, then any such payment, repayment or reimbursement obligation shall be deemed to be part of the indebtedness that is secured by this Mortgage.

1.30. Year 2000 Capability. Mortgagor represents, warrants and covenants that it (a) is aware of the risks associated with the date change from December 31, 1999 to January 1, 2000; (b) has assessed the related processing capabilities of its computer and other systems (the "Systems", as defined below); (c) has taken, and shall continue to take, if necessary, appropriate steps to prepare its Systems for Year 2000 capability, i.e., to operate in a manner such that on and after January 1, 2000 the Systems will correctly interpret and manipulate all dates, data, information and records, so as to avoid errors in processing or failures to operate properly because of their inability to recognize accurately the Year 2000 or subsequent dates; and (d) is taking or has taken, and shall continue to take, if necessary, appropriate steps to verify that the Systems of its material customers, clients, suppliers and counterparties are able to meet the requirements of the Year 2000 date change. Mortgagor agrees that, at Mortgagee's request, it will provide Mortgagee with written assurance (with appropriate documentation) of its Year 2000-related Systems capability. The term "Systems" as used herein shall mean all (i) computer hardware, computer software, and data processing systems; (ii) HVAC and other building or facilities systems and equipment containing embedded microchips; and (iii) other information technology-based systems, that, in the case of each of (i), (ii) and (iii) are material to the business operations or financial condition of Mortgagor.

## ARTICLE II

### Events of Default and Remedies

2.1. Definition of Event of Default. For all purposes of the Loan Documents, the occurrence of any one or more of the following shall constitute an Event of Default:

(a) Nonpayment of Note. If Mortgagor fails to make any payment required under the Note or the Loan Agreement when and as the same shall become due and payable, and such failure continues for ten (10) days, provided,

however, that said ten (10)-day grace period shall not apply to the payment of any moneys required to be paid by Mortgagor upon the Maturity Date or Extended Maturity Date, if applicable (or sooner, if applicable, by reason of acceleration); or

(b) Liens. If any proceeding is commenced to foreclose a lien upon the Mortgaged Property or any portion thereof or if any other action is taken to enforce any such lien and, within twenty days (20) after the commencement of such proceeding or taking of such action, said lien is not discharged of record by payment, deposit, bond, order of a court of competent jurisdiction or otherwise; or

(c) Action by Governmental Authority. If any Governmental Authority imposes a fine or penalty with respect to Mortgagor's failure to pay an Imposition in a timely manner or if, following Mortgagor's election to contest the amount or validity of any Imposition, Mortgagor fails to duly perform or comply with any provision set forth in Section 1.7(c); or

(d) Failure to Comply with Section 1.9. If Mortgagor fails fully, faithfully or punctually to perform or comply with any obligation on the part of Mortgagor to be performed or complied with pursuant to Section 1.9; or

(e) Failure to Give Notice. If Mortgagor fails to give Mortgagee, when and as required, any notice required to be given to Mortgagee by Mortgagor pursuant to this Mortgage or within ten (10) days of Mortgagor's becoming aware of the need to provide such notice if no grace period for the giving of such notice is otherwise provided for in this Mortgage; or

(f) Nonpayment of Certain Charges. If Mortgagor fails to make any payment required by Section 1.4 (other than a payment to which paragraph (a) applies), 1.7(a) or 1.11, and such failure continues for twenty (20) days; or

(g) Default in Performance of Certain Obligations. If Mortgagor fails fully, faithfully or punctually to perform or comply with any obligation on the part of Mortgagor to be performed or complied with pursuant to Section 1.2, 1.3, 1.8, 1.10, 1.12, 1.13, 1.20 or 1.22, and such failure continues for thirty (30) days after Mortgagee has given Mortgagor written notice thereof; or

(h) Other Failure to Perform. If Mortgagor fails fully, faithfully or punctually perform or comply with any other obligation on the part of Mortgagor to be performed or complied with pursuant to any Loan Document including, without limitation, the Note and the Loan Agreement (except as described in the preceding paragraphs (a) through (g)) and such failure continues for the lesser of (i) thirty (30) days after Mortgagee has given Mortgagor written notice thereof (unless such default cannot with due diligence be cured within thirty (30) days but can be cured within a reasonable period, in which case no Event of Default shall be deemed to exist so long as Mortgagor shall have commenced to cure the default within thirty (30) days after receipt of notice, and thereafter diligently and continuously prosecutes such cure to completion) or (ii) such period of time, if any, as is set forth with respect to such failure in any other Loan Document; or

(i) Misrepresentation. Etc. If any warranty, representation or other statement made (i) by or on behalf of Mortgagor or by any Principal of Mortgagor in, pursuant to, or in connection with any Loan Document including, without limitation, the Note and the Loan Agreement, or in connection with any other loan made by Mortgagee to Mortgagor or any Principal of Mortgagor or any borrower of which a Principal of Mortgagor is a principal, or (ii) by or on behalf of any Guarantor in or pursuant to any guaranty delivered to Mortgagee in connection with the Loan is materially incorrect; or

Nonpayment of Debts. If Mortgagor shall be generally not paying Mortgagor's debts as they become due; or

(k) Voluntary Adverse Financial Events. If Mortgagor (i) shall make an assignment for the benefit of creditors, or (ii) shall institute any proceeding seeking (A) relief on its behalf as debtor, or (B) adjudication of Mortgagor as a bankrupt or insolvent, or (C) reorganization, arrangement, adjustment, winding up, liquidation, dissolution or composition of Mortgagor or Mortgagor's debts under any law relating to bankruptcy, insolvency or reorganization or relief of debtors, or (D) appointment of a receiver, trustee, conservator, custodian or other similar official for Mortgagor or the Mortgaged Property or any part thereof or of any other substantial part of Mortgagor's property, or (iii) shall consent by answer or otherwise to the institution of any such proceeding against Mortgagor, or (iv) shall (if a corporation or other entity having directors or shareholders) take by itself, or by its directors or shareholders, any action for the purpose of any of the foregoing; or

(l) Involuntary Adverse Financial Events. If any proceeding is instituted against Mortgagor seeking (i) to have an order for relief entered against Mortgagor as debtor or to adjudicate Mortgagor a bankrupt or insolvent, or (ii) reorganization, arrangement, adjustment, winding-up, liquidation, dissolution or composition of Mortgagor or Mortgagor's debts under any law relating to bankruptcy, insolvency or reorganization or relief of debtors, or (iii) appointment of a receiver, trustee, conservator, custodian or other similar official for Mortgagor or the Mortgaged Property or any portion thereof or any other substantial part of Mortgagor's property, that either (A) results, without Mortgagor's consent or acquiescence, in any such entry of an order for relief, adjudication of bankruptcy or insolvency or issuance or entry of any other order having a similar effect or (B) remains undismitted for ninety (90) days; or

(m) Appointment of Trustee. Etc, If a trustee, receiver, conservator, custodian or other similar official is appointed, without the consent or acquiescence of Mortgagor, for Mortgagor or the Mortgaged Property or any portion thereof or any other substantial part of Mortgagor's property, which appointment is not vacated within ninety (90) days; or

(n) Changes in Mortgage Taxation. If subsequent to the date of this Mortgage the law of the state in which the Premises are situated is changed to Mortgagee's detriment by statutory enactment, judicial decision, regulation or otherwise, so as (i) to deduct from the value of land for the purpose of taxation



(for state, county, municipal or other purpose) any lien or charge thereon, or (ii) to change the taxation of deeds of trust, mortgages or debts secured by land or the manner of collecting any such taxation; or

(o) Final Judgment. If a final judgment is entered against Mortgagor, and, within sixty days after its entry, such judgment has not been discharged or execution thereof stayed pending appeal, or if, within sixty days after the expiration of any such stay, such judgment has not been discharged; or

(p) Certain Taxes. If it is or becomes illegal for Mortgagor to pay any tax required to be paid by Mortgagor pursuant to Section 1.07 or if Mortgagor's payment of such tax would violate any Requirement; or

(q) Prohibited Transfer. If a transaction prohibited by Section 1.18 occurs without the prior written consent of the "Required Lenders"; or

(r) Other Instruments. If Mortgagor fails to perform, comply with or discharge any agreement, obligation or undertaking created or agreed to by Mortgagor in any Loan Document and any applicable cure periods expire; if any Principal of Mortgagor or Guarantor fails to perform, comply with or discharge any agreement, obligation or undertaking created or agreed to by such Principal of Mortgagor or Guarantor in any Loan Document and any applicable cure periods expire; or if any event or circumstance described in clause 1.7(c)(iii) occurs; or

(s) Leases. If Mortgagor leases all or any part of the Mortgaged Property in violation of Section 1.15 of this Mortgage or effectuates any change with respect to a Lease in violation of said section; or

(t) Management of Mortgaged Property. If the Mortgaged Property ceases to be managed by Mortgagor or such other person or entity as may be approved by Mortgagee in writing; or

(u) Guarantor. If any act, circumstance or event described in paragraphs (k) through (n) or (p) is taken by or occurs with respect to any Guarantor or the property of any such person or entity (each of the foregoing, an "Insolvency Event"); or

(v) Other Mortgage. If any fact or circumstance occurs that would permit the holder of any other mortgage encumbering the Mortgaged Property or any part thereof to foreclose or exercise any other remedy(ies) available under such other mortgage. If such other mortgage provides for a grace period and opportunity to cure, an Event of Default shall not be deemed to have occurred under this paragraph; or

(w) unless and until such grace period has expired. Concurrently with the expiration of such grace period, an Event of Default shall be deemed to have occurred under this Mortgage, and Mortgagor shall have no right under this Mortgage to receive notice of or any opportunity to cure such Event of Default. Nothing in this paragraph (w) shall limit in any way Mortgagor's obligations under this Mortgage or Mortgagee's rights and remedies under this Mortgage.

2.2. Effect of Event of Default. Upon and after the occurrence of an Event of Default, Mortgagee shall be entitled to all of the rights and remedies set forth below. In those instances in which Mortgagee is entitled to take action with respect to the subject matter of this Article II, such action may be taken by Mortgagee personally or on Mortgagor's behalf by its agents or attorneys and, in any such instance, with or without entry upon the Mortgaged Property. All expenses incurred and advances made by Mortgagee or by any such agents or attorneys in taking any such action shall be deemed to be for the account of Mortgagor and shall be repaid to Mortgagee together with interest thereon computed at the Default Rate from the date each such expense is incurred or advance is made until the date Mortgagee has received repayment in its entirety thereof.

(a) Automatic Acceleration of Note. If the Event of Default is one described in paragraphs (1), (in) or (n) of Section 2.1, then the entire principal of the Note then outstanding, all accrued and unpaid interest thereon, Prepayment Charge and all other indebtedness secured by this Mortgage shall automatically become immediately due and payable.

(b) Optional Acceleration of Note. If the Event of Default is one described in any paragraph of Section 2.1 other than those paragraphs of Section 2.1 referred to in the preceding paragraph (a), then Mortgagee, by written notice to Mortgagor, may declare the entire principal of the Note then outstanding, all accrued and unpaid interest thereon, Prepayment Charge and all other indebtedness secured hereby to be due and payable immediately. Upon any such declaration the same shall become immediately due and payable, notwithstanding anything to the contrary in any Loan Document.

(c) Entry upon Mortgaged Property. Without notice to Mortgagor or anyone else, Mortgagee may (i) enter into and upon the Mortgaged Property and take possession thereof by force, summary proceeding, ejectment or otherwise and exclude therefrom Mortgagor, Mortgagor's employees and agents and all other persons, (ii) hold, use, operate, manage, maintain and control the Mortgaged Property and conduct the business thereof on such terms as Mortgagee shall deem proper, (iii) collect and receive all Rents including, without limitation, those past due (instituting, at Mortgagee's election, proceedings in furtherance of such collection), (iv) apply the Rents as hereinafter provided, (v) amend, modify and terminate then existing Leases of the Mortgaged Property or any portion thereof and, in the name of Mortgagor, enter into Leases of all or any portion of the Mortgaged Property, (vi) complete the construction of the Improvements, and in the course of such completion make such changes in the contemplated Improvements as Mortgagee may deem desirable, (vii) make all necessary or proper repairs, renewals and replacements and such alterations, additions, improvements and betterments as Mortgagee may deem advisable, and (viii) generally do everything as fully and effectually as if Mortgagee were the absolute owner of the Mortgaged Property. Mortgagee shall apply the Rents (A) first, to paying the costs and expenses incurred by Mortgagee in taking actions pursuant to this paragraph (including, without limitation, cost and expenses incurred in furtherance of the rights, remedies and powers specifically set forth above and those incurred in order to insure the Mortgaged Property, pay Impositions and pay reasonable compensation for the services of

Mortgagee and its employees, attorneys and agents), and (B) second, to payment of the principal of the Note then outstanding, all accrued but unpaid interest thereon, at the rate of interest provided therein and in the Loan Agreement, including any applicable Prepayment Charge, and all other indebtedness secured by this Mortgage or by any other Loan Document. Mortgagor hereby consents to the exercise by Mortgagee of the rights, remedies and powers conferred upon Mortgagee in this paragraph, provided, however, that (x) Mortgagee shall under no circumstances have any obligation to undertake any act or do anything pursuant to this paragraph and (y) no entry in or upon the Mortgaged Property or taking possession thereof or any other action or omission of Mortgagee hereunder shall make Mortgagee a "mortgagee in possession" (unless Mortgagee expressly elects such status in writing) or create any liability on the part of Mortgagee to Mortgagor or to any lessee or other party holding under or claiming through Mortgagor (whether for trespass, eviction, inconvenience, annoyance, disturbance, loss of business or otherwise) except if attributable to the willful misconduct or bad faith of Mortgagee. In furtherance of all of the foregoing, Mortgagor hereby irrevocably and unconditionally appoints Mortgagee as Mortgagor's true and lawful attorney-in-fact, coupled with an interest, in Mortgagor's name and stead, with full power of substitution to act pursuant to the provisions of this paragraph.

(d) Sale of Mortgaged Property. Mortgagee may sell the Mortgaged Property and all estate, right, title and interest, claim and demand therein, and right of redemption thereof, at one or more sales as an entity or in parcels, in such manner, at such time and place, for such price and upon such other terms and after such notice thereof as Mortgagee may in its sole discretion determine, or as may be required by law. Mortgagee may from time to time adjourn any such sale by announcement at the time and place appointed for such sale, as same may previously have been adjourned.

(e) Foreclosure. Mortgagee may institute proceedings for the complete or partial foreclosure of this Mortgage.

(f) Rights as Secured Party. Mortgagee may exercise such rights and remedies, whether at law, in equity or by statute (including, without limitation, the Uniform Commercial Code), as are available to Mortgagee as a secured party under this Mortgage with respect to the Chattels, including, without limitation, the right to take possession of the Chattels, to maintain and preserve the same and to cause any of the Chattels to be sold at any one or more public or private sales as permitted by applicable law. Any person, including both Mortgagee and Mortgagor, shall be eligible to purchase any portion or all of the Chattels thus offered for sale. Any and all expenses incurred by Mortgagee in connection with taking possession of the Chattels and maintaining and preserving the same and otherwise preparing for sale, as well as in the conduct of the sale, such as the fees and expenses of Mortgagee's attorneys, shall be deemed to be for the account of Mortgagor and shall be repaid to Mortgagee. Mortgagor, upon Mortgagee's demand, shall assemble the Chattels and make them available to Mortgagee at such place(s) as Mortgagee may designate. Mortgagee shall give Mortgagor at least five days' prior written notice of the time and place of any public sale or other disposition of the Chattels or of the time at or after which Mortgagee intends to make any private sale or other disposition (any such notice for all purposes to be deemed reasonable notice to Mortgagor).

(g) Other Remedies. Supplementing the foregoing provisions of this Section 2.2, Mortgagee may take such other steps as Mortgagee may elect to protect and enforce its rights, whether by action, suit or proceeding in equity or at law for the specific performance of any covenant, condition or agreement set forth in the Note, this Mortgage or in any other Loan Document, or in aid of the execution of any power herein granted to Mortgagee, or for any foreclosure hereunder, or for the enforcement of any other appropriate legal or equitable right or remedy.

