

SECURITIES AND EXCHANGE COMMISSION  
 UNITED STATES  
 Washington, DC 20549

FORM 8-K

CURRENT REPORT

Pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934

Date of Report (Date of earliest event reported) August 1, 1996

REGENCY REALTY CORPORATION  
 (Exact name of registrant as specified in its charter)

Florida  
 (State or other jurisdiction  
 of incorporation)

1-12298  
 Commission  
 File Number)

59-3191743  
 (IRS Employer  
 Identification No.)

121 West Forsyth Street, Suite 200  
 Jacksonville, Florida  
 (Address of principal executive offices)

32202  
 (Zip Code)

Registrant's telephone number including area code: (904)-356-7000

Not Applicable  
 Former name or former address, if changed since last report)

ITEM 2. ACQUISITION OF ASSETS

Regency Realty Corporation, through its wholly-owned subsidiaries (together the "Company") acquired four shopping centers (the "Acquisition Properties") during the months of May, July, and August, 1996. The combined purchase price of these acquisitions, as provided below, exceeds 10% of the Company's total assets. The acquisitions were made pursuant to separate purchase agreements, the sellers of which are unrelated to the Company. All of the properties currently operate as neighborhood or community retail shopping centers, and will continue as such. The purchase price of each shopping center was funded from the Company's revolving line of credit with Wells Fargo Realty Advisors Funding, Inc.

The factors considered by the Company in determining the price to be paid for the shopping center included historical and expected cash flow, nature of the tenancies and terms of the leases in place, occupancy rates, opportunities for alternative and new tenancies, current operating costs, physical condition and location, and the anticipated impact on the Company's financial results. The Company also took into consideration capitalization rates at which it believes other shopping centers have recently sold. No separate independent appraisals were obtained for the Acquisition Properties.

The following summarizes the Acquisition Properties:

Property Name	Acquisition Costs	Acquisition Date	GLA	City/State	Occupancy at Acquisition
Welleby Plaza	\$7,251,320	5-31-96	109,949	Sunrise, FL	95.2%
Union Square	\$7,189,358	7-16-96	97,191	Monroe, NC	94.7%
City View	\$5,569,614	7-16-96	77,550	Charlotte, NC	98.5%
Palm Harbor	\$12,967,307	8-1-96	159,369	Palm Coast, FL	100.0%
Total	\$32,977,599		440,059		



ITEM 7. FINANCIAL STATEMENTS, PRO FORMA FINANCIAL INFORMATION AND EXHIBITS

A. Financial Statements and Pro Forma Financial Information

Audited Financial Statements of the Acquisition Properties are currently unavailable; however, they will be filed together with the Pro Forma Financial Statements of the Company as soon as they are available, but in no event beyond 60 days of the required filing date of this report.

B. Exhibits:

10. Material Contracts

- (a) Purchase and Sale Agreement dated April 16, 1996, between RRC Acquisitions, Inc., a wholly-owned subsidiary of the Company as purchaser, and Connecticut General Life Insurance Company, on Behalf of its Separate Account R as seller, relating to the acquisition of Welleby Plaza.
- (b) Purchase and Sale Agreement dated June 19, 1996, between RRC Acquisitions, Inc., a wholly-owned subsidiary of the Company as buyer, and Norcom Development, Inc. as seller, relating to the acquisition of City View Shopping Center and Union Square Shopping Center.
- (c) Purchase and Sale Agreement dated March 29, 1996, between RRC Acquisitions, Inc., a wholly-owned subsidiary of the Company as buyer, and Palm Harbour Centers Associates as seller, relating to the acquisition of Palm Harbour Shopping Village.

SIGNATURES

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

(registrant) REGENCY REALTY CORPORATION

August 6 , 1996

By: /s/ J. Christian Leavitt

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J. Christian Leavitt  
Vice President and Treasurer

EXHIBIT INDEX

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THIS AGREEMENT OF PURCHASE AND SALE is made by and between CONNECTICUT GENERAL LIFE INSURANCE COMPANY, a Connecticut corporation, on behalf of its Separate Account R ("Seller"), and RRC ACQUISITIONS, INC., a Florida corporation ("Purchaser"), as of the "Effective Date" (as defined below).

Article I.  
Property

Seller hereby agrees to sell, and Purchaser hereby agrees to buy, all of the following property: (a) a parcel of real property (the "Land"), located in the County of Broward, State of Florida, more particularly described on Exhibit A attached to this Agreement; (b) the buildings and other improvements located on the Land, being a shopping center generally known as Welleby Plaza (the "Improvements"); (c) all tenant leases relating to the Improvements, being the leases referred to on the Rent Roll attached hereto as Exhibit B (the Land, Improvements, and tenant leases are referred to herein, collectively, as the "Real Property"); and (d) all fixtures, equipment, and other personal property (both tangible and intangible, including, without limitation, any service and maintenance agreements applicable thereto, other than the property management agreement, which shall be terminated) owned by Seller and contained in or related to the Improvements, to the extent assignable (the "Personal Property") (collectively, the Real Property and the Personal Property are sometimes referred to herein as the "Property").

Article II.  
Purchase Price and Deposits

The purchase price which the Purchaser agrees to pay and the Seller agrees to accept for the Property shall be the sum of Six Million Eight Hundred Thousand Dollars (\$6,800,000.00) (hereinafter referred to as the

"Purchase Price"), subject to adjustment as provided in Article V hereof, payable as follows:

(a) An earnest money deposit ("Deposit") of One Hundred Thousand Dollars (\$100,000.00), in cash, to be deposited with Chicago Title Insurance Company, Suite 1000, Sun Trust Building, 200 West Forsythe Street, Jacksonville, Florida 32202 (the "Title Company") within one (1) business day after execution hereof by both parties, such amount to be held in escrow and deposited in an interest-bearing account; and

(b) The balance of the Purchase Price shall be paid at time of Closing by Federal wire transfer, with the transfer of funds to Seller to be completed by 2:00 p.m. on the day of the Closing.

The Deposit shall be paid to Seller at the Closing as a credit against the Purchase Price. Purchaser shall provide the Title Company with its tax identification number, and all interest shall be for Purchaser's account for tax purposes and shall be considered to be a part of the Deposit for all purposes. Notwithstanding the prior sentence, if Seller retains the Deposit in accordance with Section 3.1 hereof, such interest shall be for Seller's account for tax purposes.

In addition to the Deposit, Purchaser shall deposit three fully executed copies of this Agreement with the Title Company immediately after both parties have executed it. The date of such deposit shall be acknowledged by the Title Company on all copies, and such date shall be the "Effective Date" of this Agreement. The Title Company shall retain one copy of this Agreement and deliver one copy hereof to each of Purchaser and Seller.

Article III.  
Failure to Close

3.1 Purchaser's Default. If Seller has complied with all of the covenants and conditions contained herein and is ready, willing and able to convey the Property in accordance with this Agreement and Purchaser fails to consummate this Agreement and take title, then the parties hereto recognize and agree that the damages that Seller will sustain as a result thereof will be substantial, but difficult if not impossible to ascertain. Therefore, the parties agree that, in the event of Purchaser's default, Seller shall, as its sole remedy, be entitled to retain the Deposit as liquidated damages, and neither party shall have any further rights or obligations with respect to the other under this Agreement, except for the Surviving Covenants (hereinafter defined).

3.2 Seller's Default. In the event that Purchaser has complied with all of the covenants and conditions contained herein and is ready, willing and able to take title to the Property in accordance with this Agreement, and Seller fails to consummate this Agreement and convey title as set forth herein, then Purchaser may, as its sole remedy, either (a) terminate this contract and recover the Deposit and all expenses incurred by it in connection with this Agreement; or (b) seek specific performance by Seller of Seller's obligations in accordance with principles of Florida law, and, if successful in obtaining specific performance, seek reimbursement of its actual attorneys' fees reasonably incurred, provided, however, that Seller's liability for such attorneys fees shall not exceed \$100,000.00.

Article IV.  
Closing and Transfer of Title

4.1 Closing. The parties hereto agree to conduct a closing of this sale (the "Closing") on or before 10:00 a.m. on May 31, 1996 ("Closing Date")

in the office of the Title Company identified in Section 3.1 above, or at such other place as may be agreed upon by the parties hereto. This Agreement shall terminate if transfer of title is not completed by the Closing Date (unless such failure to close is due to Seller's default, the date for Closing is extended pursuant to any provision hereof, including, without limitation, the matters described in Sections 6.3, 6.4, 6.5 and Article VII hereof, or the date for Closing is extended by agreement of the parties, which agreement shall be confirmed in writing).

4.2 Closing Procedure. At Closing, Seller shall execute and deliver or cause to be delivered (a) a Special Warranty Deed, in the form attached hereto as Exhibit C, proper for recording, conveying Seller's interest in the Real Property to Purchaser, subject, however, to (i) any and all easements, rights of way, encumbrances, liens, covenants, restrictions and other matters of record and any and all matters shown (A) on any survey of the Real Property obtained by Purchaser (including any survey obtained pursuant to Section 6.1) or otherwise disclosed to Purchaser (except monetary liens of record shown in the Title Commitment or appearing of record between the date of the Title Commitment and the Closing Date other than liens for taxes not yet due), (B) in the Title Commitment (defined in Section 6.5) or (C) shown on the Survey (as defined in Section 6.4) (or which an accurate survey of the Property would show) and either approved by Purchaser or as to which objection has been waived by Purchaser, (ii) taxes not yet due and payable, (iii) the rights of lessees, ground lessees and licensees of space in the Improvements at the time of Closing (to the extent shown on the Rent Roll), and (iv) any encumbrances created or permitted by the terms of this Agreement; (b) a Bill of Sale in the form attached hereto as Exhibit D, dated as of the date of Closing conveying to Purchaser any and all Personal Property; (c) an Assignment of Leases in the form attached hereto as Exhibit E, dated the date of Closing, assigning all of the landlord's right, title and interest in and to any tenant and other leases covering all or any portion of the Real Property with such modifications as may be necessary to implement the provisions regarding Seller's rights with

respect to the lease to The Magic Touch pursuant to the provisions of the Environmental Agreement (hereinafter defined); (d) Tenant Notification Agreements (the "Tenant Notices"), dated the date of the Closing, executed by Seller, and complying with applicable statutes in order to relieve Seller of liability for tenant security deposits (provided the security deposits are paid to Purchaser), notifying the tenants of the Real Property that the Property has been sold to Purchaser and directing the tenants to pay rentals to Purchaser (or Purchaser's designated agent); (e) the originals of all leases and, to the extent in Seller's possession or under Seller's control, as-built plans and specifications and maintenance and service contracts that are to be assumed; (f) tenant estoppel certificates substantially in the form attached as Exhibit I executed by Publix, Walgreens, Pizza Hut and First Union and at least sixty percent (60%) of the remainder of the tenants (as measured by the number of tenants of space in the Improvements); (g) an indemnification agreement (the "Indemnification Agreement") in the form attached as Exhibit F, dated the date of Closing; (h) an updated Rent Roll, in the form of the Rent Roll attached hereto as Exhibit B, dated within 15 days of the date of the Closing; (i) an affidavit that Seller is not a "foreign person" in the form attached as Exhibit G; (j) a master key or duplicate key for all locks in the Improvements; (k) an environmental agreement in the form attached as Exhibit J (the "Environmental Agreement") pursuant to which Seller shall indemnify and hold the Buyer harmless from all cost and expense of rehabilitation, as provided therein; and (l) to the extent in the possession of Seller or Seller's property management company, all maintenance records.

Purchaser acknowledges and agrees that Seller is under no obligation to clear from the title any easements, rights of way, encumbrances, liens (except mechanics' liens for work done for Seller, mortgage liens or judgment liens), covenants, restrictions, or any other matters of record, or to cure any survey objections of Purchaser, or to create any encumbrances on, or for the benefit of, the Property. If Seller does not deliver title at Closing in form consistent with the Title Commitment in accordance with and subject to

Purchaser's rights and obligations pursuant to the terms of this Agreement, but Seller has otherwise satisfied its obligations under this Agreement, such failure shall not constitute a default or breach by Seller hereunder, and notwithstanding any other provision of this Agreement Purchaser's sole and exclusive remedy shall be to terminate this Agreement and receive a return of the Deposit, or to accept conveyance by Seller of such title as it delivers without reduction of the Purchase Price.

Purchaser acknowledges that Seller's obligation to obtain the tenant estoppel certificates as provided in Section 4.2(f) above shall constitute a condition of closing, the failure of which shall not constitute a default and, notwithstanding any other provision of this Agreement, Purchaser's sole and exclusive remedy for such failure shall be to terminate this Agreement and receive a return of the Deposit.

4.3 Purchaser's Performance. At the Closing, Purchaser will cause the Purchase Price to be delivered to the Title Company, will execute and deliver the Tenant Notices, the Indemnification Agreement, the Assignment of Leases, and the Bill of Sale. Purchaser's obligation shall be contingent upon its obtaining an Owner's Title Insurance Policy (the "Owner's Title Policy") dated no earlier than the date of the recording of the Deed, in the full amount of the Purchase Price, insuring that good and indefeasible fee simple title to the Property is vested in Purchaser, containing no exceptions to such title other than the standard printed exceptions (provided, however, that (i) the printed survey exception must be deleted, except for matters shown on the Survey, (ii) the exception as to ad valorem taxes shall be limited to taxes for the current and subsequent years, (iii) the exception for tenants and parties in possession shall be limited to those tenants, licensees, and occupants shown on the Rent Roll delivered at Closing), those items listed on Schedule "B" of the Title Commitment, and encumbrances created or permitted by the terms of this Agreement and (iv) the exception for mechanics' liens must

be deleted. Purchaser shall use all reasonable efforts to obtain the Owner's Title Policy.

4.4 Evidence of Authority; Miscellaneous. Both parties will deliver to the Title Company and each other such evidence or documents as may reasonably be required by the Title Company or either party hereto evidencing the power and authority of Seller and Purchaser and the due authority of, and execution and delivery by, any person or persons who are executing any of the documents required hereunder in connection with the sale of the Property. Both parties will execute and deliver such other documents as are reasonably required to effect the intent of this Agreement.

Article V.  
Prorations of Rents, Taxes, Etc.

Real estate taxes for the year of closing shall be prorated as of the date of Closing either using actual tax figures or, if actual figures are not available, then using as a basis for said proration the most recent assessed value of the Real Estate multiplied by the current tax rate, with a subsequent cash adjustment to be made between Purchaser and Seller when actual tax figures are available. Personal property taxes, annual permit or inspection fees, sewer charges and other expenses normal to the operation and maintenance of the Property shall also be prorated as of the date of Closing. Rents that have been collected for the month of the Closing will be prorated at the Closing, effective as of the date of the Closing. With regard to rents that are delinquent as of the date of the Closing, (i) no proration will be made at the Closing, (ii) Purchaser will make a good faith effort after the Closing to collect the rents in the usual course of Purchaser's operation of the Property, (iii) Purchaser will apply all rents collected first to current rents and, unless specifically designated otherwise by the tenant, post-closing delinquent rents and the excess amount, if any, shall be applied to the delinquent rent owed to Seller, and (iv) Purchaser will provide Seller

with a copy of any correspondence received from or mailed to tenants in connection with rents due Seller under the terms of this Agreement. It is agreed, however, that Purchaser will not be obligated to institute any lawsuit or other collection procedures to collect delinquent rents. Rents collected by Purchaser after the Closing Date, to which Seller is entitled, shall be promptly paid to Seller. Seller shall retain the right to take legal action, if necessary, to collect any delinquent rents not collected by Purchaser and Purchaser shall not interfere with and shall cooperate with such legal action.

Percentage Rents and tenant reimbursements shall also be prorated, based on the number of days in the applicable period. Percentage Rents and tenant reimbursements not yet due and payable at Closing but allocable to the period Seller owned the Property shall be collected by Purchaser when due and paid to Seller upon receipt. Purchaser shall use commercially reasonable efforts to collect such amounts and shall provide Seller with a copy of any correspondence received from or sent to tenants in connection with percentage rents and tenant reimbursements allocable to Seller. Notwithstanding the foregoing, Seller shall retain the right to take legal action if necessary to collect any percentage rents and tenant reimbursements not collected by Purchaser within three (3) months of its due date and Purchaser shall not interfere with and shall cooperate with any such legal action.

As of the Closing Date, Purchaser shall be entitled to a credit for any tenant deposits under the leases, and for any prepaid rent covering periods after the Closing.