2.3. Foreclosure Sale Implementation. (a) Deeds, Etc. To effectuate any sale(s) made under or by virtue of this Article 11, whether made under the power of sale herein granted or under or by virtue of judicial proceedings or of a judgment or decree of foreclosure and sale (any such sale, an "Article II Sale"), Mortgagor, Mortgagee, or an officer of any court empowered to do so shall execute and deliver (i) to the accepted purchaser or purchasers assigning and transferring all estate, right, title, interest, claim and demand in and to the property and rights sold and (ii) to the appropriate Governmental Authority any affidavit(s) or other instrument(s) required pursuant to any Requirement(s). In furtherance of such purpose, Mortgagor hereby irrevocably and unconditionally appoints Mortgagee as Mortgagor's true and lawful attorney-in-fact, coupled with an interest, in Mortgagor's name and stead, with full power of substitution, to execute and deliver such instrument(s). Mortgagor hereby ratifies and confirms all that Mortgagee, in its capacity as said attorney-in-fact, or such substitute(s) shall lawfully do pursuant to this Section 2.3(a). Notwithstanding the foregoing Mortgagor, if so requested by Mortgagee or any purchaser, shall ratify and confirm any such sale or sales by executing and delivering to Mortgagee or to such purchaser all such instruments as may be designated by the requesting party. Any such sale or sales shall operate to divest all the estate, right, title, interest, claim and demand whatsoever, whether at law or in equity, of Mortgagor in and to the property and rights so sold, and shall be a perpetual bar, both at law and in equity, against Mortgagor and against any and all persons claiming or who may claim by, from, through or under Mortgagor.

(b) Acceleration upon Sale. In the event of any Article II Sale (whether made under the power of sale herein granted or under or by virtue of judicial proceedings or of a judgment or decree of foreclosure and sale), then, notwithstanding anything to the contrary set forth in any Loan Document, the entire principal of the Note then outstanding, all accrued and unpaid interest thereon, at the rate of interest provided therein and in the Loan Agreement, including any applicable Prepayment Charge, and all other indebtedness secured by this Mortgage shall immediately become due and payable.

(c) Application of Proceeds. The proceeds of any Article II Sale, together with any other sums that Mortgagee may then hold under any provision of this Mortgage, shall be applied in the following order of priority:

(i) Sale Costs. Etc, To the payment of the costs and expenses incurred in connection with such sale, including, without limitation, the costs and expenses (A) incurred by Mortgagee prior thereto in taking possession of, and maintaining and preserving, the Mortgaged Property or any portion thereof and paying Impositions with respect thereto (other than Impositions subject to which the Mortgaged Property might have been sold), (B) of any judicial proceedings wherein or pursuant to which such sale might have been made, (C) of any

receiver(s) appointed with respect to the Mortgaged Property or any portion thereof, (D) incurred in order to comply with Requirements applicable to such sale and (E) of paying reasonable compensation to Mortgagee, its employees, agents and attorneys.

(ii) Principal. Prepayment Charge and Interest. To the payment of the entire principal of the Note then outstanding, all accrued and unpaid interest thereon (whether accruing prior or subsequent to the date of default) at the rate of interest provided therein and in the Loan Agreement, including any applicable Prepayment Charge.

(iii) Other Sums Due. To the payment of any other sums required to be paid by Mortgagor pursuant to any provision of any Loan Document.

(iv) Application of Surplus. To the payment of the surplus, if any, to whosoever may be lawfully entitled to receive the same.

(d) Bids by Mortgage. At any Article II Sale, Mortgagee may bid for and acquire the Mortgaged Property or any part thereof and in lieu of paying cash therefor may make settlement for the purchase price by crediting upon the indebtedness of Mortgagor secured by this Mortgage the net sales price after deducting therefrom the costs and expenses of the sale and all other costs or expenses attributable to Mortgagor's default under this Mortgage and Mortgagee's exercise of its rights, powers and remedies under this Mortgage.

2.4. Collection of Debt. (a) Payments Due upon Acceleration. In the event that the indebtedness secured by this Mortgage shall become due and payable in accordance with the provisions of this Mortgage and Mortgagor shall fail forthwith to pay such amounts to Mortgagee, Mortgagee shall be entitled and empowered to institute actions or proceedings at law or in equity for the collection of the sums so due and unpaid, and may prosecute any such actions or proceedings to judgment or final decree, and may enforce any such judgment or final decree against Mortgagor and collect, out of the Mortgaged Property and other property of Mortgagor wherever situated, in any manner provided by law, moneys adjudged or decreed to be payable.

(b) Effect of Foreclosure. Etc, Mortgagee shall be entitled to recover judgment as aforesaid either before or after or during the pendency of any proceedings for the enforcement of the provisions of this Mortgage; and the right of Mortgagee to recover such judgment shall not be affected by any entry or sale hereunder, or by the exercise of any other right, power or remedy for the enforcement of the provisions of this Mortgage or the foreclosure of the lien hereof, and in the event of a sale of the Mortgaged Property and of the application of the proceeds of sale, as in this Mortgage provided, to the payment of the debt hereby secured, Mortgagee shall be entitled to enforce payment of, and to receive all amounts then remaining due and unpaid upon, the Note and to enforce payment of all other charges, payments and costs due under this Mortgage, and shall be entitled to recover judgment for any portion of the debt remaining unpaid, with interest at the maximum rate permitted by law. If any case shall be commenced against Mortgagor under any applicable insolvency, bankruptcy or any similar law now or hereafter or any proceedings for Mortgagor's reorganization or involving the liquidation

of Mortgagor's assets, then Mortgagee shall be entitled to prove the whole amount of principal, Prepayment Charge and interest due upon the Note to the full amount thereof, and all other payments, charges and costs due under this Mortgage (including, without limitation, the fees and expenses of Mortgagee's attorneys in connection with such proceedings), without deducting therefrom any proceeds obtained from the sale of the whole or any part of the Mortgaged Property, provided, however, that in no case shall Mortgagee receive a greater amount than such principal, Prepayment Charge and interest and such other payments, charges and costs from the aggregate amount of the proceeds of the sale of the Mortgaged Property and the distribution from the estate of Mortgagor.

(c) Effect of Judgment. No recovery of any judgment by Mortgagee and no levy of any execution under any judgment upon the Mortgaged Property or any part thereof or upon any other property of Mortgagor shall affect in any manner or to any extent the lien of this Mortgage upon the remaining Mortgaged Property not recovered or levied against or executed upon or any part thereof or any liens, rights, powers or remedies of Mortgagee hereunder, but such liens, rights, powers and remedies of Mortgagee shall continue unimpaired as before.

(d) Application of Sums Collected. Any moneys thus collected by Mortgagee under this Section 2.4 shall be applied by Mortgagee in accordance with the provisions of paragraph (c) of Section 2.3.

(e) Legal Proceedings. Mortgagor unconditionally and irrevocably agrees that any action or proceeding against Mortgagor with respect to the Loan or for the recognition or enforcement of any judgment rendered in any such action or proceeding may be brought in the United States Courts for any District in which the Mortgaged Property is situated or in the courts of the State in which the Mortgaged Property is situated, as Mortgagee may elect, and by executing and delivering this Mortgage, Mortgagor unconditionally and irrevocably accepts and submits to the non-exclusive jurisdiction of each of the aforesaid courts in person generally with respect to any such action or proceeding for itself and in respect of its properties. Mortgagor further agrees that final judgment against it in any action or proceeding shall be conclusive and may be enforced in any other jurisdiction, by suit on the judgment, a certified or exemplified copy of which shall be conclusive evidence of the fact and of the amount of Mortgagor's indebtedness.

MORTGAGOR AND MORTGAGEE WAIVE THE RIGHT TO A JURY TRIAL IN CONNECTION WITH ANY ACTION, SUIT OR PROCEEDING (INCLUDING ANY AND ALL COUNTERCLAIMS THERETO) THAT DIRECTLY OR INDIRECTLY RELATES TO THE SUBJECT MATTER OF THIS MORTGAGE. MORTGAGOR HEREBY EXPRESSLY AND UNCONDITIONALLY WAIVES, IN CONNECTION WITH ANY SUIT, ACTION OR PROCEEDING BROUGHT ON THIS MORTGAGE BY THE MORTGAGEE ANY AND EVERY RIGHT IT MAY HAVE TO (I) INTERPOSE ANY COUNTERCLAIM THEREIN (OTHER THAN COMPULSORY COUNTERCLAIMS) AND (II) HAVE THE SAME CONSOLIDATED WITH ANY OTHER OR SEPARATE SUIT, ACTION OR

PROCEEDING. NOTHING HEREIN CONTAINED SHALL PREVENT OR PROHIBIT MORTGAGOR FROM INSTITUTING OR MAINTAINING A SEPARATE ACTION AGAINST MORTGAGEE WITH RESPECT TO ANY ASSERTED CLAIM.

2.5. Appointment of Receiver. After the occurrence of any Event of Default and during its continuance, whether incidental to any proceedings to foreclose this Mortgage or to enforce the specific performance hereof or to any other judicial proceeding to enforce any right of Mortgagee, or otherwise, Mortgagee shall be entitled, as a matter of right, without the giving of notice to any other party and without regard to the adequacy or inadequacy of any security for the Mortgage indebtedness, either before or after declaring the unpaid principal of the Note to be due and payable, to the appointment of a receiver or receivers of the Mortgaged Property and of all the Rents thereof Mortgagee hereby irrevocably and unconditionally consents to the appointment of such receiver or receivers (and to the exercise by such receiver or receivers of such powers as may be requested by Mortgagee of the court that is empowered to make such appointment), waives any and all defenses to such appointment and agrees not to oppose Mortgageor's application therefor.

2.6. Possession by Mortgagee. Notwithstanding the appointment of any receiver, liquidator or trustee of Mortgageor, or of any of Mortgageor's property, or of the Mortgaged Property or any part thereof, Mortgagee shall be entitled to retain possession and control of all property now or hereafter held under this Mortgage.

2.7. Remedies Cumulative. No right or remedy of Mortgagee is intended to be exclusive of any other right or remedy specified herein, in any other Loan Document or available to Mortgagee at law or in equity. All such rights and remedies shall be cumulative and concurrent and, at Mortgagee's option, may be pursued singularly, successively or together and may be exercised as often as occasion therefor shall arise. No delay or failure of Mortgagee to exercise any right, power or remedy hereunder or under any other Loan Document shall impair any such right, power or remedy or shall be construed to be a waiver thereof or of any Event of Default, and Mortgageor shall not thereby be relieved of its obligations. Mortgagee shall be deemed to have waived any such right, power or remedy only if such waiver is expressly set forth in a written instrument duly executed by an authorized representative of Mortgagee. No waiver of any breach shall constitute a waiver of any other then existing or subsequent breach.

2.8. Right to Withdraw Proceeding. Etc. Any action, suit or proceeding brought by Mortgagee pursuant to any of the terms of this Mortgage or otherwise and any claim made by Mortgagee hereunder may be compromised, settled, withdrawn, abandoned or otherwise dealt with by Mortgagee without any notice to, agreement or approval of, or consent by, Mortgageor and without any liability of Mortgagee to Mortgageor.

2.9. Waiver. To the fullest extent permitted by law and with full awareness of the consequences thereof, Mortgageor hereby unconditionally and irrevocably (a) waives and relinquishes the benefit of, and releases all rights of Mortgageor under, all laws now or hereafter in force providing for any appraisal or valuation before sale of the Mortgaged Property or any portion thereof, any stay of

execution or extension of the time for the enforcement of the collection of the indebtedness secured by this Mortgage, any extension of a period of redemption from any sale in furtherance of the collection of said indebtedness, and any marshalling of the assets of Mortgagor (including, without limitation, the Mortgaged Property), and (b) agrees that Mortgagor shall not at any time insist upon, plead, claim or take the benefit or advantage of any law now or hereafter in force providing for any of the foregoing. In addition, to the fullest extent permitted by law and with full awareness of the consequences thereof, Mortgagor hereby waives and relinquishes the right to assert any defense based upon laws applicable to sureties and guarantors.

2.10. Use and Occupancy of Mortgaged Property. During the continuance of any Event of Default and pending the exercise by Mortgagee of its right to exclude Mortgagor from all or any part of the Mortgaged Property, Mortgagor agrees to pay to Mortgagee the fair and reasonable rental value for the use and occupancy of the Mortgaged Property or any part thereof that is in Mortgagor's possession for such period and, upon default of any such payment, shall vacate and surrender possession of the Mortgaged Property to Mortgagee or to a receiver, if any, and in default thereof Mortgagor may be evicted by summary action or proceeding for the recovery of possession of premises for nonpayment of rent.

2.11. Mortgagee's Attorneys' Fees. Mortgagor shall upon demand pay any and all costs, expenses, and attorneys' fees incurred by Mortgagee in connection with (a) enforcing, or attempting to enforce, Mortgagee's rights under the Loan Documents; (b) obtaining legal advice regarding Mortgagee's available legal alternatives and rights under the Loan Documents; and (c) representation of Mortgagee's interest in any action or proceeding that relates to the Loan, Mortgagor or the Mortgaged Property.

2.12. Effect of Mortgagor's Tender. If, after the occurrence of an Event of Default but before the sale of the Mortgaged Property, Mortgagor tenders to Mortgagee payment of the amount necessary to pay all sums then due hereunder, then such tender shall constitute a voluntary prepayment of the Note, and Mortgagor shall pay Mortgagee, together with all other sums then due, Prepayment Charge computed in accordance with the Note.

2.13. Mortgagee's Failure to Allow Cure Period. Notwithstanding anything to the contrary in any Loan Document, wherever it is stated in this Mortgage that an Event of Default shall be deemed to have occurred only after Mortgagee has given notice (a "Cure Notice") of specified circumstances (an "Unmatured Default") and a specified period of time (the "Cure Period") has passed, if Mortgagee fails to give the required Cure Notice and commences foreclosure proceedings under this Mortgage, then, (a) if, within the Cure Period, as measured from the commencement of the foreclosure proceedings, Mortgagor cures the applicable Unmatured Default, then Mortgagee shall discontinue such foreclosure proceedings and reinstate the Loan on the same terms and conditions, as if the Note had never been accelerated; (b) such discontinuance of foreclosure proceedings shall constitute Mortgagor's sole remedy for Mortgagee's failure to have given the required Cure Notice, and Mortgagee shall have no liability to Mortgagor with respect thereto; and (c) Mortgagee's failure to give the Cure Notice shall not invalidate, nullify, or constitute a defense in any foreclosure proceedings that are otherwise properly commenced.



ARTICLE III  
Representations and Warranties

Mortgagor represents and warrants to Mortgagee that, as of the date of the delivery of this Mortgage and as of each date as of which Mortgagor is required to make any payment under the Note:

3.1. Title. Etc. Mortgagor has good and marketable title to an indefeasible fee estate in the Mortgaged Property, subject to no lien, charge or encumbrance except (a) matters listed as typewritten exceptions to title in Schedule B of Mortgagee's title policy issued by Land Title Agency, Inc. as agent for Commonwealth Land Title Insurance Company pursuant to title order number H186670EP and title order number H186671EP, insuring the lien of this Mortgage; and (b) Leases that comply with this Mortgage. Upon recordation, this Mortgage shall impose upon such of the Mortgaged Property as constitutes real estate a first priority lien. Mortgagor owns the Chattels and all other Mortgaged Property free and clear of liens and claims other than those set forth in said typewritten exceptions.

3.2. Compliance with Requirements. Etc. Mortgagor is in full compliance with all Requirements and Restrictions. Neither the Mortgaged Property nor any part thereof was acquired with the proceeds from any transaction or activity that would cause the Mortgaged Property or any such part to be subject to forfeiture under any Requirement or Restriction. Furthermore, Mortgagor has not been responsible for, and has no knowledge of, any action or omission by any person or entity that would cause the Mortgaged Property or any such part to be subject to forfeiture.

3.3. Rent Roll. Mortgagor has heretofore delivered to Mortgagee a rent roll listing the Rents payable under all Leases. All Rents shown in the rent roll are legal and enforceable Rents and are in compliance with all applicable Requirements.

3.4. Easements. Etc. Mortgagor has all easements, including those for use, maintenance, and access (by pedestrians, automobiles and trucks) necessary, appropriate, or convenient for the full and proper operation, repair, maintenance, occupancy and use of every portion of the Mortgaged Property. The Mortgaged Property is adequately served by all utilities necessary, appropriate, or convenient for the full and proper operation, repair, maintenance, occupancy and use of every portion of the Mortgaged Property.