Final readings on all gas, water and electric meters shall be made as of the date of closing, if possible. If final readings are not possible, gas, water and electricity charges will be prorated based on the most recent period for which costs are available. Any deposits made by Seller with utility companies shall be returned to Seller. Purchaser shall be responsible for making all arrangements for the continuation of utility services. After the

Closing, Purchaser will assume full responsibility for all security deposits and advance rental deposits of current tenants of the Real Property currently held by Seller, which items will be itemized by Seller and transferred and paid over to Purchaser at the Closing.

All items (including taxes, but excluding tenant reimbursements and percentage rent which is not due on or prior to Closing) that are not subject to an exact determination shall be estimated by the parties. When any item so estimated is, within one (1) year after the Closing capable of exact determination, the party in possession of the facts necessary to make the determination shall send the other party a detailed report on the exact determination so made and the parties shall adjust the prior estimate within thirty (30) days after both parties have received said reports.

ARTICLE VI.  
Purchaser Inspections and Contingencies

6.1 Document Inspection. Seller has made or will make available within two (2) days from the Effective Date of this Agreement the following items relating to the Real Property for review by Purchaser to the extent in Seller's or Seller's property manager's possession:

- (1) a copy of Seller's policy of title insurance;
- (2) all plans, drawings, and specifications and "as built" plans or drawings related to the Property and any third-party soil reports, environmental reports, engineering and architectural studies, grading plans, topographical maps, and similar data relating to the Property;
- (3) a list and copies of all licenses, permits and approvals regarding the Property;

- (4) service contracts and similar agreements related to the Property;
- (5) Seller's existing survey of the Property; and
- (6) copies of any leases and other occupancy agreements applicable to the Property.
- (7) income and expense statements and balance sheets for 1993 and 1994 and monthly income and expense statements for each full month through March, 1996.

Purchaser agrees that if for any reason the Closing is not consummated, Purchaser will immediately return to Seller all materials furnished to Purchaser pursuant to this Agreement.

6.2 Physical Inspection. In addition to the items set forth in Section 6.1, Seller will make the Property available for inspection by Purchaser and Purchaser may, at Purchaser's costs and risk, conduct such engineering and/or market and economic feasibility studies of the Property and undertake such physical inspection of the Property and conduct such interviews of the tenants of the Property as Purchaser deems appropriate as soon as possible after the Effective Date of this Agreement. Such inspections and interviews shall be conducted at reasonable times upon reasonable oral or written notice to Seller's property manager. Seller shall have the right to designate a representative to accompany Purchaser's employees, agents, and independent contractors on any such inspections and interviews.

Purchaser and Regency Realty Corporation ("Regency") hereby agree jointly and severally, to pay, protect, defend, indemnify and save Seller and the Property free and harmless against all liabilities, obligations, claims (including mechanic's lien claims), damages, penalties, causes of action, judgments, costs and expenses (including, without limitation, attorneys' fees and expenses) (whether involving bodily injury or property damage) imposed

upon, incurred by or asserted against Seller in connection with or arising out of the entry upon the Real Property by Purchaser's employees, agents or independent contractors and the actions of such persons on the Real Property (or involving mechanic's liens as a result thereof). In the event any part of the Property is damaged or excavated by Purchaser, its employees, agents or independent contractors, or Regency, its employees, agents or independent contractors, Purchaser and Regency agree in the event its purchase hereunder is not consummated, to make such additional payments to Seller as may be reasonably required to return the Property to its condition immediately prior to such damage or excavation or, at Seller's option, to cause such work to be done. Notwithstanding any provision to the contrary herein, Purchaser's and Regency's obligations under this subparagraph shall be joint and several and shall survive the expiration or termination of this Agreement, and shall survive Closing.

6.3. Feasibility Period. Purchaser shall have a period ending May 15, 1996 to conduct its inspection of the documents delivered in accordance with Section 6.1 and to conduct physical inspections of the Property as set forth in Section 6.2 (the "Feasibility Period"). On or before the last day of the Feasibility Period, Purchaser may, in its sole discretion without obligation to specify which aspect of its inspection was unsatisfactory, terminate this Agreement by providing a written notice to Seller so providing. Upon receipt of such notice, this Agreement shall terminate and the Title Company shall return the Deposit to Purchaser, and neither party shall have any obligation to the other, except for the Surviving Covenants. If Purchaser fails to provide such notice of termination on or before the last day of the Feasibility Period, Purchaser shall be deemed to have approved such inspections and this contract shall remain in full force and effect.

6.4. Survey Contingency. Purchaser's obligation to purchase the Property is subject to its obtaining, within the Feasibility Period, an ALTA survey of the Real Property by a registered surveyor (the "Survey"). The

Survey shall show the location of all improvements, structures, driveways, parking areas, easements, rights of way, and any encroachments. Purchaser shall use its best efforts to obtain the Survey.

Purchaser shall have until the earlier to occur of the last day of the Feasibility Period to object in writing to the Survey, including any objection to the boundaries set forth in the Survey and to the legal description. This contingency shall be deemed satisfied or waived if Seller has not received written notice of Purchaser's objection before such date. Any such written notice shall state all of Purchaser's objections with specificity. Upon receipt of such notice, Seller may, but shall not be obligated to, cure such objections. If Seller cures such objections within 15 days, or, if such objections are such that they cannot be cured within 15 days and Seller has commenced curing such objections and thereafter diligently proceeds to perfect such cure (but in no event beyond 45 days unless agreed to by Purchaser), then this Agreement shall continue in force and effect, and the Closing Date shall be adjusted accordingly. If Seller is unable to, or chooses not to, cure such objections within the time permitted, this Agreement shall terminate, Seller shall instruct the Title Company to return the Deposit to Purchaser, and neither party shall have any further obligations hereunder except for the Surviving Covenants. Notwithstanding the foregoing, however, Purchaser may waive such objections that Seller is unable to or chooses not to cure, and upon receipt by Seller of such waiver in full from Purchaser within 10 days of notice from Seller that it is unable or chooses not to cure such objections, this Agreement shall remain in full force and effect with no reduction in the Purchase Price.

If requested by Seller, Purchaser will confirm in writing whether this survey contingency has been satisfied and, if so, the date on which it was satisfied. Seller shall provide a copy of the Survey to Purchaser at or prior to Closing.

6.5. Title Contingency. Purchaser's obligation to purchase the Property is subject to its obtaining during the Feasibility Period a commitment for an Owner's Title Insurance Policy (the "Title Commitment"), dated not earlier than the Effective Date of this Agreement, issued by the Title Company, together with such copies of all items and documents referred to in the Title Commitment. The Title Commitment will commit the Title Company to issue the Owner's Title Policy to Purchaser at the Closing in the amount of the Purchase Price. Purchaser shall use its best efforts to obtain the Title Commitment.

Purchaser shall have until the last day of the Feasibility Period to state any objections in writing. This contingency shall be deemed satisfied or waived if such written notice of objection is not received by Seller on or before the expiration of the Feasibility Period. Such written notice of objection shall state all of Purchaser's objections with specificity. Upon receipt of such notice, Seller may, but shall not be obligated to, cure such objection. If Seller cures such objections within 15 days, or, if such objections are such that they cannot be cured within 15 days and Seller has commenced curing such objections and thereafter diligently proceeds to perfect such cure, then this Agreement shall continue in full force and effect and the Closing Date shall be adjusted accordingly. If Seller is unable or chooses not to cure such objections within the time permitted, then this Agreement shall terminate, and Seller shall instruct the Title Company to return the Deposit to Purchaser, and neither party shall have any further obligations hereunder except for the Surviving Covenants. Notwithstanding the foregoing, however, Purchaser may waive such objections that Seller is unable or chooses not to cure within 10 days after receipt of a notice that Seller is unable or chooses not to cure such objections, and upon receipt by Seller of such waiver in full from Purchaser, this Agreement shall remain in full force and effect with no reduction in the Purchase Price.

If requested by Seller, Purchaser will confirm in writing whether this title contingency has been satisfied and, if so, the date on which it was satisfied. Seller assumes no obligations to Purchaser with respect to matters disclosed in the Title Commitment. Purchaser shall promptly deliver copies of all title commitments it receives prior to Closing with regard to the Property.

Article VII.

Loss due to Casualty or Condemnation

7.1 Loss due to Condemnation. In the event of a condemnation of all or a Substantial Portion of the Real Property which condemnation shall or would render a Substantial Portion of the Real Property untenable, or if any portion of the building or parking area is taken, either party may, upon written notice to the other party given within 10 days of receipt of notice of such event, cancel this Agreement, in which event Seller shall instruct the Title Company to return the Deposit to Purchaser, this Agreement shall terminate and neither party shall have any rights or obligations hereunder except for the Surviving Covenants. In the event that neither party elects to terminate, or if the condemnation affects less than a Substantial Portion or does not affect the building or parking area, then this Agreement shall remain in full force and effect, and Seller shall be entitled to all monies received or collected by reason of such condemnation prior to closing. In such event, the transaction hereby contemplated shall close in accordance with the terms and conditions of this Agreement except that there will be an abatement of the Purchase Price equal to the amount of the net proceeds, less costs and attorney's fees, which are received by Seller by reason of such condemnation prior to closing. If the condemnation proceeding shall not have been concluded prior to the Closing, then there shall be no abatement of the Purchase Price and Seller shall assign any interest it has in the pending award to Purchaser. For purposes of this Section 7.1, a Substantial Portion

shall mean a condemnation of in excess of \$200,000.00 in value of the Real Property.

7.2 Loss due to Casualty. In the event of Substantial Loss or Damage to the Real Property by fire or other casualty (not resulting from acts of Purchaser), either party may, upon written notice to the other party given within 10 days of receipt of notice of such event, cancel this Agreement in which event Seller shall instruct the Title Company to return the Deposit to Purchaser and this Agreement shall terminate and neither party shall have any rights or obligations hereunder except for the Surviving Covenants. In the event that neither party elects to terminate, or if the casualty results in less than Substantial Loss or Damage, then this Agreement shall remain in full force and effect and Seller shall be entitled to all insurance proceeds received or collected by reason of such damage or loss, whereupon the transaction hereby contemplated shall close in accordance with the terms and conditions of this Agreement except that there will be abatement of the Purchase Price equal to the amount of the net proceeds, less costs and attorney's fees, which are received by Seller as a result of such damage or loss, provided that such abatement will be reduced by the amount expended by Seller in accordance with Article VIII hereof for restoration or preservation of the Property following the casualty. Alternatively, Purchaser may, in its discretion, have Seller repair or replace the damaged Property, and there shall be no abatement of the Purchase Price in such case. However, Purchaser shall not be entitled to require Seller to effect repair or replacement unless the loss is entirely covered by insurance (except for any applicable deductible) and the repair or replacement will take no more than three (3) months to complete. For purposes of this Section 7.2, "Substantial Loss or Damage" shall mean loss or damage, the cost for repair of which exceeds \$200,000.00.

Article VIII.  
Maintenance of the Property

Between the time of execution of this Agreement and the Closing, Seller shall use its best efforts to maintain the Property in at least as good repair as of the date of this Agreement, reasonable wear and tear excepted; except that in the event of a fire or other casualty, damage or loss, Seller shall have no duty to repair said damage except as provided in Section 7.2 hereof. However, Seller may repair any such damage with Purchaser's prior, written approval and may, without Purchaser's approval, repair damage where such repair is necessary in Seller's reasonable opinion to preserve and protect the health and safety of tenants of the Property or to preserve the Property from imminent risk of further damage or if required to do so by Seller's insurance carrier or any lease. Any such emergency repairs shall be reported to Purchaser within 48 hours of their completion. During the period after the date hereof and prior to the Closing, Seller shall not lease any portion of the Real Property unless such lease has been approved in writing by Purchaser. Any such proposed lease shall be on Seller's standard form of lease and shall be reviewed and approved or rejected within five (5) business days after receipt thereof by Purchaser. Failure to approve or reject such proposed lease within such period shall be deemed approval. If the proposed lease is rejected, then Seller shall not enter into such lease. With respect to any leases entered into between the Effective Date hereof and the Closing Date, Purchaser shall pay the unamortized cost (based on the number of months in the entire term of the lease for which rent is paid and the number of such months that shall have occurred as of the date of the Closing) of all tenant improvements and leasing commissions with respect thereto.

Article IX.  
Broker

Purchaser and Seller represent to each other that they have dealt with no agent or broker who in any way has participated as a procuring cause of the sale of the Property, except CSC Cypress Real Estate Services, Inc. ("Authorized Broker"). Seller shall pay a commission of three percent (3%) of the Purchase Price to the Authorized Broker at and if the Closing occurs to the extent due pursuant to a separate written agreement between Seller and Authorized Broker. The Authorized Broker shall be responsible for paying any applicable co-broker under terms of any separate agreement between them. Purchaser and Seller each agree to defend, indemnify and hold harmless the other for any and all judgments, costs of suit, attorneys' fees, and other reasonable expenses which the other may incur by reason of any action or claim against the other by any broker, agent, or finder with whom the indemnifying party has dealt arising out of this Agreement or any subsequent sale of the Property to Purchaser, except for the above-described commissions, which shall be paid by Seller. The provisions of this Article IX shall survive the Closing and any termination of this Agreement.

Article X.  
Representations and Warranties

10.1 Limitations on Representations and Warranties. Purchaser hereby agrees and acknowledges that, except as set forth in Section 10.2 below, neither Seller nor any agent, attorney, employee or representative of Seller has made any representation whatsoever regarding the subject matter of this sale, or any part thereof, including (without limiting the generality of the foregoing) representations as to the physical nature or condition of the Property or the capabilities thereof, and that Purchaser, in executing, delivering and/or performing this Agreement, does not rely upon any statement and/or information to whomever made or given, directly or indirectly, orally

or in writing, by any individual, firm or corporation. Purchaser agrees to take the Real Property and the Personal Property "as is," as of the date hereof, reasonable wear and tear, and minor damage caused by the removal of any personal property or fixtures not included in this sale, excepted. SELLER MAKES NO REPRESENTATIONS OR WARRANTIES AS TO THE PHYSICAL CONDITION OF THE PROPERTY OR THE SUITABILITY THEREOF FOR ANY PURPOSE FOR WHICH PURCHASER MAY DESIRE TO USE IT. SELLER HEREBY EXPRESSLY DISCLAIMS ANY WARRANTIES OF MERCHANTABILITY AND/OR FITNESS FOR A PARTICULAR PURPOSE AND ANY OTHER WARRANTIES OR REPRESENTATIONS AS TO THE PHYSICAL CONDITION OF THE PROPERTY. PURCHASER, BY ACCEPTANCE OF THE DEED, AGREES THAT IT HAS INSPECTED THE PROPERTY AND ACCEPTS SAME "AS IS" AND "WITH ALL FAULTS".

Purchaser understands that any financial statements and data, including, without limitation, gross rental income, operating expenses and cash flow statements, to be made available by Seller to Purchaser, will be unaudited financial statements and data not prepared or reviewed by independent public accountants, and that Seller makes no representation as to the accuracy or completeness thereof. Seller agrees to make the books and records of the Property for 1994 and 1995 available to Seller for a period of sixty (60) days after the Closing to permit Purchaser's accountants to conduct an audit; provided, however, Seller shall have no liability or responsibility for anything shown in such audit. Purchaser shall indemnify and hold harmless the Seller from any claim, damage, loss or liability to which Seller is at any time subjected by any person as a result of its compliance with the previous sentence. The provisions of this paragraph shall survive Closing.

10.2 Representations and Warranties. Seller makes the following representations and warranties and agrees that Purchaser's obligations under this Agreement are conditioned upon the truth and accuracy of such representations and warranties, both as of this date and as of the date of the Closing:

(a) Seller has the corporate power and authority to enter into this Agreement and convey the Property to Purchaser.

(b) To the best of Seller's knowledge, Seller has received no notice of any material existing, pending or threatened litigation, administrative proceeding or condemnation or sale in lieu thereof, with respect to any portion of the Real Property, except as noted on Exhibit H attached hereto.

(c) Except for those tenants and licensees in possession of the Real Property under written leases or license agreements for space in the Real Property, as shown in the Rent Roll, to the best of Seller's knowledge there are no parties in possession of, or claiming any possession to, any portion of the Real Property as lessees, tenants at sufferance, licensees, trespassers or otherwise.