3.5. No Misrepresentations. Neither this Mortgage, any other Loan Document, nor any other document or certificate furnished to Mortgagee or to Mortgagee's attorneys or to Lenders in connection with the transactions contemplated hereby or thereby contains any untrue statement of a material fact or omits to state a material fact necessary in order to make the statements contained therein or herein not misleading. All certifications, recitals, representations and warranties contained in the Loan Documents are true and correct.

3.6. Governmental Approvals. All Authorizations necessary or appropriate to permit the use and occupancy of the Mortgaged Property and which are

required to be obtained from any Governmental Authority have been duly obtained and are in full force and effect.

3.7. Approvals of Loan Documents. No consent, approval or authorization of, or registration, declaration or filing with, any Governmental Authority is required in connection with the valid execution, delivery and performance of the Loan Documents or the carrying out of any of the transactions contemplated thereby.

3.8. Other Beneficiaries. The representations and warranties contained in the Loan Documents shall inure to the benefit of any purchaser at a foreclosure sale or other grantee named in a deed delivered in respect of the Mortgaged Property.

3.9. Federal Law. The proceeds of the Loan are not being and will not be used, directly or indirectly, for the purpose of "purchasing" or "carrying" any "margin stock" in contravention of Regulation U or X promulgated by the Board of Governors of the Federal Reserve System. Mortgagor is incurring the Loan for business purposes only, and not for personal, family or household purposes. Neither the Premises nor any part thereof constitutes or is intended to constitute the personal residence of Mortgagor or any Principal of Mortgagor at any time while the portion of the Premises so used is encumbered by this Mortgage. Mortgagor is a United States person, and is not a foreign person, as defined in the Foreign Investment in Real Property Tax Act.

3.10. Hazardous Substances. Without limiting the generality of any other representation or warranty contained in this Mortgage, the Mortgaged Property and the existing uses thereof comply and, to the best of Mortgagor's knowledge, at all times have complied in all respects with all Environmental Laws in effect on the date of this Mortgage; all Environmental Authorizations have been duly issued or granted and are in full force and effect; and Mortgagor is not, and at no time since Mortgagor acquired ownership or possession of the Mortgaged Property or any portion thereof has Mortgagor been, in violation of any Environmental Law with respect to the Mortgaged Property. Without limiting the generality of the foregoing:

(a) No Hazardous Substances are being, or are intended or threatened to be, and, to the best of Mortgagor's knowledge, no Hazardous Substances have ever been, used, received, handled, generated, manufactured, produced, processed, treated, stored, released, placed, spilled, discharged, disposed of or dispersed at, or otherwise caused to become situated, at, on, under or about the Mortgaged Property, and no portion of the Mortgaged Property has been used at any time as a landfill or as a waste treatment, storage or disposal facility;

(b) None of the Improvements contains (and, to the best of Mortgagor's knowledge, none of the Improvements which at any time were a part of, or were situated at, on or under the Mortgaged Property contained) any Hazardous Substances;

(c) No underground storage tanks or other underground storage facilities are, or, to the best of Mortgagor's knowledge, have ever been, situated on or under the Mortgaged Property;

(d) To the best of Mortgagor's knowledge, (i) the ambient air quality at the Mortgaged Property complies with the requirements of all Environmental Laws and (ii) the present levels of radon, formaldehyde, asbestos and all other Hazardous Substances, to the extent any such Hazardous Substances exist at, on, under or about the Mortgaged Property, are within the limits prescribed by all Environmental Laws;

(e) Neither the Mortgaged Property nor, to the best of Mortgagor's knowledge, any land which adjoins any portion of the Mortgaged Property, contains or is affected by any dam, well, reservoir, inland wetland, watercourse or water discharge; and

Mortgagor has not received or had served upon it any summons, citation, directive, order, Notice or other communication, oral or written, which (i) claims or alleges any failure to comply with any Environmental Law with respect to the Mortgaged Property or (ii) contains any statement(s) or fact(s) which, if true, would signify that any representation, warranty or statement contained in this Mortgage is other than complete and correct. With respect to the ownership, use, operation or maintenance of the Mortgaged Property or the conduct of Mortgagor's business thereat, (y) no writ, injunction, decree, order or judgment is outstanding and (z) no suit, claim, action, proceeding or investigation has been instituted or filed with respect to any Environmental Law (and, to the best of Mortgagor's knowledge, no basis for any of the foregoing exists). No lien has been filed against or imposed upon any of the Mortgaged Property with respect to any Environmental Law.

Each of the representations and warranties contained in this Section 3.14 shall be deemed made by Mortgagor with respect to all other land, together with the buildings, structures, equipment and other improvements thereon, in whole or in part owned, leased, operated or occupied by Mortgagor.

3.11. Split Tax Lots. The tax lot or lots that contain the Mortgaged Property include no real property other than the Mortgaged Property and constitute one or more discrete, salable parcels.

#### ARTICLE IV

##### Miscellaneous

4.1. Partial Invalidity. If any provision(s) of any Loan Document are held to be invalid, illegal or unenforceable in any respect, then such invalidity, illegality or unenforceability shall not affect any other provision of such instrument(s) and such instrument(s) shall instead be construed as if it or they had never contained such invalid, illegal or unenforceable provision.

4.2. Notice. (a) All notices hereunder shall be in writing and shall be deemed sufficiently given or served for all purposes when delivered personally, or sent by mail to any party hereto at such party's address above stated (in the case of Mortgagee, attention, Commercial Real Estate Division, EAB Plaza, Thirteenth Floor, Uniondale,

New York 11556-0123), or at such other address of which such party shall have notified the other party in writing. Any notice given by an attorney representing or purporting to represent Mortgagee shall constitute notice by Mortgagee if such attorney is in fact authorized to act on behalf of Mortgagee. Upon receipt of any notice from an attorney purporting to act for Mortgagee, Mortgagor shall have the right, by notice to Mortgagee in compliance with this Mortgage, to require Mortgagee to deliver prompt written proof of the attorney's authority. Such a request, if promptly complied with by Mortgagee, shall not delay or suspend the effectiveness of Mortgagee's notice to Mortgagor.

(b) All notices given to Mortgagee by any person or entity (other than Mortgagor) pursuant to Pa. C.S.A.ss.8143(b), (c) or (d) shall be in writing and shall be sent exclusively by United States registered mail, return receipt requested, to Mortgagee at the address specified in paragraph (a) of this Section above.

(c) Without limiting, in any manner, any of Mortgagee's other rights and remedies under this Mortgage, the Loan Agreement or any of the other Loan Documents, if (i) Mortgagor shall at any time deliver or cause to be delivered to Mortgagee a notice pursuant to 42 Pa. C.S.A.ss.8143 electing to limit the indebtedness secured by this Mortgage or (ii) Mortgagee shall receive or be served with any notice pursuant to 42 Pa. C.S.A.ss.8143(b) or (d), then, in any such case, Mortgagee's obligations, if any, to continue to make advances under the Loan Agreement, this Mortgage or any of the other Loan Documents shall thereupon immediately cease and be of no further force or effect, anything contained in this Mortgage, the Loan Agreement or any of the other Loan Documents to the contrary notwithstanding.

4.3. Waiver of Notice. Whenever in this Mortgage the giving of notice by mail or otherwise is required, the giving of such notice may be waived in writing by the person or persons entitled to receive such notice.

4.4. Successors and Assigns. All the grants, covenants, terms, provisions and conditions of this Mortgage shall run with the land, shall apply to and bind the successors and assigns of Mortgagor (and Mortgagor's heirs, if Mortgagor is an individual) and all subsequent owners, encumbrancers and tenants of the Mortgaged Property and shall inure to the benefit of the successors and assigns of Mortgagee and all subsequent holders of this Mortgage. Nothing in this Section 4.4 limits the prohibitions of Section 1.18. Mortgagee may freely assign any or all of Mortgagee's rights and obligations under the Loan Documents, including without limitation by granting "participations" to other parties.

4.5. Usury Savings. Nothing in any Loan Document shall require the payment or permit the collection by Mortgagee of interest in an amount exceeding the maximum amount permitted under applicable law in commercial mortgage loan transactions between parties of the character of the parties hereto (the "Maximum Interest Amount"). Mortgagor shall not be obligated to pay to Mortgagee any interest in excess of the Maximum Interest Amount, and the amount of interest payable to Mortgagee under the Loan Documents shall under no circumstance be deemed to exceed the Maximum Interest Amount. To the extent that any payment made to Mortgagee under the Loan Documents would cause the amount of interest charged to exceed the Maximum Interest Amount, such payment shall be deemed a prepayment of principal as to which no

Prepayment Charge or notice shall be required, notwithstanding anything to the contrary in any Loan Document, or, if the amount of excess interest exceeds the unpaid principal balance of the Note, such excess shall be refunded to Mortgagor.

4.6. Counterparts. This Mortgage may be executed in any number of counterparts. Each such counterpart shall for all purposes be deemed an original. All such counterparts shall together constitute but one and the same mortgage.

4.7. Governing Law. This Mortgage shall be construed and enforced in accordance with, and shall be governed by, the laws of the state in which the Premises are situated.

4.8. Written Amendments. This Mortgage may be amended, discharged or terminated only by a written instrument executed by Mortgagee and Mortgagor.

4.9. Actions, Approvals and Determinations. Wherever in this Mortgage it is provided that (a) as a condition precedent to Mortgagor's undertaking certain action, Mortgagee shall be required to obtain Mortgagee's consent or approval or (b) Mortgagee shall have the right to make a determination (including, without limitation, a determination as to whether a matter is satisfactory to Mortgagee), or if Mortgagor shall request that Mortgagee take any action, then, unless expressly provided to the contrary in the applicable provision of this Mortgage, the decision whether to grant such consent or approval or to take the requested action, or the determination in question, shall be in the sole and exclusive discretion of Mortgagee and shall be final and conclusive. Wherever in this Mortgage it is stated that any consent or approval shall not be unreasonably withheld or that a determination to be made by Mortgagee shall be subject to a specified standard, then, if a court of competent jurisdiction determines, without right to further appeal, that the consent or approval has been unreasonably withheld or that such specified standard has been met, the consent or approval shall be deemed granted or the standard shall be deemed met, as the case may be, and Mortgagee, at the request of Mortgagor, shall deliver to Mortgagor written confirmation thereof. The obtaining of such consent or approval or determination that such standard has been met shall be Mortgagor's sole and exclusive remedy with respect to the subject matter of this section, and under no circumstance shall Mortgagee, Mortgagee's counsel or anyone else acting or purporting to act on Mortgagee's behalf having any liability (whether in damages or otherwise) with respect thereto. In any instance in which Mortgagor requests, or any Loan Document provides, that Mortgagee shall consider granting its consent or approval or making a determination or taking some other action, Mortgagor shall, upon demand, pay all costs, expenses and attorneys' fees incurred by Mortgagee in connection therewith.

4.10. Receipt of C012. Mortgagee has delivered to Mortgagor, without charge, a true and correct copy of this Mortgage. Mortgagor acknowledges receipt of same.

4.11. Modifications. Releases. Etc, Subject to the provisions of Section 11.02 of the Loan Agreement, from time to time, Mortgagee may, at Mortgagee's option, without notice to or consent by Mortgagor, any Principal of Mortgagor, any Guarantor,

any junior lienholder, or any other person, without liability and despite Mortgagor's breach under any of the Loan Documents, do any of the following: (a) release from the lien of this Mortgage any or all of the Mortgaged Property; (b) take or release other or additional security; (c) consent to any map, plat, restrictions, or easement affecting the Mortgaged Property; (d) join in any extension or subordination agreement; (e) alter, substitute or release any property securing the Loan; or agree in writing with Mortgagor to modify the interest rate, amortization period, payment amount, or any other provision of the Note or the Loan Agreement. No action described in the preceding sentence shall affect the lien or priority of lien of this Mortgage, Mortgagor's obligations under the Loan Documents (except as Mortgagee agrees in writing), or the obligations of any Guarantor or Principal of Mortgagor. Mortgagor shall pay Mortgagee a reasonable service charge, together with such title insurance premiums, attorneys' fees and other costs as Mortgagee may incur in connection with any such action. Mortgagee shall be under no obligation whatever to take any such actions.

Mortgagor and Mortgagee shall, upon their mutual agreement to do so, and in accordance with Section 11.02 of the Loan Agreement execute such documents as may be necessary in order to effectuate the modification of this Mortgage, including the execution of substitute mortgages, so as to create two or more liens on the Mortgaged Property in such amounts as may be mutually agreed upon but in no event to exceed, in the aggregate, the amount set forth in Section 6.2 herein; in such event, Mortgagor covenants and agrees to pay the reasonable fees and expenses of Mortgagee and its counsel in connection with any such modification.

4.12. Construction. The Loan Documents shall be construed without regard to section headings, which are provided for convenience only and shall not be deemed to modify, or be used to interpret, the provisions of this Mortgage. References to a section are references to a section within this Mortgage unless otherwise expressly stated or necessarily implied by the context. The Loan Documents shall be construed without regard to any presumption or other rule requiring construction against the party which caused the Loan Documents to be drafted and, if the Premises are situated in New York State, without regard to New York Real Property Law Section 254. Nothing herein is intended or shall be deemed to create a joint venture or partnership between Mortgagor and Mortgagee or any relationship other than that of mortgagor and mortgagee.

4.13. Non-Merger. Unless expressly provided otherwise, in the event that ownership of this Mortgage and title to the fee and/or leasehold estates in the Premises encumbered hereby shall become vested in the same person or entity, this Mortgage shall not merge in said title but shall continue to be and remain a valid and subsisting lien on said estates in the Premises for the amount secured hereby.

#### ARTICLE V

##### Transfer Taxes

In the event of any transfer ("Transfer") of the Mortgaged Property, or any part thereof, including any sale by reason of foreclosure of this Mortgage or any prior or subordinate mortgage, Mortgagor shall furnish Mortgagee with a true and complete copy

of the transferor and transferee questionnaires, all supporting documentation, and any affidavits furnished to the taxing authorities or recording officer applicable thereto, and the vendee or transferee shall automatically assume and become responsible to perform the obligations imposed upon Mortgagor under this Article.

Mortgagor also covenants and agrees that in the event of a Transfer, Mortgagor shall duly complete, execute and deliver to Mortgagee all forms and supporting documentation required by any taxing authority to estimate and fix the transfer taxes and other taxes, if any, payable by reason of the Transfer or recording of the deed evidencing the Transfer.

Mortgagor agrees to pay any tax (including, without limitation, any transfer tax imposed by any Governmental Authority) that may now or hereafter become due and payable with respect to any Transfer of the Mortgaged Property, and in default thereof Mortgagee may at its option pay the same and the amount of such payment shall be added to the indebtedness secured hereby and, unless incurred in connection with a foreclosure of this Mortgage, be secured by this Mortgage.

Mortgagor hereby irrevocably and unconditionally constitutes and appoints Mortgagee as Mortgagor's true and lawful attorney in fact, coupled with an interest, in Mortgagor's name and stead, with full power of substitution to prepare and deliver any questionnaire, statement, affidavit or tax return in furtherance of any Transfer.

If Mortgagor fails or refuses to pay a tax payable by Mortgagor after a Transfer by reason of a foreclosure of this Mortgage in accordance with this Article, the amount of the tax and any interest or penalty applicable thereto may, at the sole option of Mortgagee, be paid as an expense of the sale out of the proceeds of the mortgage foreclosure sale.

The provisions of this Article shall survive any Transfer and the delivery of the deed affecting such Transfer.

Nothing in this Article is intended (a) to expand any obligation of Mortgagee beyond that provided for by law; (b) to confer any benefit or rights upon any taxing authority; or (c) to limit Section 1. 18.

#### ARTICLE VI

##### Additional Provisions

6.1. Assignment of Leases and Rents. This Mortgage is intended to constitute a present, absolute and irrevocable assignment of all of the Rents now or hereafter accruing, and Mortgagor, without limiting the generality of the Granting Clause hereof, specifically hereby presently, absolutely and irrevocably assigns all of the Rents now or hereafter accruing to Mortgagee. The aforesaid assignment shall be effective immediately upon the execution of this Mortgage and is not conditioned upon the occurrence of any Event of Default hereunder or any other contingency or event, provide, however, that Mortgagee hereby grants to Mortgagor the right and license to

collect and receive the Rents as they become due so long, as no Event of Default exists hereunder. Immediately upon the occurrence of any such Event of Default, the foregoing right and license shall be automatically terminated and of no further force or effect. Nothing contained in this Section 6.1 or elsewhere in this Mortgage shall be construed to make Mortgagee a mortgagee in possession unless and until Mortgagee actually takes possession of the Mortgaged Property, nor to obligate Mortgagee to take any action or incur any expense or discharge any duty or liability under or in respect of any leases or other agreements relating to the Mortgaged Property or any part thereof

6.2. Type of Property Mortgagor represents and warrants to Mortgagee that 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 its own separate cooking facilities.

6.3. Maximum Principal Indebtedness Secured. Notwithstanding anything set forth in this Mortgage to the contrary, the maximum amount of principal indebtedness secured hereby at execution, or which under any contingency may become secured hereby at any time hereafter, is \$59,000,000, with interest (including interest at the Default Rate to the extent provided in this Mortgage), late charges and such other sums as may (a) be advanced by Mortgagee pursuant to the Loan Documents for the protection of the Mortgaged Property or the preservation of the lien of this Mortgage (together with attorneys' fees and disbursements) and (b) be secured hereby without resulting in the imposition of mortgage recording tax in addition to the amount of tax due with respect to the principal indebtedness of \$59,000,000.

6.4. Exculpation. Neither Mortgagor nor any Principal of Mortgagor shall be personally liable for payment of the principal of the Note or interest thereon, and in the event of any failure by Mortgagor to pay any portion of such principal or interest, Mortgagee 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 of any other obligations evidenced by the Loan Documents or (b) Mortgagee's 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 this Mortgage 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 Mortgagee; (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 Mortgagee or a duly appointed



receiver of the Premises; (viii) any failure to deliver to Mortgagee, 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 to Mortgagee for the reimbursement to Mortgagee, together with interest as provided in the Loan Documents, of all sums advanced or expended by Mortgagee after or in respect of any default under the Loan Documents; (xii) liability as landlord under any lease(s) relating to the Mortgaged Property, which Lenders are or become obligated for by virtue of Lenders succeeding to the interests of Borrower; (xiii) liability under any agreement relating to the operation or maintenance of the Mortgaged Property which Lenders are or become obligated for by virtue of Lenders succeeding to the interests of Borrower; (xiv) 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 (xv) liability for Hazardous Substances that may exist upon or be discharged from the Mortgaged Property. Mortgagor and any Principal of Mortgagor 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 Mortgagee 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 Mortgagor and each Principal of Mortgagor shall be and remain personally liable for payment of the principal of the Note and interest thereon, in the event that Mortgagor, or anyone acting on behalf of Mortgagor, 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 Mortgagee or a receiver in Mortgagee's or such receiver's efforts to collect Rents directly from tenants after a default under the Loan Documents.

6.5. Exculpation of Trustees. This Mortgage is executed by certain Trustees of Acadia Realty Trust (the "Trust"), the general partner of Mortgagor, not individually, but solely in their representative capacities as trustees of the Trust. Mortgagee hereby waives any rights to bring a cause of action against the individuals executing this Mortgage as trustees of the Trust (except for any cause of action based upon lack of authority or fraud), and Mortgagee agrees to look solely to the Mortgaged Property or, if permitted under this Mortgage, the other assets of Mortgagor or Principal of Mortgagor, for the enforcement of any claim Mortgagee at any time may have under this Mortgage or under the Loan Documents.

6.6. Reduction of Mortgage Amount. Amounts received by Mortgagee in reduction of the Loan in accordance with the Loan Agreement shall not decrease the amounts secured by this Mortgage unless (i) such payments are received in connection with the release of the Premises encumbered by this Mortgage or (ii) the aggregate amounts actually received in reduction of the Loan has reduced the maximum Loan

Amount that is or may be outstanding, after taking into consideration sums that may be advanced pursuant to the Loan Agreement, to the Mortgage Amount.

[Remainder of page intentionally left blank.]

IN WITNESS WHEREOF, this Mortgage has been duly executed and delivered by Mortgagor intending to be legally bound and intending the same to take effect as a sealed instrument as of the date first above written.

ACADIA REALTY LIMITED PARTNERSHIP, a Delaware limited partnership (as Borrower)

By: Acadia Realty Trust, a Maryland real estate investment trust, its general partner

Attest: By [SEAL]  
Name:  
By Title:  
Name:  
Title:

The undersigned joins in the execution and authorizes the delivery of this Mortgage for the purpose of accepting and agreeing to the provisions of paragraph 6.5 hereof

ACADIA REALTY TRUST

Attest, By (SEAL)  
Name:  
By Title:  
Name:  
Title:

The undersigned hereby certifies that Mortgagee's address is EAB Plaza, Thirteenth Floor, Uniondale, New York 11556-0123.

Attorney for Mortgagee

STATE OF NEW YORK

SS.:

COUNTY OF NEW YORK

On the day        of March in the year 2000, before me, the undersigned, a notary public in and for said state, personally appeared personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Notary Public

My commission expires:

ROBERT MASTERS  
Notary Public, State of New York  
No. 24-4627447  
Qualified in Kings County  
Commission Expires Aug. 31, 2000

STATE OF NEW YORK

SS.:

COUNTY OF NEW YORK

On the \_ day of March in the year 2000, before me, the undersigned, a notary public in and for said state, personally appeared personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Notary Public

My commission expires:

ROBERT MASTERS  
Notary Public, State of New York  
No. 24-4627447  
Qualified in Kings County  
Commission Expires Aug. 31, 20

SCHEDULE A

All that certain parcel of land being in the Township of Wysox, County of Bradford, Commonwealth of Pennsylvania, bounded and described as follows:

Beginning at the north east comer of Steven W. Moore, et al., commonly known as Moore's Auto Sales and also at a point in the southern right-of-way of State Route 6, also being the north west comer of parcel herein described, thence along the southern right-of-way of Route 6 on a curve to the right with an arc length of 307.30 feet, a radius of 1860.08 feet, and a chord bearing and distance of North 78 degrees 15 minutes 35 seconds East 306.95 feet, thence still along the southern right-of-way of Route 6 the next three courses : (1) North 82 degrees 59 minutes 34 seconds East 102.08 feet, (2) South 85 degrees 41 minutes 51 seconds East 101.98 feet, (3) North 82 degrees 59 minutes 34 seconds East 171.99 feet to the center line of Little Wysox Creek, thence downstream in the bed of Little Wysox Creek the next nine courses and distances: (1) South 46 degrees 27 minutes 17 seconds East 86.45 feet to an angle, (2) South 52 degrees 57 minutes East 81.9 feet to an angle, (3) South 66 degrees 68 minutes East 58.2 feet to an angle, (4) South 61 degrees 21 minutes 47 seconds East 201.44 feet to an angle, (5) South 71 degrees 19 minutes 21 seconds East 372.06 feet to an angle, (6) South 49 degrees 01 minutes 22 seconds East 320.49 feet to an angle, (7) South 67 degrees 00 minutes 05 seconds East 373.88 feet to an angle, (8) South 45 degrees 50 minutes 20 seconds East 271.10 feet to an angle, (9) South 76 degrees 14 minutes 20 seconds East 96.24 feet to a point in the line of the Consolidated Rail Corporation, now or formerly and also being the most south easterly comer of parcel herein described, thence along said lands of the Consolidated Rail Corporation, now or formerly the following four courses and distances: (1) South 73 degrees 36 minutes 12 seconds West 736.65 feet to an angle, (2) South 73 degrees 02 minutes West 199.7 feet to a found pin, (3) South 70 degrees 20 minutes West 515.00 feet to a found pin, and (4) South 73 degrees 10 minutes West 881.8 feet to a found pin in the line of lands of Agway, Inc. the southernmost point of the herein described premises; thence along Agway, Inc. and along lands of James Ennis, North 00 degrees 17 minutes West 1188.03 to a point at an angle, thence along said lands of Ennis the following two courses and distances: (1) South 89 degrees 43 minutes West 25.56 feet to an angle, and (2) North 00 degrees 17 minutes West 150.34 feet to a point for a comer, thence along lands of Steven W. Moore, et al, commonly known as Moore's Auto Sales, North 00 degrees 06 minutes 15 seconds West 183.80 feet to the point and place of beginning. Containing 48.00 acres of land, according to a Survey Map No. R-3748-5A of the premises by George K. Jones and Associates, Charles W. Woodard, R.S. most recently revised March 20, 2000

SCHEDULE A

ALL THAT CERTAIN piece or parcel of land with buildings and improvements thereon situate in Texas Township, Wayne County, Pennsylvania, bounded and described as follows:

BEGINNING at a point the intersection of the centerline of U.S. Route #6 and the westerly line of a parcel of land conveyed to the Honesdale Mall Associates as recorded in Wayne County Deed Book 388 Page 788;

thence, along, the westerly line of Honesdale Mall Associates, the following two courses and distances:

- 1.) South zero degrees, thirty-five minutes, fifty-six seconds West (S 00 35' 56" W), four-hundred fifty-nine and thirty-six one-hundredths feet (459.36') to a point;
- 2.) South twelve degrees, twelve minutes, seventeen second East (S 12' 12' 17" E), five-hundred thirty and twelve one-hundredths feet (530.12') to a point in the northerly bank of the Lackawaxen River;

thence, along the said northerly bank of the Lackawaxen River, the following eight courses and distances:

- 1.) South sixty-eight degrees, forty-two minutes, fifty-four seconds West (S 68° 42' 54" W), fifty-three and forty-two one-hundredths feet (53.42') to a point;
- 2.) North eighty-eight degrees, twenty-four minutes, forty-five seconds west (N 88° 24' 45" W), one-hundred two and sixteen one-hundredths feet (102.16') to a point;
- 3.) South forty degrees, seven minutes, thirteen seconds West (S 40' 07' 13" W), two-hundred thirty-one and forty-two one-hundredths feet (231.42') to a point;
- 4.) South eighty-five degrees, thirty-five minutes, eleven seconds West (S 85° 35' 11" W) one hundred thirty seven and forty-three one-hundredths feet (137.43') to a point;
- 5.) South eighty-nine degrees, fifty-eight minutes, fifty-nine seconds west (S 89° 58' 59" W), one-hundred eighteen and seventy-one hundredths feet (118.7) to a point;
- 6.) North sixty-six degrees, fourteen minutes; twenty-five seconds West (N 66° 14' 25" W), three-hundred twenty-six and ninety-eight one-hundredths feet (326.98') to a point;
- 7.) North sixty-eight degrees, fifty-one minutes, thirty-seven seconds West (N 68° 51' 37" W), one-hundred three and twenty-seven one-hundredths feet (103.27') to a point;
- 8.) North sixty-six degrees, thirty-one minutes, twenty-one seconds West (N 66° 31' 21" W), three-hundred thirty-two and sixteen one-hundredths feet (332.16') to a point;

thence, along lands of Dan Weidner the following five courses and distances:

- 1.) North twelve degrees, twenty-four minutes, fifty-two seconds west (N 12' 24'52" W), four-hundred thirty-one and fifty-three one-hundredths feet (431.53') to a point;
- 2.) North thirty-five degrees, thirteen minutes, ten seconds East (N 35' 13' 10" E), forty-eight and forty-two one-hundredths feet (48.42') to a point; ,
- 3.) South eighty-six degrees, zero minutes; forty-five seconds East (S 86' 00'45" E), one-hundred fifty-five and eighty one-hundredths feet (155.80') to a point;
- 4.) North eighty-six degrees, two minutes, forty-eight seconds East (N 86' 02'48" E), one-hundred ninety-nine and three one-hundredths feet (199.03') to a point;
- 5.) North ten degrees, fifty-two minutes, fifteen seconds East (N 10' 52' 15" E), ninety-nine and eighty-nine one-hundredths feet (99.89) to the point in the centerline of Old Willow Road;.

thence, continuing along, the centerline of Old Willow Road, the following seven courses and distances:

- 1.) North eighty-three degrees, thirty minutes, five seconds East (N 83' 30' 05" E) one-hundred eighteen and ninety-two one-hundredths feet (118.92') to a point;
- 2.) North seventy-nine degrees, forty- seven minutes, fifty-five seconds East (N 79' 47'55" E) , fifty-three and twenty-one one-hundredths feet (53.21') to a point;
- 3.) North seventy-one degrees, twenty-one minutes, forty-six seconds East (N 71' 21'46" E), one-hundred thirty-four and ninety-six one-hundredths feet (134.96') to a point;
- 4.) North sixty-three degrees, fifty-nine minutes, twenty-four seconds East (N 63' 59'24" E), one-hundred fifty-nine and ninety-one one-hundredths feet (159.91') to a point;
- 5.) North sixty-one degrees, fifty-five minutes, thirteen seconds East (N 61' 55' 13" E), eighty-five and fifty-one one hundredths feet (85.51') to A point;
- 6.) North fifty-seven degrees, twenty-two minutes, thirteen seconds East (N 57' 22'20" E) one-hundred two and seventy-two one-hundredths feet (102.72') to a point;

North fifty-four degrees, one minute, fifty-four seconds East (v 54' 01' S4" E), one-hundred four and forty-nine one-hundredths feet (104.49') to a point being the intersection of the centerline of Old Willow Road and the centerline of U.S. Route 0;

thence, along the centerline of said U.S. Route 4&, North eighty degrees, forty Minutes, eighteen seconds East (N 80' 40' 18" E) one-hundred fifty-five and twenty-six one-hundredths feet (155.26') to the point of beginning for lands described herein.

Together with the rights granted in the Shopping Center Reciprocal Easement and Operation Agreement between Mark Twenty Realty, Inc. Mark Centers Limited Partnership, a Delaware Limited Partnership Marvin Slomowitz Association, a Pennsylvania Limited Partnership, Mark HM



Association, a Pennsylvania Limited Partnership and K-Mart, a Michigan Corporation dated May 28, 1994 and recorded May 25, 1994 in Wayne County Record Book 936 Page 261 et seq.

MARGARET DAVIS PARCEL

ALL that certain piece or parcel of land situate, lying, and being in the Township of Texas, County of Wayne, and State of Pennsylvania, bounded and described as follows:

BEGINNING at a point being the intersection or the northwesterly right of way line of Old Willow Avenue and the southwesterly right-of-way line of U.S. Route 46;

thence, along the said northwesterly right of way line of Old Willow Avenue the following two courses and distances:

- 1.) South fifty-seven degrees, twenty-two minutes, twenty seconds West (S 57° 22' 20" W), eighty-nine and eighteen one-hundredths feet (89.18') to a point;
- 2.) South sixty-one degrees, fifty-five minutes, thirteen seconds West (S 61° 55' 13" W), seventy-three and eighty-four one-hundredths feet (73.84') to a point; thence, along lands as conveyed to George Szezorak in Wayne County Deed Book 377, Page 436, North two degrees, three minutes, forty-six seconds East (N 02° 03' 46" E), sixty-one and sixty-two one-hundredths feet (61:62') to a point in the aforesaid southwesterly right of way line of U.S. Route 46;

thence, along the southwesterly right of way line of said R.S. Route #6, North eighty-one degrees, fourteen minutes, forty-two seconds East (N 81° 14' 42" E), one-hundred thirty-nine and sixty-six one hundredths feet (139.66') to the point of beginning for lands described herein.

CONTAINING an area of 4,487.8 square feet of land and being the same premises as conveyed by Margaret Davis to Mark Centers Limited Partnership by Deed dated November 18, 1994 and recorded in Wayne County Deed Book 990, Page 108.

BEING the same premises conveyed from Marvin S. Slomowitz Associates to Mark Centers Limited Partnership by Deed dated May 11, 1994 and recorded in record Book 93 1, Page 247.