(d) The updated Rent Roll for the Real Property, which shall be delivered at the Closing, will be true, correct and complete as of the date set forth thereon; no tenant will be entitled to any rebates, rent concessions, or free rent (other than as reflected in said Rent Roll) and no rents due under any of the tenant or other leases will have been assigned, hypothecated, or encumbered, to any party except pursuant to documents to be released at Closing.

(e) There are no attachments or executions affecting the Property, general assignments for the benefit of creditors, or voluntary or involuntary proceedings in bankruptcy, pending or, to the best of Seller's knowledge, threatened against Seller.

10.3 Seller's Knowledge. Whenever the term "to the best of Seller's knowledge" is used in this Agreement or in any representations and warranties given to Purchaser at Closing, such knowledge shall be the actual knowledge of Ivy Freedman and Mark Korinek (the "Key Personnel"), the personnel assigned to

the Real Property by CIGNA Investments, Inc., authorized agent for Seller, after review of the files of CIGNA Investments, Inc. and inquiry of Seller's property manager. Seller shall have no duty to conduct any further inquiry in making any such representations and warranties, and no knowledge of any other person shall be imputed to the Key Personnel.

10.4 Survival. All representations and warranties contained in Section 10.2 will survive the Closing of this transaction (but only as to the status of facts as they exist as of the Closing, it being understood that Seller makes no representations or warranties which would apply to changes or other matters occurring after the Closing), but shall expire on the date one year from the date of Closing, and no action on such representations and warranties may be commenced after such expiration.

Article XI.  
Liability of Seller

Neither Seller nor any independent property manager which Seller has hired to manage the Property shall, by entering into this Agreement, become liable for any costs or expenses incurred by Purchaser subsequent to the date of Closing, including any labor performed on, or materials furnished to, the Real Property, or for any leasing commissions or other fees or commissions due for renewals or extensions of existing leases or otherwise, or for compliance with any laws, requirements or regulations of, or taxes, assessments or other charges thereafter due to any governmental authority, or for any other charges or expenses whatsoever pertaining to the Property or to the ownership, title, possession, use, or occupancy of the Property, whether or not such costs and expenses were incurred pursuant to obligations of Purchaser under this Agreement (including, without limitation, any costs of compliance with presently-existing and future environmental laws, any environmental remediation costs, and any costs of, or awards of damages for, damage to the environment, to natural resources, or to any third party, it being the intent

of this Agreement, as between Purchaser and Seller, to shift all such liability to Purchaser, except for any liability of Seller under the provisions of Article X hereof or under the Environmental Agreement), and Purchaser hereby agrees to defend, indemnify and hold Seller and any independent property manager hired by Seller, harmless from any such liability for such costs and expenses. Nothing herein shall negate any liability of Seller, if any, which arises under the provisions of the Assignment and Assumption of Leases and Security Deposits. The provisions of this Article XI shall survive closing.

Article XII.  
Assignment

This Agreement may not be assigned or transferred by Purchaser without prior written consent of Seller. No assignment shall relieve Purchaser of any of its obligations under this Agreement.

Article XIII.  
Notices

All notices hereunder or required by law shall be sent via United States Mail, postage prepaid, certified mail, return receipt requested, or via any nationally recognized commercial overnight carrier with provisions for receipt, addressed to the parties hereto at their respective addresses set forth below or as they have theretofore specified by written notice delivered in accordance herewith:

PURCHASER: RRC Acquisitions, Inc.  
121 West Forsyth Street  
Suite 200  
Jacksonville, FL 32202

with a copy to: Ulmer, Murchison, Ashby & Taylor  
200 West Forsyth Street  
Suite 1600  
Jacksonville, FL 32202  
Attn: William E. Scheu, Esq.

SELLER: Connecticut General Life Insurance Company, on behalf  
of its Separate Account R  
c/o CIGNA Investments, Inc.  
900 Cottage Grove Road  
Hartford, CT 06152-2313  
Attn: Ivy Freedman, S-313

with a copy to: CIGNA Corporation  
Investment Law Department  
900 Cottage Grove Road  
Hartford, CT 06152-2215  
Attn: Mortgage and Real Estate Group, S-215A

Delivery will be deemed complete upon actual receipt or refusal to accept delivery.

Article XIV.  
Expenses

Seller shall pay its own attorney's fees and any transfer tax. Purchaser shall pay all of Purchaser's attorneys' fees and expenses, recording charges, sales taxes, the Title Company's escrow fee, any Title Policy premium and the cost of the Survey, notwithstanding any local practice to the contrary.

Article XV.  
Miscellaneous

15.1 Successors and Assigns. All the terms and conditions of this Agreement are hereby made binding upon the executors, heirs, administrators, successors and permitted assigns of both parties hereto.

15.2 Gender. Words of any gender used in this Agreement shall be held and construed to include any other gender, and words in the singular number shall be held to include the plural, and vice versa, unless the context requires otherwise.

15.3 Captions. The captions in this Agreement are inserted only for the purpose of convenient reference and in no way define, limit or prescribe the scope or intent of this Agreement or any part hereof.

15.4 Construction. No provision of this Agreement shall be construed by any Court or other judicial authority against any party hereto by reason of such party's being deemed to have drafted or structured such provisions.

15.5 Entire Agreement. This Agreement constitutes the entire contract between the parties hereto and there are no other oral or written promises, conditions, representations, understandings or terms of any kind as conditions or inducements to the execution hereof and none have been relied upon by either party.

15.6 Recording. The parties agree that this Agreement shall not be recorded. If Purchaser causes this Agreement or any notice or memorandum thereof to be recorded, this Agreement shall be null and void at the option of the Seller.

15.7 No Continuance. Purchaser acknowledges that there shall be no assignment, transfer or continuance of any of Seller's insurance coverage or of the property management contract.

15.8 Time of Essence. Time is of the essence in this transaction.

15.9 Original Document. This Agreement may be executed by both parties in counterparts in which event each shall be deemed an original.

15.10 Governing Law. This Agreement shall be construed, and the rights and obligations of Seller and Purchaser hereunder, shall be determined in accordance with the laws of the State of Florida.

15.11 Acceptance of Offer. This Agreement constitutes Seller's offer to sell to Purchaser on the terms set forth herein and must be accepted by Purchaser by signing three copies hereof and returning them to Seller no later than April 15, 1996. If Purchaser has not accepted this Agreement by such date, then this Agreement and the offer represented hereby shall automatically be revoked and shall be of no further force or effect.

15.12 Confidentiality. Purchaser and Seller agree that all documents and information concerning the Property delivered to Purchaser, the subject matter of this Agreement, and all negotiations will remain confidential. Purchaser and Seller will disclose such information only to those parties required to know it, including, without limitation, employees of either of the parties, consultants and attorneys engaged by either of the parties, and prospective or existing investors and lenders.

15.13 Surviving Covenants. Notwithstanding any provisions hereof to the contrary, the provisions of the second paragraph of Section 6.2 hereof and the provisions of Article IX and Section 15.15 hereof (collectively, the "Surviving Covenants") shall survive the Closing and any termination of this Agreement.

15.14 Approval. Seller's obligation to perform its duties hereunder is contingent upon approval of the transaction by all required boards and committees in accordance with the standard policies and procedures of CIGNA Investments, Inc. Seller will seek such approvals during the period commencing on the Effective Date hereof to and including April 15, 1996, and will notify Purchaser promptly of the decision of such boards and committees. If the transaction is not approved, then Seller may terminate this Agreement by giving notice thereof to Purchaser, whereupon the Deposit shall be returned to Purchaser and neither party shall have any further rights or duties hereunder except for the Surviving Covenants.

15.15 ERISA. Connecticut General Life Insurance Company will enter into this transaction of behalf of its Separate Account R. "Separate Account R" is a separate account as defined in Section 3(17) of the Employee Retirement Income Security Act of 1974. Under ERISA and under United States Department of Labor Prohibited Transaction Class Exemption 90-1, CGLIC is prohibited from entering into transactions with certain classes of parties ("parties in interest") with respect to any participant in Separate Account R holding an interest in excess of 10%. As of the date hereof, the only applicable participants in Separate Account R are the U.S. Pension Plan of CIGNA Corporation and Affiliated Companies, and the Trustee of the United Nations Joint Staff Pension Fund (the "10% Plans"). In order to assist Seller in determining that Seller is not engaging in a prohibited transaction under ERISA by entering into this Agreement, Purchaser hereby represents to Seller that Purchaser is not a "party-in-interest" to the 10% Plans, as defined in Section 3(14) of ERISA.

Notwithstanding that the deed will be conveyed in the name "Connecticut General Life Insurance Company", only the assets of Separate Account R shall be bound for the obligations of Seller hereunder and thereunder and no resort shall be had to any other assets of Connecticut General Life Insurance Company. The provisions of this Section 15.15 shall survive the Closing and any termination of this Agreement.

15.16 Radon Gas. Radon is a naturally occurring radioactive gas that, when it has accumulated in a building in sufficient quantities, may present health risks to persons who are exposed to it over time. Levels of radon that exceed federal and state guidelines have been found in buildings in Florida. Additional information regarding radon and radon testing may be obtained from your county public health unit.

EXECUTED BY PURCHASER this \_\_\_\_ day of \_\_\_\_\_, 1996.

WITNESSES:

PURCHASER:

RRC ACQUISITIONS, INC., a Florida corporation

-----  
\_\_\_\_\_

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

Name:

Title:

[signatures continued on next page]

EXECUTED BY SELLER this \_\_\_\_ day of \_\_\_\_\_, 1996.

WITNESSES:

SELLER:

CONNECTICUT GENERAL LIFE INSURANCE COMPANY, a Connecticut corporation, on behalf of its Separate Account R

\_\_\_\_\_

By: CIGNA Investments, Inc.

\_\_\_\_\_

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

Name:

Title:

Receipt of original copies of this Agreement executed by Seller and Purchaser is acknowledged this \_\_\_\_ day of \_\_\_\_\_, 1996.

TITLE COMPANY:

CHICAGO TITLE INSURANCE COMPANY

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

Name:

Title:

Executed for purposes of being bound by Section 6.2 hereof.

REGENCY REALTY CORPORATION,  
a Florida corporation

WITNESSES:

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

Name:

Title:

\_\_\_\_\_

\_\_\_\_\_

AGREEMENT OF PURCHASE AND SALE

BETWEEN

CONNECTICUT GENERAL LIFE INSURANCE COMPANY,  
ON BEHALF OF ITS SEPARATE ACCOUNT R, SELLER

AND

RRC ACQUISITIONS, INC., PURCHASER

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EXHIBIT A

TO

AGREEMENT OF PURCHASE AND SALE

Description of Land

All of WELLEBY PLAZA, a plat according to the plat thereof, as recorded in Plat Book 109, at Page 47, of the Public Records of Broward County, Florida.

EXHIBIT B  
TO  
AGREEMENT OF PURCHASE AND SALE

Rent Roll

[The Rent Roll follows this page.]

EXHIBIT C  
TO  
AGREEMENT OF PURCHASE AND SALE

Special Warranty Deed

[The form of Special Warranty Deed follows this page.]

SPECIAL WARRANTY DEED

STATE OF FLORIDA        )  
                                  )  
COUNTY OF \_\_\_\_\_)

Connecticut General Life Insurance Company, a Connecticut corporation (herein referred to as "Grantor"), for and in consideration of the sum of Ten Dollars (\$10.00) in hand paid to Grantor by RRC Acquisitions, Inc., a Florida corporation (herein referred to as "Grantee"), whose mailing address is \_\_\_\_\_, \_\_\_\_\_, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, has GRANTED, SOLD and CONVEYED, and by these presents does GRANT, SELL and CONVEY unto Grantee that certain tract of real property located in the county referenced above, as more particularly described on Exhibit A attached hereto, incorporated herein and made a part hereof for all purposes, together with (a) all buildings and other improvements owned by Grantor affixed thereto and (b) all and singular any rights and appurtenances of Grantor pertaining thereto, including, without limitation, any right, title and interest of Grantor (but without warranty whether statutory, express or implied) in and to (i) any and all rights-of-way within, across, adjoining, adjacent, abutting or contiguous to said real property and/or any part thereof, (ii) any and all licenses, utilities, sewage treatment and/or water capacity or reservations, condemnation awards and/or awards made in lieu thereof and/or any damages related thereto, reservations, reversionary interests and reminders related to and/or arising out of said real property and/or any part thereof and (iii) each and every other right, privilege, hereditament and appurtenance in any way or manner incident and/or appertaining to said real property and/or any part thereof (said real property together with any and all of such related improvements, rights and appurtenances being herein collectively referred to as the "Property").

TO HAVE AND TO HOLD the Property, together with all and singular the rights and appurtenances thereto in anywise belonging, unto Grantee, and Grantee's successors and assigns forever, subject to the matters herein stated; and Grantor does hereby bind itself and its successors and assigns to WARRANT AND FOREVER DEFEND all and singular the Property unto Grantee, and Grantee's successors and assigns, against every person whomsoever lawfully claiming or to claim the same or any part thereof by, through or under Grantor but not otherwise; provided that this conveyance and the warranty of Grantor herein contained are subject to (a) any and all the matters of record, (b) any and all matters which an accurate survey of the Property would reveal, and (c) any and all leases, ground leases or licenses of space covering or affecting all or any portion of the Property and the rights of tenants and licensees thereunder.

EXECUTED this \_\_\_\_\_ day of \_\_\_\_\_, 1996.

GRANTOR:

[To be executed with formalities required for recording in the state where the Property is located].

EXHIBIT D  
TO  
AGREEMENT OF PURCHASE AND SALE

Bill of Sale

[The form of Bill of Sale follows this page.]

BILL OF SALE AND GENERAL ASSIGNMENT

STATE \_\_\_\_\_ OF \_\_\_\_\_ ) )  
COUNTY OF \_\_\_\_\_ )

Concurrently with the execution and delivery hereof, Connecticut General Life Insurance Company, a Connecticut corporation ("Assignor"), is conveying to RRC Acquisitions, Inc., a Florida corporation ("Assignee"), by Special Warranty Deed (the "Deed"), that certain tract of land together with the improvements thereon (the "Property") lying and being situated in Broward County, Florida and being more particularly described in Exhibit A, attached hereto and made a part hereof.

It is the desire of Assignor to hereby assign, transfer, set over and deliver to Assignee all furnishings, fixtures, fittings, appliances, apparatus, equipment, machinery and other items of personal property, if any, affixed or attached to, or placed or situated upon, the Property, except those not owned by Assignor and any and all other incidental rights and appurtenances relating thereto, all as more fully described below (such properties being collectively called the "Assigned Properties").

NOW, THEREFORE, in consideration of the receipt of Ten Dollars (\$10.00) and other good and valuable consideration in hand paid by Assignee to Assignor, the receipt and sufficiency of which are hereby acknowledged and confessed by Assignor, Assignor does hereby ASSIGN, TRANSFER, SET OVER and DELIVER to Assignee, its successors and assigns, all of the Assigned Properties, without warranty (whether statutory, express or implied), including, without limitation the following:

1. All furnishings, fittings, equipment, appliances, apparatus, machinery fixtures and all other personal property of every kind and character (both tangible and intangible), if any, owned by Assignor and located in or on the Property;

2. All of Assignor's interest in and to all use, occupancy, building and operating permits, licenses and approvals, if any, issued from time to time with respect to the Property or the Assigned Properties;

3. All of Assignor's interest in and to all maintenance, service and supply contracts, if any, relating to the Property or the Assigned Properties (to the full extent same are assignable);

4. All of Assignor's interest in and to all existing and assignable guaranties and warranties (express or implied), if any, issued in connection with the construction, alteration and repair of the Property and/or the purchase, installation and the repair of the Assigned Properties;

5. All rights which Assignor may have to use any names commonly used in connection with the Property, if any; and

6. All rights, which Assignor may have, if any, in and to any tenant data, telephone numbers and listings, all master keys and keys to common areas, all good will, if any, and any and all other rights, privileges and appurtenances owned by Assignor and related to or used in connection with the existing business operation of the Property.

TO HAVE AND TO HOLD the Assigned Properties, subject as aforesaid, unto Assignee, its successors and assigns, to WARRANT AND FOREVER DEFEND, all and singular, title to the Assigned Properties unto Assignee, its successors and assigns, against every person whomsoever lawfully claiming or to claim the same, or any part thereof, by, through or under Assignor, but not otherwise, subject to all terms and provisions hereof and subject to the same permitted encumbrances in that certain Special Warranty Deed of even date herewith from Assignor to Assignee.