LOAN TERMS TABLE

Note Date: December 2-, 2000

Borrower: RD Whitegate Associates, L.P., a Missouri limited partnership

Original Principal Amount: \$5,550,000.00

Loan No.: 53079

Note Rate: 7.55%

Servicing No.: 3124344

Monthly Payment Amount: \$38,996.60

Borrower's TIN: 43-1706282

Amortization Commencement Date: February 1, 2001 Maturity Date: January 1, 2011

Lockout Period: Beginning on the date of this Note and ending on September 1, 2010

PROMISSORY NOTE

FOR VALUE RECEIVED, the borrower described in the Loan Terms Table set forth above (the "Borrower") promises to pay to the order of BANK OF AMERICA, N.A., a national banking association, its successors and assigns (the "Lender"), the Original Principal Amount (as outstanding from time to time, the "Principal Amount") under the terms and conditions of this promissory note (the "Note"), together with interest thereon as provided in this Note, and in accordance with the loan agreement of even date herewith by and between, among others, the Borrower and the Lender (the "Loan Agreement"). This Note is secured by a deed of trust mortgage or deed to secure debt of even date on certain property of the Borrower (the "Security Instrument") and other agreements by and between the Borrower and the Lender. 'Me Loan Terms Table is a part of this Note and all terms used in this Note which are defined in the' Loan Terms Table shall have the meaning set forth therein. Except as expressly provided otherwise in this Note, the defined terms in the Loan Documents (as defined in the Loan Agreement) are used herein with the same meaning. All of the terms, definitions, conditions and covenants of the Loan Documents are expressly made a part of this Note by reference in the same manner and with the same effect as if set forth herein at length. Any holder of this Note is entitled to the benefits of and remedies provided in the Loan Documents. Any Event of Default under any of the Loan Documents is an Event of Default under the terms of this Note.

1. Interest. The outstanding Principal Amount of the loan evidenced by this Note (the "Loan") shall bear interest at a fixed rate per annum equal to the Note Rate. Interest shall be computed based on the daily rate produced assuming a 360 day year, multiplied by the actual number of days elapsed. Except as otherwise set forth in this Note, interest shall be paid in arrears.

2. Principal and Interest Payments. The Principal Amount and interest thereon shall be payable at P. O. Box 98672, Las Vegas, Nevada 89193-8672, Attn: Capital Markets Servicing Group, or at such other place as the Lender may designate from time to time in writing. An initial payment is due on the date hereof for prepaid interest through and including the last day of the month in which this Note is executed. Thereafter, except as may be adjusted in accordance with the immediately following sentence, payment shall be made in consecutive monthly installments of principal and interest in an amount equal to the Monthly Payment Amount on the first day of each month beginning on the Amortization Commencement Date (each a "Scheduled Payment Date"), until the entire indebtedness evidenced hereby is fully paid, except that any remaining indebtedness, if not sooner paid, shall be due and payable on the Maturity Date. The Monthly Payment Amount is computed on the basis of an amortization schedule for a loan having (a) a principal amount equal to the Original Principal Amount, (b) an amortization period of 30 years, and (c) an annual interest rate equal to the Note Rate, computed on the basis of a 360 day year consisting of 12 months of 30 days each. The Borrower expressly understands and agrees that such computation of interest based on a 360 day year consisting of 12 months of 30 days each is solely for the purpose of determining the Monthly Payment Amount, and, notwithstanding such computation, interest shall accrue on the outstanding Principal Amount of this Note as provided in paragraph I above. The Borrower understands and acknowledges that such computation results in more interest accruing on the Loan than if either a 30 day month and a 360 day year or the actual number of days and a 365 day year were used to compute the accrual of interest on the Loan. The Borrower recognizes that such computation will not fully amortize the Loan within the amortization period set forth in clause (b) above. Following any partial prepayment occurring solely as a result of the application of insurance proceeds or condemnation awards pursuant to the terms of

the Loan Agreement~ the Lender may, in its sole and absolute discretion, adjust the Monthly Payment Amount to give effect to any such partial prepayment, provided however, that in no event will any such adjustment result in any such installment becoming due and payable on any date after the Maturity Date.

3. Late Charges. In the event any payment of interest or principal is not received prior to the 10th day after the same is due (or such greater period, if any, required by applicable law), the Borrower will pay to the Lender, without further notice or demand, a late charge of four percent (4%) of the amount of the overdue payment. This provision for late charges shall not be deemed to extend the time for payment or be a "grace period" or "cure period" that gives the Borrower a right to cure a Default Condition. Imposition of late charges is not contingent upon the giving of any notice or lapse of any cure period provided for in the Loan Documents.

4. Prepayment, Defeasance. Except as otherwise expressly permitted by this Section 4, no voluntary prepayments, whether in whole or in part, of the outstanding Principal Amount or any other amount at any time due and owing under this Note can be made by the Borrower or any other Person.

(a) Lockout Period. The Borrower has no right to make, and the Lender shall have no obligation to accept, any voluntary prepayment, whether in whole or in part, of the outstanding Principal Amount~ or any other amount under this Note, at any time during the Lockout Period. Notwithstanding the foregoing, if either (i) the Lender, in its sole and absolute discretion, accepts a full or partial voluntary prepayment during the Lockout Period or (ii) there is an involuntary prepayment during the Lockout Period, then, in either case, the Borrower shall, in addition to any portion of the outstanding Principal Amount prepaid (together with all interest accrued and unpaid thereon), pay to the Lender a prepayment premium in an amount calculated in accordance with Section 4(c) hereof.

(b) Defeasance.

Notwithstanding any provisions of this Section 4 to the contrary, including, without limitation, subsection (a) of this Section 4, at any time other than during a REMIC Prohibition Period (as such period is defined in clause (iv) below), the Borrower may cause the release of the Premises from the lien of the Security Instrument and the other Loan Documents upon the satisfaction of the following conditions:

(A) not less than 60 (but not more than 90) days prior written notice shall be given to the Lender specifying a date on which the Defeasance Collateral (as hereinafter defined) is to be delivered (the "Release Date"), such date being on a Scheduled Payment Date;

(B) all accrued and unpaid interest and all other sums due under this Note and under the other Loan Documents up to the Release Date, including, without limitation, all fees, costs and expenses incurred by the Lender and its agents in connection with such release (including, without limitation, legal fees and expenses for the review and preparation of the Defeasance Security Agreement (as hereinafter defined) and of the other materials described in subsection 4(b)(i)(C) below and any related documentation, and any servicing fees or costs related to such release), shall be paid in full on or prior to the Release Date;

(C) the Borrower shall deliver to the Lender on or prior to the Release Date:

(1) a pledge and security agreement, in form and substance that would be satisfactory to a prudent lender, creating a first priority security interest in favor of the Lender in the Defeasance Collateral, as defined herein (the "Defeasance Security Agreement"), which shall provide, among other things, that any excess amounts received by the Lender from the Defeasance

Collateral over the amounts payable by the Borrower hereunder shall be refunded to the Borrower promptly after each Scheduled Payment Date;

(2) direct, non-callable obligations of the United States of America that provide for payments prior and as close as possible to (but in no event later than) all successive Scheduled Payment Dates occurring after the Release Date, with each such payment being equal to or greater than the amount of the corresponding Monthly Payment Amount required to be paid under this Note (including all amounts due on the Maturity Date) for the balance of the term hereof (the "Defeasance Collateral"), each of which shall be duly endorsed by the holder thereof as directed by the 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 certificates, documents and instruments as may be required by the depository institution holding such securities or 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 Security Agreement the first priority security interest therein in favor of the Lender in conformity with all applicable state and federal laws governing granting of such security interests;

(3) a certificate of the Borrower certifying that all of the requirements set forth in this subsection 4(b)(i) have been satisfied;

(4) one or more opinions of counsel for the Borrower in form and substance and delivered by counsel that would be satisfactory to a prudent lender stating, among other things, that (i) the Lender has a perfected first priority security interest in the Defeasance Collateral and that the Defeasance Security Agreement is enforceable against the Borrower in accordance with its terms, (ii) in the event of a bankruptcy proceeding or similar occurrence with respect to the Borrower, none of the Defeasance Collateral nor any proceeds thereof will be property of the Borrower's estate under Section 541 of the U.S. Bankruptcy Code or any similar statute and the grant of security interest therein to the Lender shall not constitute an avoidable preference under Section 547 of the U.S. Bankruptcy Code or applicable state law, and (iii) the release of the lien of the Security Instrument and the pledge of Defeasance Collateral will not directly or indirectly result in or cause any REMIC (as defined in clause (iv) below) that then holds this Note to fail to maintain its status as a REMIC;

(5) a certificate of the Borrower's independent certified public accountant certifying that the Defeasance Collateral will generate monthly amounts equal to or greater than the Monthly Payment Amount required to be paid under this Note up to and including the Maturity Date; and

(6) such other certificates, documents and instruments as the Lender may reasonably require; and

(D) in the event the Loan is held by a REMIC, the Lender has received written confirmation from any rating agency rating any mortgage pass-through certificates or other securities evidencing a beneficial interest in the Loan in a public offering or private placement (the "Securities") that substitution of the Defeasance Collateral will not result in a downgrade, withdrawal, or qualification of the ratings then assigned to any of the Securities.

(ii) Upon compliance with the requirements of subsection 4(b)(i), the Premises shall be released from the lien of the Security Instrument and the other Loan Documents, and the

Defeasance Collateral shall constitute collateral which shall secure this Note and all other obligations under the Loan Documents. The Lender will, at the Borrower's expense, execute and deliver any agreements reasonably requested by the Borrower to release the lien of the Security Instrument and the other Loan Documents from the Premises.

(iii) Upon the release of the Premises in accordance with this Section 4(b), the Borrower shall (at the Lender's sole and absolute discretion) assign all its obligations and rights under this Note, together with the pledged Defeasance Collateral, to a successor entity designated by the Borrower which would be satisfactory to a prudent lender. Such successor entity shall execute an assignment and assumption agreement in form and substance that would be satisfactory to a prudent lender pursuant to which such successor entity shall assume the Borrower's obligations under this Note and the Defeasance Security Agreement. As conditions to such assignment and assumption, the Borrower shall (A) deliver to the Lender one or more opinions of counsel in form and substance and delivered by counsel that would be satisfactory to a prudent lender stating, among other things, that such assignment and assumption agreement is enforceable against the Borrower and such successor entity in accordance with its terms and that this Note, the Defeasance Security Agreement and the other Loan Documents, as so assigned and assumed, are enforceable against such successor entity in accordance with their respective terms, and opining to such other matters relating to such successor entity and its organizational structure as the Lender may reasonably require, and (B) pay all fees, costs and expenses incurred by the Lender or its agents in connection with such assignment and assumption (including, without limitation, legal fees and expenses and for the review of the proposed transferee and the preparation of the assignment and assumption agreement and related certificates, documents and instruments). Upon such assignment and assumption, the Borrower shall be relieved of its obligations hereunder, under the other Loan Documents and under the Defeasance Security Agreement, except as expressly set forth in the assignment and assumption agreement.

(iv) For purposes of this Section 4, "REMIC Prohibition Period" means the two-year period commencing with the "startup day" within the meaning of Section 860G(a)(9) of the Internal Revenue Code of 1986, as amended from time to time or any successor statute (the "Code") of any "real estate mortgage investment conduit," within the meaning of Section 860D of the Code (any such conduit, a "REMIC") that holds this Note. In no event shall the Lender have any obligation to notify Borrower that a REMIC Prohibition Period is in effect with respect to the Loan, except that the Lender shall notify the Borrower if any REMIC Prohibition Period is in effect with respect to the Loan after receiving any notice described in Section 4(b)(i)(A); provide, however, that the failure of the Lender to so notify the Borrower shall not impose any liability upon the Lender or grant the Borrower any right to defease the Loan during any such REMIC Prohibition Period.

(c) Involuntary Prepayment During the Lockout Period. During the Lockout Period, in the event of any involuntary prepayment of the Principal Amount or any other amount under this Note, whether in whole or in part, in connection with or following the Lender's acceleration of the outstanding Principal Amount of this Note or otherwise, and whether the Security Instrument is satisfied or released by foreclosure (whether by power of sale or judicial proceeding), deed in lieu of foreclosure or by any other means, including, without limitation, repayment of the Loan by the Borrower or any other Person pursuant to any statutory or common law right of redemption, the Borrower shall, in addition to any portion of the outstanding Principal Amount prepaid (together with all interest accrued and unpaid thereon), pay to the Lender a prepayment premium in an amount calculated in accordance with this Section 4(c). Such prepayment premium shall be in an amount equal to the greater of:

- (i) 1% of the Principal Amount being prepaid; or
- (ii) the product obtained by multiplying:
  - (A) the Principal Amount being prepaid, times;

(B) the difference obtained by subtracting (I) the Yield Rate from (II) the Note Rate, times;

(C) the present value factor calculated using the following formula:

$$I - \frac{1 + 0 n}{r}$$

r Yield Rate  
n the number of years and any fraction thereof, remaining between the date the prepayment is made and the Maturity Date of this Note.

As used herein, "Yield Rate" means the yield rate for the 5.75% U.S. Treasury Security due August, 2010, as reported in The Wall Street Journal on the fifth Business Day preceding the Prepayment Calculation Date. If the Yield Rate is not published for the such U.S. Treasury Security, then the "Yield Rate" shall mean the yield rate for the nearest equivalent U.S. Treasury Security (as selected at the Lender's sole and absolute discretion) as reported in The Wall Street Journal on the fifth Business Day preceding the Prepayment Calculation Date. If the publication of such Yield Rate in The Wall Street Journal is discontinued, the Lender shall determine such Yield Rate from another source selected by the Lender in the Lender's sole and absolute discretion. The "Prepayment Calculation Date" shall mean, as applicable, the date on which (i) notice of prepayment is given to the Lender, in the case of a voluntary prepayment of the entire outstanding Principal. Amount of this Note, (ii) the Lender applies any partial prepayment to the reduction of the outstanding Principal Amount hereof, in the case of a voluntary partial prepayment which is accepted by the Lender, (iii) the Lender accelerates the Loan, in the case of a prepayment resulting from acceleration, or (iv) the Lender applies funds held under any Reserve Account, in the case of a prepayment resulting from such an application (other than in connection with acceleration of the Loan).

(d) Insurance and Condemnation Proceeds, Excess Interest. Notwithstanding any other provision herein to the contrary, the Borrower shall not be required to pay any prepayment premium in connection with any prepayment occurring solely as a result of (i) the application of insurance proceeds or condemnation awards pursuant to the terms of the Loan Documents, or (ii) the application of any interest in excess of the maximum rate permitted by applicable law to the reduction of the Principal Amount in accordance with Section 14 of this Note.

(e) After the Lockout Period. Commencing on the day after the expiration of the Lockout Period, and upon giving the Lender at least 60 days (but not more than 90 days) prior written notice, the Borrower may voluntarily prepay (without premium) the Note in whole (but not in part) on a Scheduled Payment Date. The Lender shall accept a prepayment pursuant to this Section 4(e) on a day other than a Scheduled Payment Date provided that, in addition to payment of the full outstanding principal balance of the Note, the Borrower pays to the Lender a sum equal to the amount of interest which would have accrued on this Note if such prepayment occurred on the next Scheduled Payment Date.

(f) Limitation on Partial Prepayments. In no event shall the Lender have any obligation to accept a partial prepayment.

#### 5. Certain Provisions Regarding Payments, Prepayments and Remittances.

(a) Payments. Except to the extent that specific provisions are set forth in this Note or any other Loan Document with respect to application of payments, all payments received by the holder hereof shall be applied, to the extent thereof, to the indebtedness secured by the Security Instrument in such manner and order as the Lender may elect in its sole and absolute discretion, any instructions from the Borrower or anyone else to the contrary notwithstanding. All payments made as scheduled on this Note shall be applied, to

the extent thereof, to accrued but unpaid interest~ late charges, accrued fees, the unpaid Principal Amount, and any other sums due and unpaid to the Lender in connection with the Loan, in such manner and order as the Lender may elect in its sole and absolute discretion.

(b) Prepayment . All involuntary prepayments on this Note shall be applied, to the extent thereof, to accrued but unpaid interest on the amount prepaid, to the remaining Principal Amount, and any other sums due and unpaid to the Lender in connection with the Loan, in such manner and order as the Lender may elect in its sole and absolute discretion, including but not limited to application to principal installments in inverse order of maturity.

(c) Remittances. Remittances in payment of any part of the indebtedness other than in the required amount in immediately available U.S. funds shall not, regardless of any receipt or credit issued therefore, constitute payment until the required amount is actually received by the holder hereof in immediately available U.S. funds and shall be made and accepted subject to the condition that any check or draft may be handled for collection in accordance with the practices of the collecting bank or banks.