BILL OF SALE AND GENERAL ASSIGNMENT  
(Continued)

ASSIGNOR MAKES NO REPRESENTATIONS OR WARRANTIES AS TO THE PHYSICAL CONDITION OF THE PROPERTY OR THE ASSIGNED PROPERTIES OR THE SUITABILITY THEREOF FOR ANY PURPOSE THAT ASSIGNEE MAY DESIRE TO USE IT. ASSIGNOR HEREBY EXPRESSLY DISCLAIMS ANY WARRANTIES AS TO MERCHANTABILITY AND/OR FITNESS FOR A PARTICULAR PURPOSE AND ANY OTHER WARRANTIES OR REPRESENTATIONS AS TO THE PHYSICAL CONDITION OF THE ASSIGNED PROPERTIES. ASSIGNEE ACKNOWLEDGES AND AGREES THAT IT HAS INSPECTED THE ASSIGNED PROPERTIES AND ACCEPTS SAME IN THEIR PRESENT CONDITION, "AS IS" AND "WITH ALL FAULTS."

Assignor on behalf of itself and its successors and assigns does hereby agree to indemnify and hold Assignee, its successors and assigns, harmless from all obligations accruing under the maintenance, service and supply contract assigned hereby and any liabilities arising thereunder, prior to the date hereof but not thereafter. Notwithstanding the foregoing and that the Deed and this Bill of Sale are being conveyed by "Connecticut General Life Insurance Company", Assignee acknowledges and agrees that only the assets of "Separate Account R", a separate account as defined in Section 3(17) of the Employee Retirement Income Security Act of 1974, shall be bound for the obligations of Assignor thereunder and hereunder and no resort shall be had to any other assets of Connecticut General Life Insurance Company.

Assignee on behalf of itself, its successors and assigns, hereby agrees to assume and perform all obligations accruing under the maintenance, service and supply contracts from and after the date hereof, and Assignee on behalf of itself, its successors and assigns does hereby agree to indemnify and hold Assignor, its successors and assigns, harmless from all such obligations and any liabilities arising thereunder from and after the date hereof.

This document may be executed in any number of counterparts, each of which may be executed by any one or more of the parties hereto, but all of which shall constitute one instrument, and shall be binding and effective when all parties hereto have executed at least one counterpart.

IN WITNESS WHEREOF, Assignor and Assignee have caused this Assignment to be executed as of the \_\_\_\_ day of \_\_\_\_\_, 1996.

ASSIGNOR:

CONNECTICUT GENERAL LIFE INSURANCE  
COMPANY, a Connecticut corporation

By: CIGNA Investments, Inc.

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

ASSIGNEE:

RRC ACQUISITIONS, INC., a Florida  
corporation

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

EXHIBIT E  
TO  
AGREEMENT OF PURCHASE AND SALE

Assignment of Leases

[The form of Assignment of Leases follows this page.]

ASSIGNMENT AND ASSUMPTION OF  
LEASES AND SECURITY DEPOSITS

STATE \_\_\_\_\_ OF \_\_\_\_\_ ) )  
COUNTY OF \_\_\_\_\_ )

This agreement is executed as of the \_\_\_\_ day of \_\_\_\_\_, 1996,  
by Connecticut General Life Insurance Company, a Connecticut corporation  
("Seller"), and RRC Acquisitions, Inc., a Florida corporation ("Purchaser").

Purchaser is this day purchasing from Seller and Seller is conveying to  
Purchaser the real property described on Exhibit A attached hereto and made a  
part hereof together with all improvements thereon and appurtenances thereto  
(herein called the "Property"). The Property is occupied by various tenants  
(herein called the "Tenants") claiming under written space leases listed and  
described on Exhibit B attached hereto and made a part hereof (the "Lease").  
Seller has required certain of the Tenants to pay and has collected from such  
Tenants a security or other deposit, a list of which deposits and the Tenants  
from whom the deposits were collected being set forth on Exhibit B attached  
hereto and made a part hereof (herein the total of all such deposits are  
referred to as the "Security Deposits"). Seller desires to transfer and assign  
all of Seller's right, title and interest in and to (i) the Leases and (ii) the  
Security Deposits not heretofore forfeited, credited or returned to the Tenants.

NOW, THEREFORE in consideration of Ten Dollars (\$10.00) and other good and  
valuable consideration, the receipt and sufficiency of which are hereby  
acknowledged, Seller hereby transfers and assigns to Purchaser all right, title  
and interest of Seller in and to (i) the Leases and (ii) the Security Deposits  
paid to and held by Seller which have not been heretofore forfeited, credited or  
returned to the Tenants, which Security Deposits hereby assigned are in the  
amounts as set forth on Exhibit B attached hereto.

Seller on behalf of itself, its successors and assigns does hereby agree to  
indemnify and hold Purchaser, its successors and assigns, harmless from and  
against all liabilities arising under the Leases prior to the date hereof but  
not thereafter, provided, however, that the foregoing indemnity shall not imply  
any warranty or indemnity with respect to compliance with environmental and land  
use laws or the use, generation or disposal of hazardous materials, such matters  
being governed solely by the terms of that certain Agreement of Purchase and  
Sale between Seller and Purchaser having an Effective Date (as defined therein)  
of \_\_\_\_\_, 1996. Notwithstanding that this Agreement is being  
conveyed by "Connecticut General Life Insurance Company", Purchaser acknowledges  
and agrees that only the assets of "Separate Account R", a separate account as  
defined in Section 3(17) of the Employee Retirement Income Security Act of 1974,  
shall be bound for the obligations of Seller hereunder and no resort shall be  
had to any other assets of Connecticut General Life Insurance Company.

Purchaser on behalf of itself, its successors and assigns does hereby agree  
to indemnify and hold Seller, its successors and assigns harmless from all  
liabilities arising under the Leases from and after the date hereof; provided,  
however, Purchaser shall not be liable under this indemnity for or with respect  
to any inaccuracies set forth in Exhibit B.

Purchaser hereby assumes all obligations (i) of the landlord under the  
Leases arising from and after the date hereof and (ii) under the Leases to pay  
or account for the Security Deposits hereby transferred to Purchaser.

It is specifically agreed that Seller does not hereby transfer or assign to  
Purchaser and Purchaser does not hereby assume liability for, any deposits other  
than as set forth on Exhibit B.

ASSIGNMENT AND ASSUMPTION OF  
LEASES AND SECURITY DEPOSITS (Continued)

This document may be executed in any number of counterparts, each of which may be executed by any one or more of the parties hereto, but all of which shall constitute one instrument, and shall be binding and effective when all parties hereto have executed at least one counterpart.

The terms and provisions of this agreement shall be binding upon and inure to the benefit of the respective parties hereto and their respective successors and assigns.

EXECUTED as of the day and year first written above.

WITNESSES:

PURCHASER:

RRC ACQUISITIONS, INC., a Florida  
corporation

-----  
\_\_\_\_\_

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

Name:  
Title:

EXECUTED BY SELLER this \_\_\_\_ day of \_\_\_\_\_, 1996.

WITNESSES:

SELLER:

CONNECTICUT GENERAL LIFE INSURANCE  
COMPANY, a Connecticut corporation

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

By: CIGNA Investments, Inc.

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

EXHIBIT F  
TO  
AGREEMENT OF PURCHASE AND SALE  
  
Indemnification Agreement

[The form of Indemnification Agreement follows this page.]

INDEMNIFICATION AGREEMENT

STATE \_\_\_\_\_ OF \_\_\_\_\_ ) )  
COUNTY OF \_\_\_\_\_ )

Concurrently with the execution and delivery hereof, Connecticut General Life Insurance Company, a Connecticut corporation, on behalf of its Separate Account R ("Seller"), is conveying to RRC Acquisitions, Inc., a Florida corporation ("Purchaser"), by Special Warranty Deed, that certain tract of land together with the improvements thereon (the "Property"), lying and being situated in Broward County, Florida and being more particularly described on Exhibit A attached hereto and made a part hereof. It is the desire of Seller and Purchaser to deliver a mutual cross-indemnification pertaining to the expenses relating to the ownership, management and operation of the Property.

NOW, THEREFORE, in consideration of the receipt of Ten Dollars (\$10.00) and other good and valuable consideration in hand paid, the receipt and sufficiency of which are hereby acknowledged, Purchaser and Seller hereby agree as follows:

1. Seller on behalf of itself and its successors and assigns does hereby agree to indemnify and hold Purchaser, its successors and assigns, harmless from and against all costs, charges and expenses related to the ownership, management and operation of the Property prior to the date hereof but not thereafter.

2. Purchaser on behalf of itself, its successors and assigns does hereby agree to indemnify and hold Seller, its successors and assigns, harmless from and against all costs, charges and expenses relating to the ownership, management and operation of the Property from and after the date hereof.

The foregoing indemnities shall not imply any warranties or indemnities with respect to compliance with environmental and land use laws or disposal of hazardous materials, such matters being governed solely by the terms of that certain Agreement of Purchase and Sale between Seller and Purchaser having an Effective Date (as defined therein) of \_\_\_\_\_, 1996.

This document may be executed in any number of counterparts, each of which may be executed by and one or more of the parties hereto, but all of which shall constitute one instrument, and shall be binding and effective when all parties hereto have executed at least one counterpart.

INDEMNIFICATION AGREEMENT (Continued)

IN WITNESS WHEREOF, Purchaser and Seller have caused this Agreement to be executed as of the \_\_\_\_\_ day of \_\_\_\_\_, 1996.

WITNESSES:

PURCHASER:

RRC ACQUISITIONS, INC., a Florida corporation

-----

\_\_\_\_\_

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

Name:  
Title:

EXECUTED BY SELLER this \_\_\_\_\_ day of \_\_\_\_\_, 1996.

WITNESSES:

SELLER:

CONNECTICUT GENERAL LIFE INSURANCE COMPANY, a Connecticut corporation, on behalf of its Separate Account R

\_\_\_\_\_

By: CIGNA Investments, Inc.

\_\_\_\_\_

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

Name:  
Title:

EXHIBIT G

TO

AGREEMENT OF PURCHASE AND SALE

Form of Seller's Affidavit of Non-Foreign Status

STATE OF CONNECTICUT )  
 ) (insert date)  
COUNTY OF HARTFORD )

I, \_\_\_\_\_, as \_\_\_\_\_ of CIGNA Investments, Inc., authorized agent of Connecticut General Life Insurance Company ("Connecticut General"), being duly authorized to make this affidavit on behalf of Connecticut General and being duly sworn, do depose and say, that:

1. Connecticut General's taxpayer identification number is  
-----.

2. Connecticut General is not a "foreign person" within the meaning of Section 1445(f)(3), of the Internal Revenue Code of 1954 (the "Code"), as amended; and RRC Acquisitions, Inc. ("Buyer") is not required, pursuant to Section 1445 of the Code, to withhold ten percent (10%) of the amount realized by Connecticut General, on behalf of its Separate Account R, on the disposition of the Property to Buyer.

3. I understand that I am making this Affidavit under penalty or perjury pursuant to the requirements of Section 1445 of the Code.

CONNECTICUT GENERAL LIFE INSURANCE COMPANY

By: CIGNA Investments, Inc.

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

SWORN TO and subscribed before me this \_\_\_\_\_ day of \_\_\_\_\_, 1996.

-----  
Notary Public  
My Commission Expires:

EXHIBIT H  
TO  
AGREEMENT OF PURCHASE AND SALE  
Pending Material Litigation

None.

EXHIBIT I  
TO  
AGREEMENT OF PURCHASE AND SALE

Form of Estoppel

EXHIBIT J

TO

AGREEMENT OF PURCHASE AND SALE

Form of Environmental Agreement



## PURCHASE AND SALE AGREEMENT

THIS AGREEMENT is made as of the 19th day of June 1996, between NORCOM DEVELOPMENT, INC., a North Carolina corporation ("Seller"), on behalf of itself and the entities who have executed the Consent and Joinder attached hereto (the "Owning Entities"), and RRC ACQUISITIONS, INC., a Florida corporation ("Buyer").

### Background

Buyer wishes to purchase two (2) shopping centers known respectively as "City View Shopping Center", in Charlotte, North Carolina, and "Union Square Shopping Center", in Monroe, North Carolina, both of which are owned by Seller; and Seller wishes to sell the shopping centers to Buyer.

In consideration of the mutual agreements herein, and other good and valuable consideration, the receipt of which is hereby acknowledged, Seller agrees to sell and Buyer agrees to purchase the Shopping Centers (as hereinafter defined), subject to the following terms and conditions:

### 1. DEFINITIONS

As used in this Agreement, the following terms shall have the following meanings:

1.1 Agreement means this instrument as it may be amended from time to time.

1.2 Allocation Date means the close of business on the day immediately prior to the Closing Date.

1.3 Anchor Tenants and Credit Tenants are the tenants identified as such for each Shopping Center as set forth on Exhibit 1.3 attached hereto.

1.4 Approved Lease means a Lease listed on each Rent Roll, as approved by Seller and Buyer in the case of each Shopping Center, which Rent Roll for Union Square Shopping Center includes without limitation leases which cover the Expansion Space; and any additional lease written on a Buyer-approved standard form without material modification (or other form approved by Buyer) having an initial term of no less than five (5) years in the case of the Anchor Tenants and Credit Tenants listed on each Rent Roll, and other so-called "credit tenants," recognized as such in the industry, and of three (3) years with other in place third party tenants, each of whom must be unaffiliated with Seller and creditworthy in Buyer's reasonable judgment and experienced in Buyer's reasonable judgment in the operation of the type of business proposed to be conducted at the leased premises. A Lease shall not be considered an Approved Lease unless it provides for rents, cost sharing and concessions which are comparable to that which Buyer considers to be "market" for the Shopping Center's trade area.

1.5 Audit Representation Letter means the form of Audit Representation Letter attached hereto as Exhibit 1.5.

1.6 Buyer means RRC Acquisitions, Inc., a Florida corporation (which is a subsidiary of Regency Realty Corporation, a Florida corporation ["Regency"]), or any other wholly-owned subsidiary of Regency designated to acquire one or more of the Shopping Centers.

1.7 Capitalization Rate means ten and thirty-five one hundredths percent (10.35%).

1.8 Closing means generally the execution and delivery of those documents and funds necessary to effect the sale of the Shopping Centers by Seller to Buyer.

1.9 Closing Date means the date on which the Closing occurs.

1.10 Contracts means all service contracts, agreements or other instruments to be assigned by Seller to Buyer at Closing.

1.11 Day means a calendar day.

1.12 Earnest Money Deposit means the deposits delivered to Escrow Agent

pursuant to Sections 2.1(c) and 3.1(c) of this Agreement, together with the earnings thereon, if any, which earnings shall be considered part of the Earnest Money Deposit for all purposes.

1.13 Escrow Agent means Chicago Title Insurance Company, 1465 Charlotte Plaza, Charlotte, North Carolina 28244, Attention: John Noblitt, (704) 332-7509 Facsimile.

1.14 Effective Gross Income means twelve (12) months "base" or "minimum" rent plus expense reimbursement recoveries under a particular Approved Lease, less (i) all free rent, cash payments and allowances and other concessions, (ii) a credit charge of five percent (5.0%) of such rent and recoveries unless the Approved Lease is a Lease with an Anchor or Credit Tenant, (iii) a management fee charge of four percent (4.0%) of such rent and recoveries, and (iv) a charge for variable operating expenses in an amount to be agreed upon by Seller and Buyer during the Inspection Period.

1.15 Environmental Claim means any investigation, notice, violation, demand, allegation, action, suit, injunction, judgment, order, consent decree, penalty, fine, lien, proceeding, or claim (whether administrative, judicial, or private in nature) arising (a) pursuant to, or in connection with, an actual or alleged violation of, any Environmental Law, (b) in connection with any Hazardous Material or actual or alleged Hazardous Material Activity, (c) from any abatement, removal, remedial, corrective, or other response action in connection with a Hazardous Material, Environmental Law or other order of a governmental authority or (d) from any actual or alleged damage, injury, threat, or harm to health, safety, natural resources, or the environment.