6. Acceleration. If the full outstanding Principal Amount of this Note, together with all interest due thereon and any other amounts due in respect of this Note are not paid on or before the Maturity Date or are accelerated under the terms of this Note or the other Loan Documents, the then outstanding Principal Amount~ all accrued but unpaid interest thereon and any other amounts due in respect of this Note shall bear interest at the Note Rate plus four percent (4%) per annum until such Principal Amount and interest have been paid in full. Further, in the event of such acceleration, the Loan, and all other indebtedness of the Borrower to the Lender arising out of or in connection with the Loan shall become immediately due and payable, without presentment demand, protest dishonor or notice of any kind, all of which are hereby waived by the Borrower.

#### 7. Non-Recourse Loan.

(a) Subject to the provisions of Section 8 and notwithstanding any other provision in this Note or the other Loan Documents, the personal liability of the Borrower and any Borrower Principal (collectively, the Persons signing as the Borrower Principals at the end of this Note and/or signing any Exceptions to Non Recourse Guaranty relating to the Loan) to pay the Principal Amount and interest thereon and any other sums under this Note or the other Loan Documents shall be limited to (i) the Premises, (ii) the Intangible Personalty, (iii) all Rents and Profits distributed (except to the extent that the Borrower did not have the legal right, because of a bankruptcy, receivership or similar judicial proceeding, to direct the disbursement of such sums), and not applied, first, to the payment of reasonable Operating Expenses as such Operating Expenses become due and payable, and then, to the payment of the Principal Amount and interest then due and payable under this Note and any other sums due under the other Loan Documents (including but not limited to deposits, escrows and/or reserves); provide , however that there shall be no personal liability incurred for Rents and Profits distributed in any particular fiscal year to the extent that all Operating Expenses and principal and interest due under this Note and other sums due under the other Loan Documents (including but not limited to deposits, escrows and/or reserves) are paid in full in that fiscal year, and (iv) all other collateral or security now or hereafter securing the Loan.

(b) Except as provided above and in Section 8, the Lender shall not seek (i) any judgment for a deficiency against the Borrower or any Borrower Principal, or the Borrower's or any Borrower Principal's heirs, legal representatives, successors or assigns, in any action to enforce any right or remedy under the Security Instrument, or (ii) any judgment on this Note except as may be necessary in any action brought under the Security Instrument to enforce the lien against the Premises, the Intangible Personalty, the Rents and Profits or any other collateral or security for the Loan, or to exercise any remedies under any of the other Loan Documents.

#### 8. Exceptions to Non-Recourse Liability

(a) If, without obtaining the Lender's prior written consent, which may be given or withheld in the Lender's sole and absolute discretion, there shall occur any violation of any of the Recourse Covenants (as defined in the Loan Agreement), and if such violation shall continue for thirty (30) days after written notice

thereof from the Lender to the Borrower, then Section 7 hereof shall not apply from and after the date which is thirty (30) days after such written notice and the Borrower and the Borrower Principals (each individually on a joint and several basis if more than one) shall be personally liable on a joint and several basis for full recourse liability under this Note and the other Loan Documents.

(b) Notwithstanding Section 7 hereof, and without limiting the provisions of Section 8(a) above, the Borrower and the Borrower Principals (each individually on a joint and several basis if more than one) shall be personally liable on a joint and several basis, in the amount of any loss, damage or cost (including but not limited to reasonable attorney's fees) resulting from (i) fraud or intentional misrepresentation by the Borrower or any Borrower Principal, or any agent, contractor or employee of the Borrower or any Borrower Principal, in connection with obtaining the Loan, or in complying with any of the Borrower's obligations under the Loan Documents, (ii) sale proceeds, insurance proceeds, condemnation awards, security deposits from tenants or other sums or payments received by or on behalf of the Borrower in its capacity as owner of the Premises and not applied in accordance with the provisions of the Loan Documents, (iii) all Rents and Profits distributed and not applied, first to the payment of reasonable Operating Expenses as such Operating Expenses become due and payable, and then, to the payment of the Principal Amount and interest then due and payable under this Note and any other sums due under the other Loan Documents (including but not limited to deposits, escrows and/or reserves); provide however, that there shall be no personal liability incurred for Rents and Profits distributed in any particular fiscal year to the extent that all Operating Expenses and principal and interest due under this Note and other sums due under the other Loan Documents (including but not limited to deposits, escrows and/or reserves) are paid in full in that fiscal year, (iv) the Borrower's failure following any Event of Default to deliver to the Lender on demand all Rents and Profits, security deposits, books and records relating to the Premises, (v) any damage to the Premises caused by the willful, wanton or tortuous act or omission of the Borrower, (vi) the Borrower's failure to procure and maintain the insurance policies required by the Loan Agreement~ (vii) the Lender's incurrence\* of or obligation to pay attorney's fees, costs, and expenses in any bankruptcy, receivership or similar case filed by or against the Borrower or any Borrower Principal, (viii) any transfer tax, recordation tax or other similar tax or assessment, if any, in connection with the transactions contemplated by the Loan Documents, or (ix) any violation of or failure to comply with the Environmental Covenants (as defined in the Loan Agreement and/or in any Environmental Indemnity Agreement relating to the Loan), including without limitation, the indemnification obligations set forth therein, except to the extent any such violation or failure to comply is recovered or recoverable under any environmental insurance policy furnished by the Borrower to the Lender in connection with the Loan. Notwithstanding the foregoing, neither the Borrower nor the Borrower Principals shall be personally liable under clauses (ii), (iii) or (iv) of this subsection 8(b) to the extent that the Borrower did not have the legal right, because of a bankruptcy, receivership or similar judicial proceeding, to direct the disbursement of the sums described in such clauses.

9. No Waiver or Impairment. No provision of Section 7 or Section 8 shall (a) affect any guaranty or similar agreement executed in connection with the debt evidenced by this Note, (b) release or reduce the debt evidenced by this Note, (c) impair the right of the Lender to enforce the Environmental Covenants pursuant to the provisions of the Loan Agreement~ (d) impair the lien of the Security Instrument, or (e) constitute a waiver, forfeiture, abrogation or limitation of or on any right accorded by any law establishing a debtor-in-relief proceeding (including, but not limited to, Title 11, U.S. Code) which right provides for the assertion in such debtor-in-relief proceeding of a deficiency arising by reason of the insufficiency of collateral notwithstanding an agreement of the holder thereof not to assert such a deficiency.

10. Expenses. In the event this Note is not paid when due at any stated or accelerated maturity, the Borrower will pay, in addition to the Principal Amount and interest hereunder, all costs of collection, including reasonable attorney's fees.

11. Taxpayer Identification Number. This Note provides for the Borrower's federal taxpayer identification number to be inserted on the first page of this Note. If such number is not available at the time of execution of this Note or is not inserted by the Borrower, the Borrower hereby authorizes and directs the Lender to fill in such number on the first page of this Note when the Borrower provides to Lender, advises the Lender of, or the Lender otherwise obtains, such number.



12. Notice. Any notice to the Lender provided for in this Note shall be given in the manner provided in the Loan Agreement.

13. Governing Law and Jurisdiction. This Note and the other Loan Documents and all matters relating thereto shall be governed by and construed and interpreted in accordance with the laws of the State where the Premises is located. The Borrower and each Borrower Principal hereby submit to the jurisdiction of the state and federal courts located in the State where the Premises is located and agree that the Lender may, at its sole and absolute discretion, enforce its rights under the Loan Documents in such courts.

14. Maximum Rate of Interest. This Note is subject to the express condition that at no time shall the Borrower be obligated or required to pay interest on the Principal Amount at a rate which could subject the Lender to either civil or criminal liability as a result of being in excess of the maximum interest rate which the Borrower is permitted by applicable law to contract or agree to pay. If by the terms of this Note, the Borrower is at any time required or obligated to pay interest on the Principal Amount at a rate in excess of such maximum rate, the rate of interest under this Note shall be deemed to be immediately reduced to such maximum rate and all previous payments in excess of the maximum rate shall be deemed to have been payments in reduction of the Principal Amount and not on account of the interest due hereunder.

15. No Third Party Beneficiary. The Borrower acknowledges and agrees that (i) any arrangement for interim advancement of funds that originally is made by the Lender named in this Note to any investor in the secondary mortgage market is made pursuant to a contractual obligation of such Lender to that investor that is independent of, and separate and distinct from, the obligation of the Borrower for the full and prompt payment of the indebtedness evidenced by this Note, (ii) the Borrower shall not be deemed to be a third party beneficiary of such arrangement for interim advancement of funds, and (iii) no such interim advancement arrangement shall constitute any person or entity making such payment as a guarantor or surety of the Borrower's obligations, notwithstanding the fact that the\* obligations under any such interim advancement arrangement may be calculated with reference to amounts payable under this Note or the other Loan Documents.

16. Assignment. The holder of this Note may, from time to time, sell, assign or participate or offer to sell, assign or participate the Loan, or interests therein, to one or more Persons (including, without limitation, assignees or participants) and is hereby authorized to disseminate any information it has pertaining to the Loan, including, without limitation, any security for this Note and credit information on the Borrower, any of its principals and any Borrower Principal, to any such Person, and to the extent, if any, specified in any such sale, assignment or participation, such Person shall have the rights and benefits with respect to this Note and the other Loan Documents as such Person would have if such Person were the Lender hereunder.

17. General Provisions. A determination that any provision of this Note is unenforceable or invalid shall not affect the enforceability or validity of any other provision and the determination that the application of any provision of this Note to any Person or circumstance is illegal or unenforceable shall not affect the enforceability or validity of such provision as it may apply to other Persons or circumstances. The terms, provisions, covenants and conditions hereof shall be binding upon the Borrower and the heirs, devisees, representatives, successors and assigns of the Borrower. Captions and headings in this Note are for convenience only and shall be disregarded in construing it.

18. Business or Investment Purpose. The Borrower represents and warrants that the Loan evidenced by this Note is solely for the business or investment purpose of the Borrower, and is not for personal, household or agricultural purposes.

19. WRITTEN AGREEMENT.

(a) THE RIGHTS AND OBLIGATIONS OF THE BORROWER, EACH BORROWER PRINCIPAL AND THE LENDER SHALL BE DETERMINED SOLELY FROM THIS WRITTEN NOTE AND THE OTHER LOAN DOCUMENTS, AND ANY PRIOR ORAL OR WRITTEN AGREEMENTS BETWEEN THE LENDER, THE BORROWER AND ANY BORROWER PRINCIPAL CONCERNING THE SUBJECT MATTER HEREOF AND OF THE OTHER LOAN DOCUMENTS ARE SUPERSEDED BY AND MERGED INTO THIS NOTE AND THE OTHER LOAN DOCUMENTS.

IN WITNESS WHEREOF, the Borrower has caused this Note to be duly executed under seal as of the day and year first above written.

BORROWER:  
RD WHITEGATE ASSOCIATES, L.P.,  
a Missouri limited partnership

By: Acadia Property Holdings, LLC,  
a Delaware limited liability company, its  
General Partner

By: Acadia Realty Limited Partnership,  
a Delaware limited partnership, its  
Sole Member

By: Acadia Realty Trust, a  
Maryland real estate investment  
trust, its

By:  
Name:

Title: Senior Vice President

Acknowledgment and Agreement of the Borrower Principal to  
Personal Liability for the Exceptions to Non-Recourse

Each Borrower Principal hereby represents to the Lender that such Borrower Principal has a direct or an indirect ownership interest in the Borrower and/or that he or she participates in the management of the Borrower.

BY SIGNING BELOW, each Borrower Principal understands, accepts and agrees to the provisions of this Note, including without limitation, Sections 7 and 8 above. No transfer of any Borrower Principal's ownership interest in the Borrower or in any other entity which directly or indirectly has an ownership interest in the Borrower shall release the Borrower Principal from liability hereunder, unless the Lender shall have approved the transfer, the substituted Borrower Principal and the release of the Borrower Principal from liability hereunder in writing. Each Borrower Principal waives all rights of subrogation, reimbursement, indemnification or contribution (whether contractual, statutory or otherwise, including without limitation, any claim or right of subrogation under the U.S. Bankruptcy Code or any successor statute) against the Borrower by reason of any payment by the Borrower Principal pursuant to this Note, including without limitation, Sections 7 and 8 above, prior to the full and final satisfaction of this Note and all other obligations of the Borrower under the Loan Documents. Each Borrower Principal waives any right to assert against the Lender any defense, setoff, counterclaim, or claims which such Borrower Principal may have against the Borrower or any other party liable to the Lender for the obligations of the Borrower under the Loan Documents. Each Borrower Principal waives all rights to notices of default or nonperformance by the Borrower under the Loan Documents. Each Borrower Principal further waives all rights to notices of the existence or the creation of new indebtedness by the Borrower. Each Borrower Principal waives any right to enforce any remedy which such Borrower Principal now has or may hereafter have against the Borrower or any other Borrower Principal, and waives any benefit of, and any right to participate in, any security now or hereafter held by the Lender.

BORROWER PRINCIPAL(S):

ACADIA REALTY LIMITED PARTNERSHIP,  
a Delaware limited partnership

By: Acadia Realty Trust a Maryland  
real estate investment trust, its

By: \_\_\_\_\_  
Name. Robert Masters  
Title: Vice President

LOAN TERMS TABLE

Note Date: December \_\_, 2000  
Borrower: RD Columbia Associates L.P., a Delaware limited partnership  
Original Principal Amount: \$11,100,000.00  
Note Rate: 7.55%  
Monthly Payment Amount: \$77,993.20  
Amortization Commencement Date: February 1, 2001  
Lockout Period: Beginning on the date of this Note and ending on September 1, 2010

Loan No.: 53169  
Servicing No.: 3124351  
Borrower's TIN: 13-3551305  
Maturity Date: January 1, 2011

PROMISSORY NOTE

FOR VALUE RECEIVED, the borrower described in the Loan Terms Table set forth above (the "Borrower") promises to pay to the order of BANK OF AMERICA, N.A., a national banking association, its successors and assigns (the "Lender"), the Original Principal Amount (as outstanding from time to time, the "Principal Amount") under the terms and conditions of this promissory note (the "Note"), together with interest thereon as provided in this Note, and in accordance with the loan agreement of even date herewith by and between, among others, the Borrower and the Lender (the "Loan Agreement"). This Note is secured by a deed of trust, mortgage or deed to secure debt of even date on certain property of the Borrower (the "Security Instrument") and other agreements by and between the Borrower and the Lender. The Loan Terms Table is a part of this Note and all terms used in this Note which are defined in the Loan Terms Table shall have the meaning set forth therein. Except as expressly provided otherwise in this Note, the defined terms in the Loan Documents (as defined in the Loan Agreement) are used herein with the same meaning. All of the terms, definitions, conditions and covenants of the Loan Documents are expressly made a part of this Note by reference in the same manner and with the same effect as if set forth herein at length. Any holder of this Note is entitled to the benefits of and remedies provided in the Loan Documents. Any Event of Default under any of the Loan Documents is an Event of Default under the terms of this Note.

1. Interest. The outstanding Principal Amount of the loan evidenced by this Note (the "Loan") shall bear interest at a fixed rate per annum equal to the Note Rate. Interest shall be computed based on the daily rate produced assuming a 360 day year, multiplied by the actual number of days elapsed. Except as otherwise set forth in this Note, interest shall be paid in arrears.