1.16 Environmental Law means any current legal requirement in effect at the Closing Date pertaining to (a) the protection of health, safety, and the indoor or outdoor environment, (b) the conservation, management, protection or use of natural resources and wildlife, (c) the protection or use of source water and groundwater, (d) the management, manufacture, possession, presence, use, generation, transportation, treatment, storage, disposal, Release, threatened Release, abatement, removal, remediation or handling of, or exposure to, any Hazardous Material or (e) pollution (including any Release to air, land, surface water, and groundwater); and includes, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986, 42 USC 9601 et seq., Solid Waste Disposal Act, as amended by the Resource Conservation Act of 1976 and Hazardous and Solid Waste Amendments of 1984, 42 USC 6901 et seq., Federal Water Pollution Control Act, as amended by the Clean Water Act of 1977, 33 USC 1251 et seq., Clean Air Act of 1966, as amended, 42 USC 7401 et seq., Toxic Substances Control Act of 1976, 15 USC 2601 et seq., Hazardous Materials Transportation Act, 49 USC App. 1801, Occupational Safety and Health Act of 1970, as amended, 29 USC 651 et seq., Oil Pollution Act of 1990, 33 USC 2701 et seq., Emergency Planning and Community Right-to-Know Act of 1986, 42 USC App. 11001 et seq., National Environmental Policy Act of 1969, 42 USC 4321 et seq., Safe Drinking Water Act of 1974, as amended by 42 USC 300(f) et seq., and any similar, implementing or successor law, any amendment, rule, regulation, order or directive, issued thereunder.

1.17 Expansion Approved Leases are those Approved Leases noted on the Rent Roll as Expansion Approved Leases which cover premises in the Expansion Space, which are now under construction.

1.18 Expansion Space means the space identified as such on the Union Square Shopping Center Site Plan, which in the aggregate is approximately 13,353 square feet of store space.

1.19 Governmental Approval means any permit, license, variance, certificate, consent, letter, clearance, closure, exemption, decision, action or approval of a governmental authority.

1.20 Hazardous Material means any petroleum, petroleum product, drycleaning solvent or chemical, biological or medical waste, "sharps" or any other hazardous or toxic substance as defined in or regulated by any Environmental Law in effect at the pertinent date or dates.

1.21 Hazardous Material Activity means any activity, event, or occurrence at or prior to the Closing Date involving a Hazardous Material, including, without limitation, the manufacture, possession, presence, use, generation, transportation, treatment, storage, disposal, Release, threatened Release, abatement, removal, remediation, handling or corrective or response action to any Hazardous Material.

1.22 Improvements means all buildings, structures and other improvements situated on the Real Property.

1.23 In Place Gross Income means twelve (12) months "base" or "minimum" rent plus expense reimbursement recoveries under a particular Approved Lease with an enterprise that is open for business in a Shopping Center, as stated in such Approved Lease and confirmed by a Tenant Estoppel Letter, as projected for the twelve (12) month period commencing with the Closing Date and ending twelve (12) months thereafter, such projection to be agreed upon by Seller and Buyer during the Inspection Period. In order that an Approved Lease may qualify for inclusion in In Place Gross Income or Effective Gross Income, as the case may be, a particular Approved Lease must have satisfied each of the following conditions:

(a) The Approved Lease shall have been executed by each of the parties;

(b) The tenant shall have accepted the space and be open for business therein and paying rent beyond any "free rent" period; and

(c) The tenant shall have executed and delivered to Buyer a Tenant Estoppel Letter regarding its lease and occupancy which confirms the terms and conditions of the Lease as stated in the Rent Roll and the Lease furnished to Buyer.

1.24 Inspection Period means the period of time which expires at the end of business on June 27, 1996.

1.25 Leases means all leases and other occupancy agreements permitting persons to lease or occupy all or a portion of each Shopping Center.

1.26 Materials means all plans, drawings, specifications, soil test reports, environmental reports, market studies, surveys, and similar documentation, if any, owned by or in the possession of Seller with respect to each Property, and any proposed improvements thereto, which Seller may lawfully transfer to Buyer except that, as to financial and other records, Materials shall include only photostatic copies.

1.27 Outlots are those parcels identified as outlots adjoining Union Square Shopping Center on the Site Plan, and are those parcels to be identified by Buyer and Seller as outlots in City View Shopping Center during the Inspection Period.

1.28 Permitted Exceptions means only the following interests, liens and encumbrances:

(a) Liens for ad valorem taxes not payable on or before Closing;

(b) Rights of tenants under Leases;

(c) General public utility easements (non-specific) and specific utility and drainage easements which serves each Property, none of which materially encroach upon any buildings located thereon; and

(d) Other matters which are not timely specified in Buyer's notice to Seller of Title Defects pursuant to Section 7.1 hereof.

1.29 Personal Property means all (a) sprinkler, plumbing, heating, air-conditioning, electric power or lighting, incinerating, ventilating and cooling systems, with each of their respective appurtenant furnaces, boilers, engines, motors, dynamos, radiators, pipes, wiring and other apparatus, equipment and fixtures, elevators, partitions, fire prevention and extinguishing systems located in or on the Improvements, (b) all Materials, and (c) all other personal property used in connection with the Improvements, provided the same are now owned or are acquired by Seller prior to the Closing.

1.30 Property means collectively the Real Property, the Improvements and the Personal Property constituting each Shopping Center.

1.31 Prorated means the allocation of items of expense or income between Buyer and Seller based upon that percentage of the time period as to which such item of expense or income relates which has expired as of the date at which the proration is to be made.

1.32 Purchase Price means the consideration agreed to be paid by Buyer to Seller for the purchase of the Shopping Centers as set forth in Article 2 (subject to adjustments as provided herein).

1.33 Real Property means the lands upon which each Shopping Center is constructed, as depicted on the Site Plan, together with all easements, licenses, privileges, rights of way and other appurtenances pertaining to or accruing to the benefit of each.

1.34 Release means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the indoor or outdoor environment, including, without limitation, the abandonment or discarding of barrels, drums, containers, tanks, and other receptacles containing or previously containing any Hazardous Material at or prior to the Closing Date.

1.35 Rent Roll means a list of Approved Leases, certified by Seller as accurate, identifying with particularity the space in each Shopping Center leased by each tenant, the term (including extensions), square footage and applicable rent, common area maintenance, tax and other reimbursable expenses, security deposits and similar data. The initial Rent Roll for each Shopping Center is attached hereto as Exhibit 1.35. A revised Rent Roll shall be prepared and agreed to by Seller and Buyer during the Inspection Period based on Buyer's review of the Approved Leases, Tenant Estoppel Letters and other Materials.

1.36 Seller means the party identified as Seller on the initial page hereof.

1.37 Seller Financial Statements means the unaudited balance sheets and statements of income, cash flows and changes in financial positions of Seller for each Shopping Center, as of and for the two (2) calendar years next preceding the date of this Agreement and all monthly reports of income, expense and cash flow prepared by Seller for each, which shall be consistent with past practice for all monthly periods after the latest of such calendar years.

1.38 Shopping Center means each Shopping Center identified on the Site Plans, and Shopping Centers means both of them.

1.39 Site Plan means the plan of each Shopping Center collectively attached hereto as Exhibit 1.39, and Site Plans means all of them.

1.40 Start Up Due Diligence Materials means with respect to each Shopping Center the following items:

(a) Site Plan;

(b) Rent Roll (including requisite information about Pre-Expansion Approved Leases and Expansion Approved Leases);

(c) Current billings, broken down into categories such as base rent, CAM, insurance, taxes, etc.

(d) Copies of all Leases;

(e) Lease brief for each Lease;

(f) Historical sales volumes for 1993, 1994 and 1995;

(g) Delinquency report and summary, with explanation of each balance in excess of \$1,000;

(h) Seller Financial Statements for 1993, 1994 and 1995;

(i) Detailed 1995 Supporting Ledgers;

(j) Historical capital expenditures list for 1993, 1994 and 1995;

(k) Real estate and tangible personal property ad valorem tax bills for 1993, 1994 and 1995;

(l) Detailed operating statements for each of twelve (12) months commencing March, 1995, and ending February, 1996;

(m) 1995 Expense Recovery Reconciliation; and

(n) 1996 Operating Budget.

1.41 Survey means a map of a stake survey of the Real Property which shall comply with Minimum Standard Detail Requirements for ALTA/ACSM Land Title Surveys, jointly established and adopted by ALTA and ACSM in 1992, which states the legal description for all the Real Property, which includes items 1, 2, 3, 4, 6, 7, 8, 9, 10 and 11 of Table "A" thereof, and which meets the accuracy standards (as currently adopted by ALTA and ACSM) of an urban survey, which is dated not earlier than the date hereof and which is certified to Buyer, Seller, the Title Insurance company providing Title Insurance to Buyer.

1.42 Tenant Estoppel Letter means a letter or other certificate from a tenant certifying as to certain matters regarding such tenant's Lease, in substantially the same form as attached hereto as Exhibit 1.42, or in the case of national or regional "credit" tenants identified as such on the Rent Roll, the form customarily used by such tenant provided the information disclosed is comparable to that contained in the attached form.

1.43 Title Defect means any exception in a Title Insurance Commitment or any matter disclosed by a Survey, other than a Permitted Exception.

1.44 Title Insurance means an ALTA Form B Owners Policy of Title Insurance for each Shopping Center separately issued for each, in an allocated amount of the Purchase Price, as determined by Seller and Buyer during the Inspection Period, insuring marketable title to the Shopping Center in Buyer in fee simple, subject only to the Permitted Exceptions, issued by Chicago Title Insurance Company.

1.45 Title Insurance Commitment means a binder whereby the title insurer agrees to issue the Title Insurance to Buyer.

1.46 Transaction Documents means this Agreement, the deed conveying each Property, the assignment of leases, the bill of sale conveying the Personal Property and all other documents required or appropriate in connection with the transactions contemplated hereby.

1.47 Uncertain Leases are those Approved Leases which (i) are in default or whose tenants have closed their business at the leased premises; or (ii) considered by Buyer using reasonable credit standards to be delinquency risks; or (iii) have remaining lease term(s) of less than four (4) months from the Closing Date; or (iv) are Expansion Approved Leases which are in place but have not yet qualified for inclusion in In Place Gross Income or Effective Gross Income, as contemplated by Section 1.23 above, such Uncertain Leases to be identified by Buyer by notice to Seller given no later than the end of the Inspection Period.

## 2. PURCHASE PRICE AND PAYMENT

### 2.1 Purchase Price; Payment.

(a) Purchase Price and Terms. The Purchase Price for the Shopping Centers (subject to adjustment as provided herein) shall be \$13,300,000. The Earnest Money Deposit shall be applied to the Purchase Price at Closing. The balance of the Purchase Price shall be payable in cash or by wire transfer at Closing.

(b) Adjustments to the Purchase Price. The Purchase Price shall be adjusted as of the Closing Date by:

(1) prorating the Closing year's real and tangible personal property taxes for each Shopping Center as of the Allocation Date (if the amount of the current year's property taxes are not available, such taxes will be prorated based upon the prior year's assessment);

(2) prorating as of the Allocation Date cash receipts and expenditures for each Shopping Center and other items customarily prorated in transactions of this sort;

(3) subtracting the amount of security deposits, prepaid rents from tenants under the Leases, and credit balances, if any, of any tenants. Any rents, percentage rents or tenant reimbursements payable after the Allocation Date but applicable to periods on or prior to the Allocation Date shall be remitted to Seller by Buyer within thirty (30) days after receipt. Buyer shall have no obligation to collect delinquencies, but should Buyer collect any delinquent rents or other sums which cover periods prior to the Allocation Date and for which Seller have received no proration or credit, Buyer shall remit same to Seller within thirty (30) days after receipt, less any costs of collection. Buyer will not interfere in Seller's efforts to collect sums due it prior to the Closing. Seller will remit to Buyer promptly after receipt any rents, percentage rents or tenant reimbursements received by Seller after Closing which are attributable to periods occurring after the Allocation Date. Undesignated receipts after Closing of either Buyer or Seller from tenants in each Shopping Center shall be applied first to then current rents and reimbursements for such tenant(s), then to delinquent rents and reimbursements attributable to post-Allocation Date periods, and then to pre-Allocation Date periods;

(4) subtracting an amount equal to (A) the sum of (i) the amount by which In Place Gross Income from Approved Leases in Union Square Shopping Center is reduced because of vacancies (as determined by the parties during the Inspection Period) exceeds \$21,733 plus (ii) the amount of reductions in In Place Gross Income from Approved Leases in Union Square Shopping Center and City View Shopping Center attributable to other causes (as so determined) (B) divided by the Capitalization Rate; and

(5) if there are Uncertain Leases, by holding back the portion of Purchase Price attributable to the Uncertain Leases ("Uncertain Lease Holdback"), which

Uncertain Lease Holdback shall be an amount equal to the Effective Gross Income from such Uncertain Leases as shown on the initial Rent Roll divided by the Capitalization Rate. Portions of the Uncertain Lease Holdback may be "earned" by Seller during the Earnout Period. Seller may qualify for the payment of all or a portion of the Uncertain Lease Holdback during the period of time which begins on the Closing Date and ends ninety (90) days thereafter (the "Earnout Period"), as follows:

(i) During the Earnout Period Seller may earn portions of the Uncertain Lease Holdback with respect to the spaces leased under Uncertain Leases provided and to the extent it obtains during the Earnout Period new Approved Leases for such spaces (each being a "Replacement Lease") or Expansion Approved Leases which then would qualify for inclusion in In Place Base Rent, the payment to be an amount equal to Effective Gross Income from such Replacement Leases and qualifying Expansion Approved Leases, projected for the twelve month period beginning with the day following the end of the Earnout Period, divided by the Capitalization Rate, reduced by an amount equal to the Effective Gross Income from Approved Leases which have gone into default or closed their business since the Closing Date ("Post Closing Delinquent Leases"), divided by the Capitalization Rate (the "Post Closing Delinquency Amount"). The additional payment for a particular Replacement Lease or Expansion Approved Lease shall be payable when the tenant thereunder has accepted the leased premises and opened for business, commenced paying rent beyond all free rent periods, and delivered to Buyer a Tenant Estoppel Letter acceptable to Buyer all before the end of the Earnout Period and further provided that the Uncertain Lease Holdback then exceeds the Post Closing Delinquency Amount, the payment for the Replacement Leases and Expansion Approved Leases to be no greater than such excess.

(ii) In addition, during the first three (3) months following the expiration of the Earnout Period, Seller may earn following the same procedure additional portions of the Uncertain Lease Holdback, up to the amount of the Post Closing Delinquency Amount, with respect to Post Closing Delinquent Leases, such amount to be equal to the Effective Gross Income from Replacement Leases for the Post Closing Delinquent Leases divided by the Capitalization Rate, but in no event more than the remaining balance of the Uncertain Lease Holdback.

(iii) Notwithstanding anything herein to the contrary, in no event shall the aggregate Purchase Price exceed \$13,300,000.

(c) Expansion Space Costs. All costs associated with the construction and leasing of the Expansion Space shall be paid by Seller, including without limitation hard and soft costs, financing costs, leasing commissions and concessions. Seller shall and hereby does guarantee the completion of the Expansion Space in accordance with the plans and specifications, and Expansion Approved Leases, to be delivered to Buyer during the Inspection Period.

(d) Earnest Money Deposit. An Earnest Money Deposit in the amount of \$25,000 shall be delivered to Escrow Agent within five (5) business days after the date of

execution by the last of Buyer or Seller to execute and transmit a copy of this Agreement to the other. This Agreement may be terminated by Seller if the Earnest Money Deposit is not received by Escrow Agent by such deadline. The Earnest Money Deposit paid by Buyer shall be held as specifically provided in this Agreement and shall be applied to the Purchase Price at the Closing.

2.2 Outlots. Seller shall grant to Buyer at Closing a right of first refusal for a period of ten (10) years to purchase each of the Outlots. Seller shall agree to furnish Buyer a copy of each offer to purchase a particular Outlot which Seller determines it may be willing to accept, and shall furnish Buyer a ten (10) day period thereafter within which Buyer may elect to purchase such Outlot on the same terms and conditions as contained in said offer. If Buyer elects to purchase within said period, the proposed offer shall be deemed a contract between Seller and Buyer. If Buyer does not so elect, Seller may sell such Outlot in accordance with the terms and conditions of such offer, and without material variance thereto. Should Buyer fail to notify Seller of its election, Buyer shall be deemed to have declined such offer.

2.3 Closing Costs.

(a) Seller shall pay:

(1) All transfer taxes imposed upon the transactions contemplated hereby;

(2) Cost of the Surveys, not to exceed normal and customary survey fees in transactions of this sort meeting the North Carolina Minimum Land Survey requirements, Buyer to pay any excess Survey costs;

(3) Cost of satisfying any liens and other encumbrances on any of the Shopping Centers;

(4) The costs, if any, of curing title defects and recording any curative title documents;

(5) All broker's commissions, finders' fees and similar expenses incurred by either party in connection with the sale of the Shopping Centers, subject however to Buyer's indemnity given in Section 5.3 of this Agreement; and

(6) Seller's attorneys' fees relating to the sale of the Shopping Centers, including the costs of title examinations;

(b) Buyer shall pay:

(1) Cost of Buyer's due diligence inspection;

- (2) Costs of the Phase 1 environmental site assessments to be obtained by Buyer;
- (3) Excess Survey costs as provided above;
- (4) Cost of title insurance premiums (but not attorneys fees for title examinations);
- (5) Cost of recording the deeds; and
- (6) Buyer's attorneys' fees.

### 3. INSPECTION PERIOD AND CLOSING

#### 3.1 Inspection Period.

(a) Buyer agrees that it will have the Inspection Period to physically inspect the Shopping Centers, the economic data, underwrite the tenants and review their leases, and to otherwise conduct its due diligence review of the physical condition of each Property and all books, records and accounts of Seller related thereto. Buyer hereby agrees to indemnify and hold Seller harmless from any damages, liabilities or claims for property damage or personal injury arising out of such inspection and investigation by Buyer or its agents or independent contractors. Within the Inspection Period, Buyer may, in its sole discretion and for any reason or no reason, elect to go forward to the Closing of this Agreement. If such notice is not timely given, this Agreement and all rights, duties and obligations of Buyer and Seller hereunder, except any which expressly survive termination, shall terminate and the Earnest Money Deposit shall be returned to Buyer forthwith. Within five (5) business days after Buyer elects to go forward, if such be the case, Buyer shall increase the Earnest Money Deposit by an additional \$50,000, to be deposited within said period by Buyer with Escrow Agent. Upon such deposit the additional sums shall be deemed to be part of the Earnest Money Deposit for all purposes. If Buyer so elects to go forward, the parties shall proceed to Closing, in which event the parties shall confirm in writing the key dates to Closing, including without limitation the Closing Date, the Earnout Period, the right of first refusal period and similar dates.

(b) Buyer, through its officers, employees and other authorized representatives, shall have the right to reasonable access to each Property and all records of Seller related thereto, including without limitation all Leases and Seller Financial Statements, at reasonable times during the Inspection Period for the purpose of inspecting each Property, taking soil borings, conducting Hazardous Materials inspections, reviewing the books and records of Seller concerning each Property and otherwise conducting its due diligence review. Seller shall cooperate with and assist Buyer in making such inspections and reviews. Seller shall give Buyer any authorizations which may be required by Buyer in order to gain access to records or other information pertaining to any Property or the use thereof maintained by any governmental or quasi-governmental authority or organization. Buyer, for itself and its agents,

agrees not to enter into any contract with existing tenants without the written consent of Seller if such contract would be binding upon Seller should this transaction fail to close. Buyer shall have the right to have due diligence interviews with tenants, provided that Buyer shall provide reasonable notice to Seller of the time and place of each such interview and afford Seller an opportunity to have a representative present.

(c) Buyer, through its officers or other authorized representatives, shall have the right to reasonable access to all Materials (other than privileged or confidential litigation materials) for the purpose of reviewing and copying the same.

3.2 Hazardous Material. Prior to the end of the Inspection Period Buyer may order a "Phase 1" assessment of each Property, and a copy of any assessment report, if made, shall be furnished by Buyer to Seller promptly upon its completion. If Seller has heretofore had environmental assessments of any Property performed, it shall furnish a complete copy thereof to Buyer promptly after execution hereof. If Buyer's assessment reports disclose the existence of any Hazardous Material or any other matters concerning the environmental condition of any Property or its environs, Buyer may notify Seller in writing, within ten (10) business days after receipt of the assessment report that it elects to terminate this Agreement, whereupon this Agreement shall terminate and the Earnest Money Deposit shall be returned to Buyer.

3.3 Time and Place of Closing. Unless otherwise agreed by the parties, the Closing shall take place at the offices of Rayburn, Moon & Smith, P.A., in Charlotte, North Carolina, at 10:00 A.M. on June 28, 1996.

#### 4. WARRANTIES, REPRESENTATIONS AND COVENANTS OF SELLER

Seller warrants and represents as follows as of the date of this Agreement and as of the Closing and where indicated covenants and agrees as follows:

4.1 Organization; Authority. Seller and each Owning Entity is duly organized, validly existing and in good standing under the laws of the state of its organization and the state in which the Shopping Center is located, and has full power and authority to enter into and perform this Agreement in accordance with its terms, and the persons executing this Agreement and other Transaction Documents have been duly authorized to do so on behalf of Seller. Neither Seller nor any Owning Entities is a "foreign person" under Sections 1445 or 897 of the Internal Revenue Code nor is this transaction subject to any withholding under any state or federal law.

4.2 Authorization; Validity. The execution and delivery of this Agreement by Seller and of the Consent and Joinder by the Owning Entities, and their consummation of the transactions contemplated by this Agreement have been duly and validly authorized. This Agreement constitutes a legal, valid and binding agreement of Seller and each Owning Entity, enforceable against it in accordance with its terms.

4.3 Title. Seller or the respective Owning Entity, as indicated on the Consent and Joinder, is the owner in fee simple of the particular Property, subject only to the Permitted Exceptions.

4.4 Commissions. Seller has neither dealt with nor does it have any knowledge of any broker or other party who has or may have any claim against Seller, Buyer or any Property for a brokerage commission or finder's fee or like payment arising out of or in connection with the transaction provided herein except for Prudential Securities and Norcom Development, Inc., whose commissions shall be paid by Seller at Closing, and Seller agrees to indemnify Buyer from any such claim arising by, through or under Seller.

4.5 Sale Agreements. No Property is subject to any outstanding agreement(s) of sale, option(s), or other right(s) of third parties to acquire any interest therein, except for Permitted Exceptions and this Agreement.

4.6 Litigation. There is no litigation or proceeding pending, or to the best of Seller's knowledge, threatened against Seller or any Owning Entity relating to any Property which is not covered by insurance.

4.7 Leases. There are no Leases affecting any Property, oral or written, except as listed on the Rent Roll. Copies of the Leases, which have been delivered to Buyer or shall be delivered to Buyer within three (3) days from the date hereof, are, to the best knowledge of Seller, true, correct and complete copies thereof, subject to the matters set forth on the Rent Roll. Between the date hereof and the Closing Date, Seller will not terminate or modify existing Leases or enter into any new Leases without the consent of Buyer, such consent not to be unreasonably withheld or delayed. Each Property's tenant leases are in good standing and to the best of Seller's knowledge no defaults exist thereunder except as noted on the Rent Roll. No rent or reimbursement has been paid more than one (1) month in advance and no security deposit has been paid, except as stated on the Rent Roll. No tenants under the Leases are entitled to interest on any security deposits.

4.8 Financial Statements. Each of the Seller Financial Statements delivered or to be delivered to Buyer hereunder has or will have been prepared in accordance with the books and records of Seller and presents fairly in all material respects the financial condition, results of operations and cash flows for the particular Property as of and for the periods to which they relate. All are in conformity with generally accepted accounting principles applied on a consistent basis. There has been no material adverse change in the operations of any Property or its prospects since the date of the most recent Seller Financial Statements. Seller covenants to furnish promptly to Buyer copies of the Seller Financial Statements together with unaudited updated monthly reports of cash flow for interim periods beginning after December 31, 1995. Buyer and its independent certified accountants shall be given access to Seller's books and records at any time prior to and for six (6) months following Closing upon reasonable advance notice in order that they may verify the financial statements prior to Closing. Seller agrees to execute and deliver to Buyer or its accountants the Audit Representation Letter should Buyer's accountants audit the records of each Shopping Center.

4.9 Contracts. Except for Leases and Permitted Exceptions, there are no management, service, maintenance, utility or other contracts or agreements affecting any Property, oral or written, which extend beyond the Closing Date and which would bind Buyer or encumber such Property more than thirty (30) days after Closing. All such Contracts are in full force and effect in accordance with their respective terms, and all obligations of Seller under the Contracts required to be performed to date have been performed in all material respects; no party to any Contract has asserted any claim of default or offset against Seller with respect thereto and no event has occurred or failed to occur, which would in any way affect the validity or enforceability of any such Contract; and the copies of the Contracts delivered to Buyer prior to the date hereof are true, correct and complete copies thereof. Between the date hereof and the Closing, Seller covenants to fulfill all of its obligations under all Contracts, and covenants not to terminate or modify any such Contracts or enter into any new contractual obligations relating to any Property without the consent of Buyer (not to be unreasonably withheld or delayed) except such obligations as are freely terminable without penalty by Seller upon not more than thirty (30) days' written notice.

4.10 Maintenance and Operation of Property. From and after the date hereof and until the Closing, Seller covenants to keep and maintain and operate each Property substantially in the manner in which it is currently being maintained and operated and covenants not to cause or permit any waste nor undertake any action with respect to the operation thereof outside the ordinary course of business without Buyer's prior written consent. In connection therewith, Seller covenants to make all necessary repairs and replacements until the Closing so that each Property shall be of substantially the same quality and condition at the time of Closing as on the date hereof. Seller covenants not to remove from the Improvements or the Real Property any article included in the Personal Property. Seller covenants to maintain such casualty and liability insurance on each Property as it is presently being maintained.

4.11 Permits and Zoning. To the best knowledge of Seller, there are no material permits and licenses (collectively referred to as "Permits") required to be issued to Seller by any governmental body, agency or department having jurisdiction over any Property which materially affect the ownership or the use thereof which have not been issued. Each Property is properly zoned for its present use and is not subject to any local, regional or state development order. The use of each Property is consistent with its land use designation under any land use plan or plans applicable thereto. There are no outstanding assessments, impact fees or other charges related to any Property.

4.12 Rent Roll; Tenant Estoppel Letters. Each Rent Roll is true and correct in all respects. Seller agrees to use its best reasonable efforts to obtain current Tenant Estoppel Letters acceptable to Buyer from all Tenants under Leases, which Tenant Estoppel Letters shall confirm the matters reflected by the Rent Roll as to the particular tenant and shall be otherwise acceptable to Buyer in all respects.

4.13 Condemnation. Neither the whole nor any portion of any Property, including access thereto or any beneficial easement, is subject to temporary requisition of use by any governmental authority or has been condemned, or taken in any proceeding similar to a

condemnation proceeding, nor is there now pending any condemnation, expropriation, requisition or similar proceeding against any Property or any portion thereof. Seller has received no notice nor has any knowledge that any such proceeding is contemplated.

4.14 Governmental Matters. Seller has not entered into any commitments or agreements with any governmental authorities or agencies affecting any Property that have not been disclosed in writing to Buyer and Seller has received no notices from any such governmental authorities or agencies of uncured violations at any Property of building, fire, air pollution or zoning codes, rules, ordinances or regulations, environmental and hazardous substances laws, or other rules, ordinances or regulations relating to any Property. Seller shall be responsible for the remittance of all sales tax for periods occurring prior to the Allocation Date directly to the appropriate state department of revenue.

4.15 Repairs. Seller has received no notice of any requirements or recommendations by any lender, insurance companies, or governmental body or agencies requiring or recommending any repairs or work to be done on any Property which have not already been completed.

4.16 Consents and Approvals; No Violation. Neither the execution and delivery of this Agreement by Seller nor the consummation by Seller of the transactions contemplated hereby will (a) require Seller to file or register with, notify, or obtain any permit, authorization, consent, or approval of, any governmental or regulatory authority; (b) conflict with or breach any provision of the organizational documents of Seller; (c) violate or breach any provision of, or constitute a default (or an event which, with notice or lapse of time or both, would constitute a default) under, any note, bond, mortgage, indenture, deed of trust, license, franchise, permit, lease, contract, agreement or other instrument, commitment or obligation to which Seller is a party, or by which Seller, any Property or any of Seller's material assets may be bound; or (d) violate any order, writ, injunction, decree, judgment, statute, law or ruling of any court or governmental authority applicable to Seller, any Property or any of Seller's material assets.

4.17 Environmental Matters.

(a) Seller represents and warrants as of the date hereof and as of the Closing that:

(1) Seller has not, and has no knowledge of any other person who has, caused any Release, threatened Release, or disposal of any Hazardous Material at any Property in any material quantity;

(2) No Property now contains and to the best of Seller's knowledge has ever contained any: (a) underground storage tank, (b) material amounts of asbestos-containing building material, (c) landfills or dumps, (d) drycleaning plant or other facility using drycleaning solvents; or (e) hazardous waste management facility as defined pursuant to the Resource Conservation and Recovery Act ("RCRA") or any comparable state law. No Property is a site on or nominated for the National Priority List promulgated pursuant to Comprehensive

Environmental Response, Compensation and Liability Act ("CERCLA") or any state remedial priority list promulgated or published pursuant to any comparable state law; and

(3) There are to the best of Seller's knowledge no conditions or circumstances at any Property which pose a risk to the environment or the health or safety of persons.

(b) Seller shall indemnify, hold harmless, and hereby waives any claim for contribution against Buyer for any damages to the extent they arise from the inaccuracy or breach of any representation or warranty by Seller in this section of this Agreement. This indemnity shall survive Closing indefinitely and shall be in addition to the post-closing indemnities contained in Section 10.01, provided such indemnities of Seller as to each Shopping Center shall expire and terminate upon the sale by Buyer of such Shopping Center to an unaffiliated third party.

4.18 No Untrue Statement. Neither this Agreement nor any exhibit nor any written statement or Transaction Document furnished or to be furnished by Seller to Buyer in connection with the transactions contemplated by this Agreement contains or will contain any untrue statement of material fact or omits or will omit any material fact necessary to make the statements contained therein, in light of the circumstances under which they were made, not misleading.

#### 5. WARRANTIES, REPRESENTATIONS AND COVENANTS OF BUYER

Buyer hereby warrants and represents as of the date of this Agreement and as of the Closing and where indicated covenants and agrees as follows:

5.1 Organization; Authority. Buyer is a corporation duly organized, validly existing and in good standing under laws of Florida and has full power and authority to enter into and perform this Agreement in accordance with its terms, and the persons executing this Agreement and other Transaction Documents on behalf of Buyer have been duly authorized to do so.

5.2 Authorization; Validity. The execution, delivery and performance of this Agreement and the other Transaction Documents have been duly and validly authorized by the Board of Directors of Buyer. This Agreement has been duly and validly executed and delivered by Buyer and (assuming the valid execution and delivery of this Agreement by Seller) constitutes a legal, valid and binding agreement of Buyer enforceable against it in accordance with its terms.

5.3 Commissions. Buyer has neither dealt with nor does it have any knowledge of any broker or other party who has or may have any claim against Buyer or Seller for a brokerage commission or finder's fee or like payment arising out of or in connection with the transaction provided herein except Prudential Securities and Norcom Development, Inc., whose

commissions shall be paid by Seller at Closing; and Buyer agrees to indemnify Seller from any other such claim arising by, through or under Buyer.

## 6. POSSESSION; RISK OF LOSS

6.1 Possession. Possession of all of the Shopping Centers will be transferred to Buyer at the conclusion of the Closing.

6.2 Risk of Loss. All risk of loss to any Property shall remain upon Seller until the conclusion of the Closing. If, before Closing, any material portion of any Property is damaged by fire or other casualty and will not be restored by the Closing Date or if any material portion of any Property is taken by eminent domain or there is a material obstruction of access to the Improvements by virtue of a taking by eminent domain, Seller shall, within ten (10) days of such damage or taking, notify Buyer thereof and Buyer shall have the option to:

(a) terminate this Agreement upon notice to Seller given within ten (10) business days after such notice from Seller (in which event the Earnest Money Deposit shall be returned to Buyer); or

(b) proceed with the purchase of the Shopping Centers, in which event Seller shall assign to Buyer all Seller's right, title and interest in all amounts due or collected by Seller under the insurance policies or as condemnation awards. In such event, the Purchase Price shall be reduced by the amount of any insurance deductible to the extent it reduced the insurance proceeds payable.