2. Principal and Interest Payments. The Principal Amount and interest thereon shall be payable at P. O. Box 98672, Las Vegas, Nevada 89193-8672, Attn: Capital Markets Servicing Group, or at such other place as the Lender may designate from time to time in writing. An initial payment is due on the date hereof for prepaid interest through and including the last day of the month in which this Note is executed. Thereafter, except as may be adjusted in accordance with the immediately following sentence, payment shall be made in consecutive monthly installments of principal and interest in an amount equal to the Monthly Payment Amount on the first day of each month beginning on the Amortization Commencement Date (each a "Scheduled Payment Date"), until the entire indebtedness evidenced hereby is fully paid, except that any remaining indebtedness, if not sooner paid, shall be due and payable on the Maturity Date. The Monthly Payment Amount is computed on the basis of an amortization schedule for a loan having (a) a principal amount equal to the Original Principal Amount, (b) an amortization period of 30 years, and (c) an annual interest rate equal to the Note Rate, computed on the basis of a 360 day year consisting of 12 months of 30 days each. The Borrower expressly understands and agrees that such computation of interest based on a 360 day year consisting of 12 months of 30 days each is solely for the purpose of determining the Monthly Payment Amount, and, notwithstanding such computation, interest shall accrue on the outstanding Principal Amount of this Note as provided in paragraph 1 above. The Borrower understands and acknowledges that such computation results in more interest accruing on the Loan than if either a 30 day month and a 360 day year or the actual number of days and a 365 day year were used to compute the accrual of interest on the Loan. The Borrower recognizes that such computation will not fully amortize the Loan within the amortization period set forth in clause (b) above. Following any partial prepayment occurring solely as a result of the application of insurance proceeds or condemnation awards pursuant to the terms

of the Loan Agreement, the Lender may, in its sole and absolute discretion, adjust the Monthly Payment Amount to give effect to any such partial prepayment, provide , however, that in no event will any such adjustment result in any such installment becoming due and payable on any date after the Maturity Date.

3. Late Charges. In the event any payment of interest or principal is not received prior to the 10th day after the same is due (or such greater period, if any, required by applicable law), the Borrower will pay to the Lender, without further notice or demand, a late charge of four percent (4%) of the amount of the overdue payment. This provision for late charges shall not be deemed to extend the time for payment or be a "grace period" or "cure period" that gives the Borrower a right to cure a Default Condition. Imposition of late charges is not contingent upon the giving of any notice or lapse of any cure period provided for in the Loan Documents.

4. Prepayment; Defeasance. Except as otherwise expressly permitted by this Section 4, no voluntary prepayments, whether in whole or in part, of the outstanding Principal Amount or any other amount at any time due and owing under this Note can be made by the Borrower or any other Person.

(a) Lockout Period. The Borrower has no right to make, and the Lender shall have no obligation to accept, any voluntary prepayment, whether in whole or in part, of the outstanding Principal Amount, or any other amount under this Note, at any time during the Lockout Period. Notwithstanding the foregoing, if either (i) the Lender, in its sole and absolute discretion, accepts a full or partial voluntary prepayment during the Lockout Period or (ii) there is an involuntary prepayment during the Lockout Period, then, in either case, the Borrower shall, in addition to any portion of the outstanding Principal Amount prepaid (together with all interest accrued and unpaid thereon), pay to the Lender a prepayment premium in an amount calculated in accordance with Section 4(c) hereof

(b) Defeasance.

Notwithstanding any provisions of this Section 4 to the contrary, including, without limitation, subsection (a) of this Section 4, at any time other than during a REMIC Prohibition Period (as such period is defined in clause (iv) below), the Borrower may cause the release of the Premises from the lien of the Security Instrument and the other Loan Documents upon the satisfaction of the following conditions:

(A) not less than 60 (but not more than 90) days prior written notice shall be given to the Lender specifying a date on which the Defeasance Collateral (as hereinafter defined) is to be delivered (the "Release Date"), such date being on a Scheduled Payment Date;

(B) all accrued and unpaid interest and all other sums due under this Note and under the other Loan Documents up to the Release Date, including, without limitation, all fees, costs and expenses incurred by the Lender and its agents in connection with such release (including, without limitation, legal fees and expenses for the review and preparation of the Defeasance Security Agreement (as hereinafter defined) and of the other materials described in subsection 4(b)(i)(C) below and any related documentation, and any servicing fees or costs related to such release), shall be paid in full on or prior to the Release Date;

(C) the Borrower shall deliver to the Lender on or prior to the Release Date:

(1) a pledge and security agreement, in form and substance that would be satisfactory to a prudent lender, creating a first priority security interest in favor of the Lender in the Defeasance Collateral, as defined herein (the "Defeasance Security Agreement"), which shall provide, among other things, that any excess amounts received by the Lender from the Defeasance

Collateral over the amounts payable by the Borrower hereunder shall be refunded to the Borrower promptly after each Scheduled Payment Date;

(2) direct, non-callable obligations of the United States of America that provide for payments prior and as close as possible to (but in no event later than) all successive Scheduled Payment Dates occurring after the Release Date, with each such payment being equal to or greater than the amount of the corresponding Monthly Payment Amount required to be paid under this Note (including all amounts due on the Maturity Date) for the balance of the term hereof (the "Defeasance Collateral"), each of which shall be duly endorsed by the holder thereof as directed by the 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 certificates, documents and instruments as may be required by the depository institution holding such securities or 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 Security Agreement the first priority security interest therein in favor of the Lender in conformity with all applicable state and federal laws governing granting of such security interests;

(3) a certificate of the Borrower certifying that all of the requirements set forth in this subsection 4(b)(i) have been satisfied;

(4) one or more opinions of counsel for the Borrower in form and substance and delivered by counsel that would be satisfactory to a prudent lender stating, among other things, that (i) the Lender has a perfected first priority security interest in the Defeasance Collateral and that the Defeasance Security Agreement is enforceable against the Borrower in accordance with its terms, (ii) in the event of a bankruptcy proceeding or similar occurrence with respect to the Borrower, none of the Defeasance Collateral nor any proceeds thereof will be property of the Borrower's estate under Section 541 of the U.S. Bankruptcy Code or any similar statute and the grant of security interest therein to the Lender shall not constitute an avoidable preference under Section 547 of the U.S. Bankruptcy Code or applicable state law, and (iii) the release of the lien of the Security Instrument and the pledge of Defeasance Collateral will not directly or indirectly result in or cause any REMIC (as defined in clause (iv) below) that then holds this Note to fail to maintain its status as a REMIC;

(5) a certificate of the Borrower's independent certified public accountant certifying that the Defeasance Collateral will generate monthly amounts equal to or greater than the Monthly Payment Amount required to be paid under this Note up to and including the Maturity Date; and

(6) such other certificates, documents and instruments as the Lender may reasonably require; and

(D) in the event the Loan is held by a REMIC, the Lender has received written confirmation from any rating agency rating any mortgage pass-through certificates or other securities evidencing a beneficial interest in the Loan in a public offering or private placement (the "Securities") that substitution of the Defeasance Collateral will not result in a downgrade, withdrawal, or qualification of the ratings then assigned to any of the Securities.

(ii) Upon compliance with the requirements of subsection 4(b)(i), the Premises shall be released from the lien of the Security Instrument and the other Loan Documents, and the

Defeasance Collateral shall constitute collateral which shall secure this Note and all other obligations under the Loan Documents. The Lender will, at the Borrower's expense, execute and deliver any agreements reasonably requested by the Borrower to release the lien of the Security Instrument and the other Loan Documents from the Premises.

(iii) Upon the release of the Premises in accordance with this Section 4(b), the Borrower shall (at the Lender's sole and absolute discretion) assign all its obligations and rights under this Note, together with the pledged Defeasance Collateral, to a successor entity designated by the Borrower which would be satisfactory to a prudent lender. Such successor entity shall execute an assignment and assumption agreement in form and substance that would be satisfactory to a prudent lender pursuant to which such successor entity shall assume the Borrower's obligations under this Note and the Defeasance Security Agreement. As conditions to such assignment and assumption, the Borrower shall (A) deliver to the Lender one or more opinions of counsel in form and substance and delivered by counsel that would be satisfactory to a prudent lender stating, among other things, that such assignment and assumption agreement is enforceable against the Borrower and such successor entity in accordance with its terms and that this Note, the Defeasance Security Agreement and the other Loan Documents, as so assigned and assumed, are enforceable against such successor entity in accordance with their respective terms, and opining to such other matters relating to such successor entity and its organizational structure as the Lender may reasonably require, and (B) pay all fees, costs and expenses incurred by the Lender or its agents in connection with such assignment and assumption (including, without limitation, legal fees and expenses and for the review of the proposed transferee and the preparation of the assignment and assumption agreement and related certificates, documents and instruments). Upon such assignment and assumption, the Borrower shall be relieved of its obligations hereunder, under the other Loan Documents and under the Defeasance Security Agreement, except as expressly set forth in the assignment and assumption agreement.

(iv) For purposes of this Section 4, "REMIC Prohibition Period" means the two-year period commencing with the "startup day" within the meaning of Section 860G(a)(9) of the Internal Revenue Code of 1986, as amended from time to time or any successor statute (the "Code") of any "real estate mortgage investment conduit," within the meaning of Section 860D of the Code (any such conduit, a "REMIC") that holds this Note. In no event shall the Lender have any obligation to notify Borrower that a REMIC Prohibition Period is in effect with respect to the Loan, except that the Lender shall notify the Borrower if any REMIC Prohibition Period is in effect with respect to the Loan after receiving any notice described in Section 4(b)(i)(A); provided however, that the failure of the Lender to so notify the Borrower shall not impose any liability upon the Lender or grant the Borrower any right to defease the Loan during any such REMIC Prohibition Period.

(c) Involuntary Prepayment During the Lockout Period. During the Lockout Period, in the event of any involuntary prepayment of the Principal Amount or any other amount under this Note, whether in whole or in part, in connection with or following the Lender's acceleration of the outstanding Principal Amount of this Note or otherwise, and whether the Security Instrument is satisfied or released by foreclosure (whether by power of sale or judicial proceeding), deed in lieu of foreclosure or by any other means, including, without limitation, repayment of the Loan by the Borrower or any other Person pursuant to any statutory or common law right of redemption, the Borrower shall, in addition to any portion of the outstanding Principal Amount prepaid (together with all interest accrued and unpaid thereon), pay to the Lender a prepayment premium in an amount calculated in accordance with this Section 4(c). Such prepayment premium shall be in an amount equal to the greater of.

(i) 1% of the Principal Amount being prepaid; or

(ii) the product obtained by multiplying:

(A) the Principal Amount being prepaid, times;



(B) the difference obtained by subtracting (1) the Yield Rate from (II) the Note Rate, times;

(C) the present value factor calculated using the following formula:

$$1 - (1+r)^{-a}$$

r = Yield Rate

n = the number of years and any Fraction thereof remaining between the date the prepayment is made and the Maturity Date of this Note.

As used herein, "Yield Rate" means the yield rate for the 5.75% U.S. Treasury Security due August, 2010, as reported in The Wall Street Journal on the fifth Business Day preceding the Prepayment Calculation Date. If the Yield Rate is not published for the such U.S. Treasury Security, then the "Yield Rate" shall mean the yield rate for the nearest equivalent U.S. Treasury Security (as selected at the Lender's sole and absolute discretion) as reported in The Wall Street Journal on the fifth Business Day preceding the Prepayment Calculation Date. If the publication of such Yield Rate in The Wall Street Journal is discontinued, the Lender shall determine such Yield Rate from another source selected by the Lender in the Lender's sole and absolute discretion. The "Prepayment Calculation Date" shall mean, as applicable, the date on which (i) notice of prepayment is given to the Lender, in the case of a voluntary prepayment of the entire outstanding Principal Amount of this Note, (ii) the Lender applies any partial prepayment to the reduction of the outstanding Principal Amount hereof, in the case of a voluntary partial prepayment which is accepted by the Lender, (iii) the Lender accelerates the Loan, in the case of a prepayment resulting from acceleration, or (iv) the Lender applies funds held under any Reserve Account, in the case of a prepayment resulting from such an application (other than in connection with acceleration of the Loan).

(d) Insurance and Condemnation Proceeds-, Excess Interest. Notwithstanding any other provision herein to the contrary, the Borrower shall not be required to pay any prepayment premium in connection with any prepayment occurring solely as a result of (i) the application of insurance proceeds or condemnation awards pursuant to the terms of the Loan Documents, or (ii) the application of any interest in excess of the maximum rate permitted by applicable law to the reduction of the Principal Amount in accordance with Section 14 of this Note.

(e) After the Lockout Period. Commencing on the day after the expiration of the Lockout Period, and upon giving the Lender at least 60 days (but not more than 90 days) prior written notice, the Borrower may voluntarily prepay (without premium) the Note in whole (but not in part) on a Scheduled Payment Date. The Lender shall accept a prepayment pursuant to this Section 4(e) on a day other than a Scheduled Payment Date provided that, in addition to payment of the full outstanding principal balance of the Note, the Borrower pays to the Lender a sum equal to the amount of interest which would have accrued on this Note if such prepayment occurred on the next Scheduled Payment Date.

(f) Limitation on Partial Prepayments. In no event shall the Lender have any obligation to accept a partial prepayment.

#### 5. Certain Provisions Regarding Payments, Prepayments and Remittances.

(a) Payment. Except to the extent that specific provisions are set forth in this Note or any other Loan Document with respect to application of payments, all payments received by the holder hereof shall be applied, to the extent thereof, to the indebtedness secured by the Security Instrument in such manner and order as the Lender may elect in its sole and absolute discretion, any instructions from the Borrower or anyone else to the contrary notwithstanding. All payments made as scheduled on this Note shall be applied, to

the extent thereof, to accrued but unpaid interest, late charges, accrued fees, the unpaid Principal Amount, and any other sums due and unpaid to the Lender in connection with the Loan, in such manner and order as the Lender may elect in its sole and absolute discretion.

(b) Prepayments. All involuntary prepayments on this Note shall be applied, to the extent thereof, to accrued but unpaid interest on the amount prepaid, to the remaining Principal Amount, and any other sums due and unpaid to the Lender in connection with the Loan, in such manner and order as the Lender may elect in its sole and absolute discretion, including but not limited to application to principal installments in inverse order of maturity.

(c) Remittances. Remittances in payment of any part of the indebtedness other than in the required amount in immediately available U.S. funds shall not, regardless of any receipt or credit issued therefor, constitute payment until the required amount is actually received by the holder hereof in immediately available U.S. funds and shall be made and accepted subject to the condition that any check or draft may be handled for collection in accordance with the practices of the collecting bank or banks.

6. Acceleration. If the full outstanding Principal Amount of this Note, together with all interest due thereon and any other amounts due in respect of this Note are not paid on or before the Maturity Date or are accelerated under the terms of this Note or the other Loan Documents, the then outstanding Principal Amount, all accrued but unpaid interest thereon and any other amounts due in respect of this Note shall bear interest at the Note Rate plus four percent (4%) per annum until such Principal Amount and interest have been paid in full. Further, in the event of such acceleration, the Loan, and all other indebtedness of the Borrower to the Lender arising out of or in connection with the Loan shall become immediately due and payable, without presentment, demand, protest, dishonor or notice of any kind, all of which are hereby waived by the Borrower.

#### 7. Non-Recourse Loan.

(a) Subject to the provisions of Section 8 and notwithstanding any other provision in this Note or the other Loan Documents, the personal liability of the Borrower and any Borrower Principal (collectively, the Persons signing as the Borrower Principals at the end of this Note and/or signing any Exceptions to Non Recourse Guaranty relating to the Loan) to pay the Principal Amount and interest thereon and any other sums under this Note or the other Loan Documents shall be limited to (i) the Premises, (ii) the Intangible Personalty, (iii) all Rents and Profits distributed (except to the extent that the Borrower did not have the legal right, because of a bankruptcy, receivership or similar judicial proceeding, to direct the disbursement of such sums), and not applied, first, to the payment of reasonable Operating Expenses as such Operating Expenses become due and payable, and then, to the payment of the Principal Amount and interest then due and payable under this Note and any other sums due under the other Loan Documents (including but not limited to deposits, escrows and/or reserves); provided however, that there shall be no personal liability incurred for Rents and Profits distributed in any particular fiscal year to the extent that all Operating Expenses and principal and interest due under this Note and other sums due under the other Loan Documents (including but not limited to deposits, escrows and/or reserves) are paid in full in that fiscal year, and (iv) all other collateral or security now or hereafter securing the Loan.

(b) Except as provided above and in Section 8, the Lender shall not seek (i) any judgment for a deficiency against the Borrower or any Borrower Principal, or the Borrower's or any Borrower Principal's heirs, legal representatives, successors or assigns, in any action to enforce any right or remedy under the Security Instrument, or (ii) any judgment on this Note except as may be necessary in any action brought under the Security Instrument to enforce the lien against the Premises, the Intangible Personalty, the Rents and Profits or any other collateral or security for the Loan, or to exercise any remedies under any of the other Loan Documents.