## 7. TITLE MATTERS

### 7.1 Title.

(a) Title Insurance. Promptly upon full execution hereof Buyer shall order the Title Insurance Commitments from Chicago Title Insurance Company and the Surveys from reputable surveyors familiar with each Property (Seller agreeing to furnish to Buyer copies of any existing surveys and title information in its possession promptly after execution of this Agreement). Buyer will have ten (10) days from receipt of each Title Commitment (including legible copies of all recorded exceptions noted therein) and Survey to notify Seller in writing of any Title Defects, encroachments or other matters not acceptable to Buyer which are not permitted by this Agreement. Any Title Defect or other objection disclosed by any Title Insurance Commitment (other than liens removable by the payment of money) or any Survey which is not timely specified in Buyer's written notice to Seller of Title Defects shall be deemed a Permitted Exception. Seller shall notify Buyer in writing within five (5) days of Buyer's notice if Seller intends to cure any Title Defect or other objection. If Seller elects to cure, Seller shall use diligent efforts to cure the Title Defects and/or objections by the Closing Date (as it may be extended). If Seller elects not to cure or if such Title Defects and/or objections

are not cured, Buyer shall have the right, in lieu of any other remedies, to: (i) terminate this Agreement, in which event the Earnest Money Deposit shall be returned to Buyer, or (ii) waive such Title Defects and/or objections and close the purchase of the Shopping Centers subject to them.

(b) Miscellaneous Title Matters. If a search of the title discloses judgments, bankruptcies or other returns against other persons having names the same as or similar to that of Seller, Seller shall on request deliver to Buyer an affidavit stating, if true, that such judgments, bankruptcies or the returns are not against Seller. Seller further agrees to execute and deliver to the Title Insurance agent at Closing such documentation, if any, as the Title Insurance underwriter shall reasonably require to evidence that the execution and delivery of this Agreement and the consummation of the transactions contemplated hereby have been duly authorized and that there are no mechanics' liens on any Property or parties in possession thereof other than tenants under Leases and Seller.

## 8. CONDITIONS PRECEDENT

8.1 Conditions Precedent to Buyer's Obligations. The obligations of Buyer under this Agreement are subject to satisfaction or waiver by Buyer of each of the following conditions or requirements on or before the Closing Date:

(a) Seller's warranties and representations under this Agreement shall be true and correct as of the Closing Date, and Seller shall not be in default hereunder.

(b) All obligations of Seller contained in this Agreement, shall have been fully performed in all material respects and Seller shall not be in default under any covenant, restriction, right-of-way or easement affecting any Property.

(c) There shall have been no material adverse change in any Property, its operations or future prospects, the Leases or the financial condition of tenants leasing space in excess of 5,000 square feet or more than twenty percent (20%) of the other tenants who have signed leases for any portion of any Property since the date of this Agreement. Each Anchor Tenant and Credit Tenant for each Shopping Center, and no less than eighty percent (80%) of the other tenants shall have opened for business in the Shopping Center and have commenced paying rent.

(d) A Title Insurance Commitment in the full amount of the Purchase Price shall have been issued and "marked down" through Closing, subject only to Permitted Exceptions.

(e) The physical and environmental condition of each Property shall be unchanged from the date of this Agreement, ordinary wear and tear excepted.

(f) Seller shall have delivered to Buyer the following in form reasonably satisfactory to Buyer:

(1) A special or limited warranty deed in proper form for recording, duly executed and acknowledged so as to convey to Buyer the fee simple title to each Property, subject only to the Permitted Exceptions;

(2) Originals, if available, or if not, true copies of the Leases and of the contracts, agreements, permits and licenses, and such Materials as may be in the possession or control of Seller;

(3) A blanket assignment to Buyer of all Leases and the contracts, agreements, permits and licenses (to the extent assignable) as they affect each Property, including an indemnity against breach of such instruments by Seller prior to the Closing Date;

(4) A bill of sale with respect to all Personal Property and Materials;

(5) A title certificate, properly endorsed by Seller, as to any items of Property for which title certificates exist;

(6) Each Survey;

(7) A current rent roll for all Leases in effect showing no changes from the Rent Roll for each Shopping Center attached to this Agreement other than those set forth in the Leases or approved in writing by Buyer;

(8) All Tenant Estoppel Letters obtained by Seller, which must include each Anchor Tenant and Credit Tenant for each Shopping Center, and eighty percent (80%) of the other tenants who have signed leases for any portion of any Property, without any material exceptions, covenants, or changes to the form approved by Buyer and distributed to the tenants by Seller, the substance of which Tenant Estoppel Letters must be acceptable to Buyer in all respects;

(9) A general assignment of all assignable existing warranties relating to each Property;

(10) An owner's affidavit, non-foreign affidavits, non-tax withholding certificates and such other documents as may reasonably be required by Buyer or its counsel in order to effectuate the provisions of this Agreement and the transactions contemplated herein;

(11) The originals or copies of any real and tangible personal property tax bills for each Property for the tax year of Closing and the previous year, and, if requested, the originals or copies of any current water, sewer and utility bills which are in Seller's custody or control;

(12) Resolutions of Seller authorizing the transactions described herein;

(13) All keys and other means of access to the Improvements in the possession of Seller or its agents;

(14) Materials;

(15) A Guaranty of Completion by Seller of the Expansion Space, in form and substance reasonably acceptable to Buyer and Seller; and

(16) Such other documents as Buyer may reasonably request to effect the transactions contemplated by this Agreement.

In the event that all of the foregoing provisions of this Section 8.1 are not satisfied and Buyer elects in writing to terminate this Agreement, then upon notice thereof from Buyer to Seller, neither party shall have any further claim against the other by reasons of this Agreement, except as provided in Article 9.

8.2 Conditions Precedent to Seller's Obligations. The obligations of Seller under this Agreement are subject to satisfaction or waiver by Seller of each of the following conditions or requirements on or before the Closing date:

(a) Buyer's warranties and representations under this Agreement shall be true and correct as of the Closing Date, and Buyer shall not be in default hereunder.

(b) All of the obligations of Buyer contained in this Agreement shall have been fully performed by or on the date of Closing in compliance with the terms and provisions of this Agreement.

(c) Buyer shall have delivered to Seller at or prior to the Closing the following, which shall be reasonably satisfactory to Seller:

(1) Delivery and/or payment of the Purchase Price in accordance with Article 2;

(2) Such other documents as Seller may reasonably request to effect the transactions contemplated by this Agreement.

In the event that all conditions precedent to Buyer's obligation to purchase shall have been satisfied but the foregoing provisions of this Section 8.2 have not, and Seller elects in writing to terminate this Agreement, then upon notice thereof, neither party shall have any further claim against the other by reasons of this Agreement, except as provided in Article 9.

8.3 Best Efforts. Each of the parties hereto agrees to use reasonable best efforts to take or cause to be taken all actions necessary, proper or advisable to consummate the transactions contemplated by this Agreement.

#### 9. PRE-CLOSING BREACH; REMEDIES

9.1 Breach by Seller. In the event of a breach of Seller's covenants or warranties herein and failure by Seller to cure such breach within the time provided for Closing, Buyer may, at Buyer's election (i) terminate this Agreement and receive a return of the Earnest Money Deposit, and the parties shall have no further rights or obligations under this Agreement (except as survive termination); (ii) enforce this Agreement by suit for specific performance; or (iii) waive such breach and close the purchase contemplated hereby, notwithstanding such breach.

9.2 Breach by Buyer. In the event of a breach of Buyer's covenants or warranties herein and failure of Buyer to cure such breach within the time provided for Closing, Seller's sole remedy shall be to terminate this Agreement and retain Buyer's Earnest Money Deposit as agreed liquidated damages for such breach, and upon payment in full to Seller of such amounts, the parties shall have no further rights, claims, liabilities or obligations under this Agreement (except as survive termination).

#### 10. POST CLOSING INDEMNITIES AND COVENANTS

10.1 Seller's Indemnity. Should this transaction close, Seller, subject to the limitations set forth herein, shall indemnify, defend and hold harmless Buyer from all claims, demands, liabilities, damages, penalties, costs and expenses, including, without limitation, reasonable attorneys' fees and disbursements, which may be imposed upon, asserted against or incurred or paid by Buyer by reason of, or on account of, any breach by Seller of Seller's warranties, representations and covenants. Seller's warranties, representations and covenants, and the foregoing indemnity, shall survive the Closing for one (1) year. Buyer's rights and remedies herein against Seller shall be in addition to, and not in lieu of all other rights and remedies of Buyer at law or in equity.

10.2 Buyer's Indemnity. Should this transaction close, Buyer shall indemnify, defend and hold harmless Seller from all claims, demands, liabilities, damages, penalties, costs and expenses, including, without limitation, reasonable attorneys' fees and disbursements, which may be imposed upon, asserted against or incurred or paid by Seller by reason of, or on account of, any breach by Buyer of Buyer's warranties, representations and covenants. Buyer's warranties, representations and covenants, and the foregoing indemnity, shall survive the Closing for one (1) year. Seller's rights and remedies herein against Buyer shall be in addition to, and not in lieu of all other rights and remedies of Seller at law or in equity.

## 11. MISCELLANEOUS

11.1 Disclosure. Neither party shall disclose the transactions contemplated by this Agreement without the prior approval of the other, except to its partners, attorneys, accountants and other consultants, their lenders and prospective lenders, or where disclosure is required by law.

11.2 Radon Gas. Radon is a naturally occurring radioactive gas which, when it has accumulated in a building in sufficient quantities, may present health risks to persons who are exposed to it over time. Levels of radon which exceed federal and state guidelines may have been found in buildings in each state in which a particular Property is located. Additional information regarding radon and radon testing may be obtained from the applicable public health unit.

11.3 Entire Agreement. This Agreement, together with the Exhibits attached hereto, constitutes the entire agreement between the parties hereto with respect to the subject matter hereof and may not be modified, amended or otherwise changed in any manner except by a writing executed by Buyer and Seller.

11.4 Notices. All written notices and demands of any kind which either party may be required or may desire to serve upon the other party in connection with this Agreement shall be served by personal delivery, certified or overnight mail, reputable overnight courier service or facsimile (followed promptly by hard copy) at the addresses set forth below:

As to Seller:               Norcom Development, Inc.  
                                Attention: Mr. Thomas Norman  
                                Post Office Box 32068  
                                Charlotte, North Carolina 28232  
                                Facsimile: (704) 332-3525

With a copy to:            Horack, Talley, Pharr & Lowndes  
                                Attention: Henry N. Pharr, II, Esq.  
                                2600 One First Union Center  
                                301 South College Street  
                                Charlotte, North Carolina 28202  
                                Facsimile: (704) 372-2619

As to Buyer:               RRC Acquisitions, Inc.  
                                Attention: Robert L. Miller  
                                Suite 200, 121 W. Forsyth St.  
                                Jacksonville, Florida 32202  
                                Facsimile: (904) 634-3428

With a copy to: Ulmer, Murchison, Ashby & Taylor  
Attention: William E. Scheu, Esq.  
P. O. Box 479  
Suite 1600, 200 W. Forsyth St.  
Jacksonville, FL 32201 (32202 for courier)  
Facsimile: (904) 354-9100

With a copy to: Rayburn, Moon & Smith, P.A.  
Attention: Travis W. Moon, Esq.  
227 West Trade Street, Suite 1200  
Charlotte, North Carolina 28202  
Facsimile: (704) 377-1897

Any notice or demand so served shall constitute proper notice hereunder upon delivery to the United States Postal Service, to such overnight courier, or upon confirmation of such facsimile transmission. A party may change its notice address by notice given in the aforesaid manner.

11.5 Headings. The titles and headings of the various sections hereof are intended solely for means of reference and are not intended for any purpose whatsoever to modify, explain or place any construction on any of the provisions of this Agreement.

11.6 Validity. If any of the provisions of this Agreement or the application thereof to any persons or circumstances shall, to any extent, be invalid or unenforceable, the remainder of this Agreement by the application of such provision or provisions to persons or circumstances other than those as to whom or which it is held invalid or unenforceable shall not be affected thereby, and every provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

11.7 Attorneys' Fees. In the event of any litigation between the parties hereto to enforce any of the provisions of this Agreement or any right of either party hereto, the unsuccessful party to such litigation agrees to pay to the successful party all costs and expenses, including reasonable attorneys' fees, whether or not incurred in trial or on appeal, incurred therein by the successful party, all of which may be included in and as a part of the judgment rendered in such litigation. Any indemnity provisions herein shall include indemnification for reasonable attorneys' fees and costs, whether or not suit be brought and including fees and costs on appeal.

11.8 Time of Essence. Time is of the essence of this Agreement.

11.9 Governing Law. The parties hereto agree that any litigation between the parties hereto relating to this Agreement shall take place (unless otherwise required by law) in a court located in Duval County, State of Florida, which shall interpret this Agreement in accordance with the laws of North Carolina. Each party waives its right to jurisdiction or venue in any other location.

11.10 Successors and Assigns. The terms and provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns. No third parties, including any brokers or creditors, shall be beneficiaries hereof. Neither party may assign its rights under this agreement to any unaffiliated person without the prior written consent of the other, not to be unreasonably withheld.

11.11 Exhibits. All exhibits attached hereto are incorporated herein by reference to the same extent as though such exhibits were included in the body of this Agreement verbatim.

11.12 Gender; Plural; Singular; Terms. A reference in this Agreement to any gender, masculine, feminine or neuter, shall be deemed a reference to the other, and the singular shall be deemed to include the plural and vice versa, unless the context otherwise requires. The terms "herein," "hereof," "hereunder," and other words of a similar nature mean and refer to this Agreement as a whole and not merely to the specified section or clause in which the respective word appears unless expressly so stated.

11.13 Further Instruments, Etc. Seller and Buyer shall, at or after Closing, execute any and all documents and perform any and all acts reasonably necessary to fully implement this Agreement.

11.14 Survival. The obligations of Seller and Buyer intended to be performed after the Closing shall survive the closing.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

Witnesses:

\_\_\_\_\_  
[ - - - - - ]  
Name (Please Print)

RRC ACQUISITIONS, INC.,  
a Florida corporation

By:  
Its:  
Date: \_\_\_\_\_, 1996

\_\_\_\_\_  
[ - - - - - ]  
Name (Please Print)

Tax Identification No. 59-3210155  
"BUYER"

NORCOM DEVELOPMENT, INC.,  
a North Carolina corporation

\_\_\_\_\_  
[ - - - - - ]  
Name (Please Print)

By:  
Its:

\_\_\_\_\_  
[ - - - - - ]  
Name (Please Print)

Date: \_\_\_\_\_, 1996

Tax Identification No. 56-1642603

"SELLER"

JOINDER OF ESCROW AGENT

1. Duties. Escrow Agent joins herein for the purpose of acknowledging receipt of the initial Earnest Money Deposit and agrees to comply with the terms hereof insofar as they apply to Escrow Agent. Escrow Agent shall receive and hold the Earnest Money Deposit in trust, to be disposed of in accordance with the provisions of this joinder and Section \_\_\_\_ of the foregoing Agreement.

2. Indemnity. Escrow Agent shall not be liable to either party except for claims resulting from the gross negligence or willful misconduct of Escrow Agent. If the escrow is involved in any controversy or litigation, the parties hereto shall jointly and severally indemnify and hold Escrow Agent free and harmless from and against any and all loss, cost, damage, liability or expense, including costs of reasonable attorneys' fees to which Escrow Agent may be put or which may incur by reason of or in connection with such controversy or litigation, except to the extent it is finally determined that such controversy or litigation resulted from Escrow Agent's gross negligence or willful misconduct. If the indemnity amounts payable hereunder result from the fault of Buyer or Seller (or their respective agents), the party at fault shall pay, and hold the other party harmless against, such amounts.