#### 8. Exceptions to Non-Recourse

(a) If, without obtaining the Lender's prior written consent, which may be given or withheld in the Lender's sole and absolute discretion, there shall occur any violation of any of the Recourse Covenants (as defined in the Loan Agreement), and if such violation shall continue for thirty (30) days after written notice

thereof from the Lender to the Borrower, then Section 7 hereof shall not apply from and after the date which is thirty (30) days after such written notice and the Borrower and the Borrower Principals (each individually on a joint and several basis if more than one) shall be personally liable on a joint and several basis for full recourse liability under this Note and the other Loan Documents.

(b) Notwithstanding Section 7 hereof, and without limiting the provisions of Section 8(a) above, the Borrower and the Borrower Principals (each individually on a joint and several basis if more than one) shall be personally liable on a joint and several basis, in the amount of any loss, damage or cost (including but not limited to reasonable attorney's fees) resulting from (i) fraud or intentional misrepresentation by the Borrower or any Borrower Principal, or any agent, contractor or employee of the Borrower or any Borrower Principal, in connection with obtaining the Loan, or in complying with any of the Borrower's obligations under the Loan Documents, (ii) sale proceeds, insurance proceeds, condemnation awards, security deposits from tenants or other sums or payments received by or on behalf of the Borrower in its capacity as owner of the Premises and not applied in accordance with the provisions of the Loan Documents, (iii) all Rents and Profits distributed and not applied, first, to the payment of reasonable Operating Expenses as such Operating Expenses become due and payable, and then, to the payment of the Principal Amount and interest then due and payable under this Note and any other sums due under the other Loan Documents (including but not limited to deposits, escrows and/or reserves); provided however, that there shall be no personal liability incurred for Rents and Profits distributed in any particular fiscal year to the extent that all Operating Expenses and principal and interest due under this Note and other sums due under the other Loan Documents (including but not limited to deposits, escrows and/or reserves) are paid in full in that fiscal year, (iv) the Borrower's failure following any Event of Default to deliver to the Lender on demand all Rents and Profits, security deposits, books and records relating to the Premises, (v) any damage to the Premises caused by the willful, wanton or tortious act or omission of the Borrower, (vi) the Borrower's failure to procure and maintain the insurance policies required by the Loan Agreement, (vii) the Lender's incurrance of or obligation to pay attorney's fees, costs, and expenses in any bankruptcy, receivership or similar case filed by or against the Borrower or any Borrower Principal, (viii) any transfer tax, recordation tax or other similar tax or assessment, if any, in connection with the transactions contemplated by the Loan Documents, or (ix) any violation of or failure to comply with the Environmental Covenants (as defined in the Loan Agreement and/or in any Environmental Indemnity Agreement relating to the Loan), including without limitation, the indemnification obligations set forth therein, except to the extent any such violation or failure to comply is recovered or recoverable under any environmental insurance policy furnished by the Borrower to the Lender in connection with the Loan. Notwithstanding the foregoing, neither the Borrower nor the Borrower Principals shall be personally liable under clauses (ii), (iii) or (iv) of this subsection 8(b) to the extent that the Borrower did not have the legal right, because of a bankruptcy, receivership or similar judicial proceeding, to direct the disbursement of the sums described in such clauses.

9. No Waiver or Impairment. No provision of Section 7 or Section 8 shall (a) affect any guaranty or similar agreement executed in connection with the debt evidenced by this Note, (b) release or reduce the debt evidenced by this Note, (c) impair the right of the Lender to enforce the Environmental Covenants pursuant to the provisions of the Loan Agreement, (d) impair the lien of the Security Instrument, or (e) constitute a waiver, forfeiture, abrogation or limitation of or on any right accorded by any law establishing a debtor-in-relief proceeding (including, but not limited to, Title 11, U.S. Code) which right provides for the assertion in such debtor-in-relief proceeding of a deficiency arising by reason of the insufficiency of collateral notwithstanding an agreement of the holder thereof not to assert such a deficiency.

10. Expenses. In the event this Note is not paid when due at any stated or accelerated maturity, the Borrower will pay, in addition to the Principal Amount and interest hereunder, all costs of collection, including reasonable attorney's fees.

11. Taxpayer Identification Number. This Note provides for the Borrower's federal taxpayer identification number to be inserted on the first page of this Note. If such number is not available at the time of execution of this Note or is not inserted by the Borrower, the Borrower hereby authorizes and directs the Lender to fill in such number on the first page of this Note when the Borrower provides to Lender, advises the Lender of, or the Lender otherwise obtains, such number.

12. Notice. Any notice to the Lender provided for in this Note shall be given in the manner provided in the Loan Agreement.

13. Governing Law and Jurisdiction. This Note and the other Loan Documents and all matters relating thereto shall be governed by and construed and interpreted in accordance with the laws of the State where the Premises is located. The Borrower and each Borrower Principal hereby submit to the jurisdiction of the state and federal courts located in the State where the Premises is located and agree that the Lender may, at its sole and absolute discretion, enforce its rights under the Loan Documents in such courts.

14. Maximum Rate of Interest. This Note is subject to the express condition that at no time shall the Borrower be obligated or required to pay interest on the Principal Amount at a rate which could subject the Lender to either civil or criminal liability as a result of being in excess of the maximum interest rate which the Borrower is permitted by applicable law to contract or agree to pay. If by the terms of this Note, the Borrower is at any time required or obligated to pay interest on the Principal Amount at a rate in excess of such maximum rate, the rate of interest under this Note shall be deemed to be immediately reduced to such maximum rate and all previous payments in excess of the maximum rate shall be deemed to have been payments in reduction of the Principal Amount and not on account of the interest due hereunder.

15. No Third Party Beneficiary. The Borrower acknowledges and agrees that (i) any arrangement for interim advancement of funds that originally is made by the Lender named in this Note to any investor in the secondary mortgage market is made pursuant to a contractual obligation of such Lender to that investor that is independent of, and separate and distinct from, the obligation of the Borrower for the full and prompt payment of the indebtedness evidenced by this Note, (ii) the Borrower shall not be deemed to be a third party beneficiary of such arrangement for interim advancement of funds, and (iii) no such interim advancement arrangement shall constitute any person or entity making such payment as a guarantor or surety of the Borrower's obligations, notwithstanding the fact that the obligations under any such interim advancement arrangement may be calculated with reference to amounts payable under this Note or the other Loan Documents.

16. Assignment. The holder of this Note may, from time to time, sell, assign or participate or offer to sell, assign or participate the Loan, or interests therein, to one or more Persons (including, without limitation, assignees or participants) and is hereby authorized to disseminate any information it has pertaining to the Loan, including, without limitation, any security for this Note and credit information on the Borrower, any of its principals and any Borrower Principal, to any such Person, and to the extent, if any, specified in any such sale, assignment or participation, such Person shall have the rights and benefits with respect to this Note and the other Loan Documents as such Person would have if such Person were the Lender hereunder.

17. General Provisions. A determination that any provision of this Note is unenforceable or invalid shall not affect the enforceability or validity of any other provision and the determination that the application of any provision of this Note to any Person or circumstance is illegal or unenforceable shall not affect the enforceability or validity of such provision as it may apply to other Persons or circumstances. The terms, provisions, covenants and conditions hereof shall be binding upon the Borrower and the heirs, devisees, representatives, successors and assigns of the Borrower. Captions and headings in this Note are for convenience only and shall be disregarded in construing it.

18. Business or Investment Purpose. The Borrower represents and warrants that the Loan evidenced by this Note is solely for the business or investment purpose of the Borrower, and is not for personal, household or agricultural purposes.

19. WRITTEN AGREEMENT.

(a) THE RIGHTS AND OBLIGATIONS OF THE BORROWER, EACH BORROWER PRINCIPAL AND THE LENDER SHALL BE DETERMINED SOLELY FROM THIS WRITTEN NOTE AND THE OTHER LOAN DOCUMENTS, AND ANY PRIOR ORAL OR WRITTEN AGREEMENTS BETWEEN THE LENDER, THE BORROWER AND ANY BORROWER PRINCIPAL CONCERNING THE SUBJECT MATTER HEREOF AND OF THE OTHER LOAN DOCUMENTS ARE SUPERSEDED BY AND MERGED INTO THIS NOTE AND THE OTHER LOAN DOCUMENTS.

(b) THIS NOTE AND THE OTHER LOAN DOCUMENTS MAY NOT BE VARIED BY ANY ORAL AGREEMENTS OR DISCUSSIONS THAT OCCUR BEFORE, CONTEMPORANEOUSLY WITH, OR SUBSEQUENT TO THE EXECUTION OF THIS NOTE OR THE LOAN DOCUMENTS.

(c) THIS WRITTEN NOTE AND THE OTHER LOAN DOCUMENTS REPRESENT THE FINAL AGREEMENTS BETWEEN THE PARTIES AND MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS, OR SUBSEQUENT ORAL AGREEMENTS OF THE PARTIES. THERE ARE NO UNWRITTEN ORAL AGREEMENTS BETWEEN THE PARTIES.

20. WAIVER OF JURY TRIAL. THE LENDER, THE BORROWER AND EACH BORROWER PRINCIPAL HEREBY WAIVE, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, THE RIGHT TO A TRIAL BY JURY IN ANY ACTION OR PROCEEDING BASED UPON, OR RELATED TO, THE SUBJECT MATTER OF THIS NOTE. THIS WAIVER IS KNOWINGLY, INTENTIONALLY, AND VOLUNTARILY MADE BY THE LENDER, THE BORROWER AND EACH BORROWER PRINCIPAL, AND THE LENDER, THE BORROWER AND EACH BORROWER PRINCIPAL ACKNOWLEDGE THAT NO PERSON ACTING ON BEHALF OF ANOTHER PARTY TO THIS NOTE HAS MADE ANY REPRESENTATIONS OF FACT TO INDUCE THIS WAIVER OF TRIAL BY JURY OR IN ANY WAY TO MODIFY OR NULLIFY ITS EFFECT. THE LENDER, THE BORROWER AND EACH BORROWER PRINCIPAL FURTHER ACKNOWLEDGE THAT THEY HAVE BEEN REPRESENTED (OR HAVE HAD THE OPPORTUNITY TO BE REPRESENTED) IN THE SIGNING OF THIS NOTE AND IN THE MAKING OF THIS WAIVER BY INDEPENDENT LEGAL COUNSEL, SELECTED OF THEIR OWN FREE WILL, AND THAT THEY HAVE HAD THE OPPORTUNITY TO DISCUSS THIS WAIVER WITH COUNSEL.

IN WITNESS WHEREOF, the Borrower has caused this Note to be duly executed under seal as of the day and year first above written.

General Partner

[GRAPHIC OMITTED]

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BORROWER:  
RD COLUMBIA ASSOCIATES L.P.,  
a Delaware limited partnership

By: Acadia Property Holdings, LLC,  
a Delaware limited liability company,  
its General Partner

By: Acadia Realty Limited Partnership,  
a Delaware limited partnership, its  
Sole Member

By: Acadia Realty Trust, a  
Maryland real estate investment  
trust, its

By:  
Name: Robert Masters  
Title: Senior Vice President

Acknowledgment and Agreement of the Borrower Principal  
to Personal Liability for the Exceptions to Non-Recourse

Each Borrower Principal hereby represents to the Lender that such Borrower Principal has a direct or an indirect ownership interest in the Borrower and/or that he or she participates in the management of the Borrower.

BY SIGNING BELOW, each Borrower Principal understands, accepts and agrees to the provisions of this Note, including without limitation, Sections 7 and 8 above. No transfer of any Borrower Principal's ownership interest in the Borrower or in any other entity which directly or indirectly has an ownership interest in the Borrower shall release the Borrower Principal from liability hereunder, unless the Lender shall have approved the transfer, the substituted Borrower Principal and the release of the Borrower Principal from liability hereunder in writing. Each Borrower Principal waives all rights of subrogation, reimbursement, indemnification or contribution (whether contractual, statutory or otherwise, including without limitation, any claim or right of subrogation under the U.S. Bankruptcy Code or any successor statute) against the Borrower by reason of any payment by the Borrower Principal pursuant to this Note, including without limitation, Sections 7 and 8 above, prior to the full and final satisfaction of this Note and all other obligations of the Borrower under the Loan Documents. Each Borrower Principal waives any right to assert against the Lender any defense, setoff, counterclaim, or claims which such Borrower Principal may have against the Borrower or any other party liable to the Lender for the obligations of the Borrower under the Loan Documents. Each Borrower Principal waives all rights to notices of default or nonperformance by the Borrower under the Loan Documents. Each Borrower Principal further waives all rights to notices of the existence or the creation of new indebtedness by the Borrower. Each Borrower Principal waives any right to enforce any remedy which such Borrower Principal now has or may hereafter have against the Borrower or any other Borrower Principal, and waives any benefit of, and any right to participate in, any security now or hereafter held by the Lender.

BORROWER PRINCIPAL(S):

ACADIA REALTY LIMITED PARTNERSHIP,  
a Delaware limited partnership

By: Acadia Realty Trust, a Maryland  
real estate investment trust,  
its General Partner

Robert Masters  
Senior Vice President  
Title:



LIST OF SUBSIDIARIES OF  
ACADIA REALTY TRUST  
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Acadia Realty Limited Partnership  
Acadia Realty Trust  
Acadia Property Holdings, LLC  
Acadia Realty Services, Inc.  
Acadia New York Mortgage Co. LLC

239 Greenwich Associates Limited Partnership  
Crossroads Joint Venture  
Crossroads II  
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.  
Acadia G. O. Limited Partnership  
Acadia G. O. Corp.  
Greenbelt Realty Corp.  
Hampton Roads Development, LLC  
Heathcote Associates, L.P.  
Acadia Heathcote, LLC  
RD Hendon Realty, Inc.  
RD Hobson Associates, L.P.  
Acadia Mad River Property LLC  
Marley Associates Limited Partnership  
Marley Oakwood Properties, Inc.  
Acadia Merrillville Realty, L.P.  
Acadia Merrillville Realty, Inc.  
RD Methuen Associates Limited Partnership  
Pacesetter/Ramapo Associates  
Acadia Pacesetter LLC  
Port Bay Associates, LLC  
RD Smithtown, LLC  
Sound View Management LLC  
Acadia Town Line, LLC  
RD Village Associates Limited Partnership  
RD Whitegate Associates, L.P.  
RD Woonsocket Associates Limited Partnership

Blackman Fifty L.P.  
Blackman Fifty Realty Corp.  
Mark Four Realty, L.P.  
Mark Four Realty Corp.  
Mark Kings Fairground, L.P.  
Mark Kings Fairground Realty, Inc.  
Mark M.P.N.M. Limited Partnership  
Mark M.P.N.M. Realty, Inc.  
Mark Manahawkin, L.P.  
Mark Manahawkin Realty Corp.  
Mark Martintown, L.P.  
Mark Martintown Realty, Inc.  
Mark New Smyrna Limited Partnership  
Mark New Smyrna Realty, Inc.  
Mark Northwood Associates, Limited Partnership  
Mark Northwood Realty, Inc.  
Mark Park Plaza, L.P.  
Mark Park Plaza Realty, Inc.  
Mark Plaza Fifty L.P.  
Mark Plaza Fifty Realty Corp.  
Mark Shillington, L.P.  
Mark Shillington Realty Corp.  
Mark Three Realty, L.P.  
Mark Three Realty Corp.  
Mark Troy, L.P.  
Mark Troy Realty, Inc.  
Mark Twelve Associates, L.P.  
New Castle Fifty Realty Corp.  
Mark 25th Street, L.P.  
Mark 25th Street Realty Corp.  
Wesmark Fifty, L.P.  
Wesmark Fifty Realty Corp.

CONSENT OF INDEPENDENT AUDITORS

We consent to the incorporation by reference in the Registration Statement (Form S-8 No. 33-95966) pertaining to the 1999 Share Incentive Plan of Acadia Realty Trust, in the Registration Statement (Form S-3 No. 33-85190) of Acadia Realty Trust, and in the Registration Statement (Form S-3 No. 333-31630) of Acadia Realty Trust, of our report dated March 2, 2001 with respect to the consolidated financial statements and schedule of Acadia Realty Trust included in this Annual Report (Form 10-K) for the year ended December 31, 2000.

/s/ ERNST & YOUNG LLP

New York, New York  
March 28, 2001