3. Conflicting Demands. If conflicting demands are made upon Escrow Agent with respect to the escrow, the parties hereto expressly agree that Escrow Agent shall have the absolute right to do either or both of the following: (i) withhold and stop all proceedings in performance of this escrow and await settlement of the controversy by final appropriate legal proceedings or otherwise as it may require; or (ii) file suit for declaratory relief and/or inter-pleader and obtain an order from the court requiring the parties to interplead and litigate in such court their several claims and rights between themselves. Upon the filing of any such declaratory relief or interpleader suit and tender of the Earnest Money Deposit to the court, Escrow Agent shall thereupon be fully released and discharged from any and all obligations to further

perform the duties or obligations imposed upon it. Buyer and Seller agree to respond promptly in writing to any request by Escrow Agent for clarification, consent or instructions. Any action proposed to be taken by Escrow Agent for which approval of Buyer and/or Seller is requested shall be considered approved if Escrow Agent does not receive written notice of disapproval within fourteen (14) days after a written request for approval is received by the party whose approval is being requested. Escrow Agent shall not be required to take any action for which approval of Buyer and/or Seller has been sought unless such approval has been received. No disbursements shall be made, other than as provided in Sections 2.1(a) and 3.1(a) of the foregoing Agreement, or to a court in an interpleader action, unless Escrow Agent shall have given written notice of the proposed disbursement to Buyer and Seller and neither Buyer nor Seller shall have delivered any written objection to the disbursement within 14 days after receipt of Escrow Agent's notice. No notice by Buyer or Seller to Escrow Agent of disapproval of a proposed action shall affect the right of Escrow Agent to take any action as to which such approval is not required.

4. Continuing Counsel. Seller acknowledges that Escrow Agent is counsel to Buyer herein and Seller agrees that in the event of a dispute hereunder or otherwise between Seller and Buyer, Escrow Agent may continue to represent Buyer notwithstanding that it is acting and will continue to act as Escrow Agent hereunder, it being acknowledged by all parties that Escrow Agent's duties hereunder are ministerial in nature.

5. Tax Identification. Seller and Buyer shall provide to Escrow Agent appropriate Federal tax identification numbers.

CHICAGO TITLE INSURANCE COMPANY

By:  
Its Authorized Agent  
Date: \_\_\_\_\_, 1996

"ESCROW AGENT"

CONSENT AND JOINDER OF OWNING ENTITIES

The following Owing Entities, each of which is the owner of the Shopping Center indicated below as being owned by it, joins herein for the purpose of consenting to the foregoing Agreement and agreeing to be bound by it insofar as it applies to the particular Shopping Center owned by it.

Shopping Center

Owning Entity

City View Shopping Center  
Charlotte, Mecklenburg County, NC

\_\_\_\_\_

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

Union Square Shopping Center  
Monroe, Union County, NC

\_\_\_\_\_

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

EXHIBIT 1.3

List of Anchor and Credit Tenants for Each Shopping Center

Note: If a tenant identified as a Credit Tenant is actually a franchisee or licensee rather than the named national entity, the tenant shall not be a Credit Tenant unless such national entity has guaranteed the tenant's obligations thereunder to Buyer's satisfaction.

1. City View Shopping Center  
Charlotte, Mecklenburg County, NC

Anchor Tenants:

Winn-Dixie  
Revco

Credit Tenants:

Little Caesars

2. Union Square Shopping Center  
Monroe, Union County, NC

Anchor Tenants:

Harris Teeter  
Consolidated Theatre  
Revco

Credit Tenants:

Blockbuster Entertainment  
Subway

EXHIBIT 1.5

Audit Representation Letter

-----  
(Acquisition Completion Date)

KPMG Peat Marwick LLP  
2700 Independent Square  
One Independent Drive  
Jacksonville, Florida 32202

RE: \_\_\_\_\_  
(Acquisition Property Name)

Dear Sirs:

We are writing at your request to confirm our understanding that your audit of the Statement of Revenue and Certain Expenses of \_\_\_\_\_ for the twelve months ended December 31, 19\_\_\_\_, was made for the purpose of expressing an opinion as to whether the statement presents fairly in all material respects the results of its operations in conformity with generally accepted accounting principles. In connection with your audit we confirm, to the best of our knowledge and belief, the following representations made to you during your audit:

1. We have made available to you all financial records and related data in our possession for the period under audit.

2. There have been no undisclosed:

(a) Irregularities involving any member of management or employees who have significant roles in the system of internal accounting control;

(b) Irregularities involving other persons that could have a material effect on the statement of revenue and certain expenses;

(c) Violations or possible violations of laws or regulations the effects of which should be considered for disclosure in the statement of revenue and certain expenses.

3. There are no:

(a) Unasserted claims or assessments that our lawyers have advised us are probable of assertion and must be disclosed in accordance with Statement of Financial Accounting Standards No. 5;

(b) Material gain or loss contingencies that are required to be disclosed by Statement of Financial Accounting Standards No. 5;

(c) Material transactions that have not been properly recorded in the accounting records underlying the financial statement; and

(d) Events that have occurred subsequent to the audit period that should require adjustment to or disclosure in the Statement of Revenue and Certain Expenses.

4. Provision, when material, has been made for losses to be sustained in the fulfillment of, or from inability to fulfill, any contract commitments.

5. The shopping center has satisfactory title to all owned assets, and there are no liens or encumbrances on such assets nor has any asset been pledged, that has not been disclosed.

6. All contractual agreements that would have a material effect on the Statement of Revenue and Certain Expenses have been complied with.

7. There have been no:

(a) Material undisclosed related party transactions and related amounts receivable or payable, including sales, purchases, loans, transfer, and guarantees;

(b) Agreements to repurchase assets previously sold.

Further, we acknowledge that we are responsible for the fair presentation of the Statement of Revenue and Certain Expenses prepared in accordance with generally accepted accounting principles.

Very truly yours,

\_\_\_\_\_(Seller)

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

EXHIBIT 1.35

Rent Roll By Shopping Center

EXHIBIT 1.39

Site Plan

EXHIBIT 1.42

Form of Estoppel Letter

\_\_\_\_\_, 199\_

RE: \_\_\_\_\_ (Name of Shopping Center)

Ladies and Gentlemen:

The undersigned (Tenant) has been advised you may purchase the above Shopping Center, and we hereby confirm to you that:

1. The undersigned is the Tenant of \_\_\_\_\_, Landlord, in the above Shopping Center, and is currently in possession and paying rent on premises known as Store No. \_\_\_\_\_ [or Address: \_\_\_\_\_], and containing approximately \_\_\_\_\_ square feet, under the terms of the lease dated \_\_\_\_\_, which has (not) been amended by amendment dated \_\_\_\_\_ (the "Lease"). There are no other written or oral agreements between Tenant and Landlord. Tenant neither expects nor has been promised any inducement, concession or consideration for entering into the Lease, except as stated therein, and there are no side agreements or understandings between Landlord and Tenant.

2. The term of the Lease commenced on \_\_\_\_\_, expiring on \_\_\_\_\_, with options to extend of \_\_\_\_\_ (\_\_\_\_) years each.

3. As of \_\_\_\_\_, monthly minimum rental is \$\_\_\_\_\_ a month.

4. Current additional monthly payments for expense reimbursement total \$\_\_\_\_\_ per month for common area maintenance, property insurance and real estate taxes.

5. Tenant has given [no security deposit] [a security deposit of \$\_\_\_\_\_].

6. No payments by Tenant under the Lease have been made for more than one (1) month in advance, and minimum rents and other charges under the Lease are current.

7. All matters of an inducement nature and all obligations of the Landlord under the Lease concerning the construction of the Tenant's premises and development of the Shopping Center, including without limitation, parking requirements, have been performed by Landlord.
8. Tenant knows of no default by either Landlord or Tenant under the Lease, and knows of no situations which, with notice or the passage of time, or both, would constitute a default. Tenant has no rights to off-set or defense against Landlord as of the date hereof.

Very truly yours,

-----  
\_\_\_\_\_(Tenant)

Mailing Address:

\_\_\_\_\_  
-----  
By: \_\_\_\_\_  
Its: \_\_\_\_\_

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## PURCHASE AND SALE AGREEMENT

THIS AGREEMENT is made as of the 29th day of March, 1996, between PALM HARBOUR CENTERS ASSOCIATES, a Florida general partnership ("Seller"), RRC ACQUISITIONS, INC., a Florida corporation, its designees, successors and assigns ("Buyer"), and ULMER, MURCHISON, ASHBY & TAYLOR, a professional association organized under the laws of Florida ("Escrow Agent").

### Background

Buyer wishes to purchase a shopping center in Flagler County, Florida, owned by Seller, known as the Palm Harbor Shopping Village (the "Shopping Center");

Seller wishes to sell the Shopping Center to Buyer;

In consideration of the mutual agreements herein, and other good and valuable consideration, the receipt of which is hereby acknowledged, Seller agrees to sell and Buyer agrees to purchase the Shopping Center on the following terms and conditions:

### 1. DEFINITIONS

As used in this Agreement, the following terms shall have the following meanings:

1.1 Agreement means this instrument as it may be amended from time to time.

1.2 Allocation Date means the close of business on the day immediately prior to the Closing Date.

1.3 Annualized Net Operating Income means the projected Net Operating Income from the particular parcel within the Shopping Center for the twelve (12) months next following the Allocation Date for the payment of Consideration for the particular parcel. For the initial Purchase Price contemplated by Section 2.1, the Annualized Net Operating Income shall be computed with respect to the Phase One Parcel. For the Consideration contemplated by Section 8.3 (the Phase Two Parcel) the Annualized Net Operating Income shall be computed with respect to the Phase Two Parcel. For the Consideration contemplated by Section 8.5 (the Bank Parcel) the Annualized Net Operating Income shall be computed with respect to the Bank Parcel. For the Consideration contemplated by Section 8.7 (the Phase Three Parcel), the Annualized Net Operating Income shall be computed with respect to the Phase Three Parcel.

1.4 Approved Lease means a Lease listed on the Rent Roll, as approved by Seller and Buyer in the case of the Property, and any additional lease written on a Buyer-approved standard form having an initial term of no less than three (3) years with an in-place third party tenant unaffiliated with Seller who is creditworthy in Buyer's reasonable judgment and who is experienced in Buyer's reasonable judgment in the operation of the type of business proposed to be conducted at the leased premises. A Lease shall not be considered an Approved Lease

unless it is written on the Shopping Center's standard form lease used by Buyer, without material modification (or other form approved by Buyer), and unless it provides for rents, cost sharing and concessions which are comparable to that which Buyer considers to be "market" for the Palm Coast area.

1.5 Audit Representation Letter means the form of Audit Representation Letter attached hereto as Exhibit 1.5.

1.6 Bank Parcel means the parcel more particularly depicted as such on the Site Plan.

1.7 Buyer means the party identified as Buyer on the initial page hereof and its designees, successors and assigns.

1.8 Closing means generally the execution and delivery of those documents and funds necessary to effect the sale of the Property and in the case of the other parcels the satisfaction of the conditions to the payment of the Consideration for the particular parcel.

1.9 Closing Date means the date on which each Closing occurs.

1.10 Consideration means the Purchase Price in the case of the Property and the equivalent thereof with respect to the amounts payable to Seller for the other parcels.

1.11 Contracts means all service contracts, agreements or other instruments to be assigned by Seller to Buyer at Closing, all of which are terminable by Buyer without penalty or premium upon thirty (30) days notice.

1.12 Deferred Price Computation Date means the date the Consideration is to be computed with respect to the In-Line Spaces and the Earnout Spaces.

1.13 Earnest Money Deposit means the deposits to be delivered by Buyer to Escrow Agent prior to the Closing of the Property under Section 2.3 of this Agreement, together with the earnings thereon, if any.

1.14 Earnout Spaces means the spaces identified as 106 (698 square feet), 122 (950 square feet), 146 (750 square feet), 232B (108 square feet), 266 (2500 square feet) and 272 (475 square feet), all of which are located in the Phase One Parcel.

1.15 Effective Date means the date upon which this agreement is executed by the last to execute of Buyer and Seller and the fact of such execution is communicated to the other.

1.16 Environmental Claim means any investigation, notice, violation, demand, allegation, action, suit, injunction, judgment, order, consent decree, penalty, fine, lien, proceeding, or claim (whether administrative, judicial, or private in nature) arising (a) pursuant to, or in connection with, an actual or alleged violation of, any Environmental Law, (b) in connection

with any Hazardous Material or actual or alleged Hazardous Material Activity, (c) from any abatement, removal, remedial, corrective, or other response action in connection with a Hazardous Material, Environmental Law or other order of a governmental authority or (d) from any actual or alleged damage, injury, threat, or harm to health, safety, natural resources, or the environment.

1.17 Environmental Law means any current legal requirement in effect from time to time pertaining to (a) the protection of health, safety, and the indoor or outdoor environment, (b) the conservation, management, protection or use of natural resources and wildlife, (c) the protection or use of source water and groundwater, (d) the management, manufacture, possession, presence, use, generation, transportation, treatment, storage, disposal, Release, threatened Release, abatement, removal, remediation or handling of, or exposure to, any Hazardous Material or (e) pollution (including any Release to air, land, surface water, and groundwater); and includes, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986, 42 USC 9601 et seq., Solid Waste Disposal Act, as amended by the Resource Conservation Act of 1976 and Hazardous and Solid Waste Amendments of 1984, 42 USC 6901 et seq., Federal Water Pollution Control Act, as amended by the Clean Water Act of 1977, 33 USC 1251 et seq., Clean Air Act of 1966, as amended, 42 USC 7401 et seq., Toxic Substances Control Act of 1976, 15 USC 2601 et seq., Hazardous Materials Transportation Act, 49 USC App. 1801, Occupational Safety and Health Act of 1970, as amended, 29 USC 651 et seq., Oil Pollution Act of 1990, 33 USC 2701 et seq., Emergency Planning and Community Right-to-Know Act of 1986, 42 USC App. 11001 et seq., National Environmental Policy Act of 1969, 42 USC 4321 et seq., Safe Drinking Water Act of 1974, as amended by 42 USC 300(f) et seq., and any similar, implementing or successor law, any amendment, rule, regulation, order or directive, issued thereunder.

1.18 Escrow Agent means the party described as such in the introductory paragraph hereof and any successor escrow agent.

1.19 Governmental Approval means any permit, license, variance, certificate, consent, letter, clearance, closure, exemption, decision, action or approval of a governmental authority.

1.20 Hazardous Materials means any "Hazardous Substance" as defined in any Environmental Law in effect at the pertinent date or dates.

1.21 Hazardous Material Activity means any activity, event, or occurrence at or prior to each Closing Date involving a Hazardous Material, including, without limitation, the manufacture, possession, presence, use, generation, transportation, treatment, storage, disposal, Release, threatened Release, abatement, removal, remediation, handling or corrective or response action to any Hazardous Material.

1.22 Improvements means any buildings, structures or other improvements now or hereafter situated on each particular parcel within the Shopping Center.

1.23 In-Line Spaces means those stores identified on the Site Plan as "In-line 1" and "In-Line 2", consisting of approximately 3400 square feet (ITT Property Management, which includes space 294) and 400 square feet (Benvenuto Pizza), respectively, both of which are located in the Phase One Parcel and are currently being built out by Seller.

1.24 Inspection Period means, with respect to the Property, the period of time which expires at midnight on the thirtieth (30th) day following the Effective Date, and with respect to the other parcels, means the period of time hereinafter specified for each. If such expiration of the Inspection Period occurs during a weekend or on a national holiday, the Inspection Period shall expire at the end of business on the next immediately succeeding business day.

1.25 Leases means all leases and other agreements with occupancy tenants permitting tenants to occupy their respective premises in the Shopping Center as set forth in the Rent Roll or as otherwise approved by the parties.

1.26 Materials means all plans, drawings, specifications, soil test reports, environmental reports, market studies, surveys, and similar documentation, if any, owned by or in the possession of Seller with respect to the Property, Improvements and any proposed improvements to the Property, which Seller may lawfully transfer to Buyer except that, as to financial and other records, Materials shall include only photostatic copies.

1.27 Net Operating Income means twelve-month projected "Effective Gross Income" under Approved Leases for the particular parcel within the Shopping Center for which Consideration is to be paid, less expenses for operating such parcel, including cleaning, utilities, general expenses, repairs and maintenance, administrative expenses, repairs and maintenance, administrative charges, management fees (4% of effective gross income), insurance, taxes, replacement reserves (\$0.10 per square foot) and other reasonable reimbursable expenses including without limitation expenses allocated to such parcel under the Declaration, hereinafter defined (herein "Reimbursable Expenses"), which Net Operating Income is the amount which will be "annualized" for the pertinent period as contemplated by Section 1.3 to become Annualized Net Operating Income, to which the capitalization rate is to be applied in order to calculate the Purchase Price. The term "Effective Gross Income" for a particular Lease means the projected twelve (12) month base rent and expense reimbursement recoveries and the previous calendar year's percentage rent actually paid under such Lease, less a credit reserve of five percent (5.0%) of rent and recoveries in the case of a local tenant (but not a credit tenant). After capitalization of such Net Operating Income there will be deducted to determine the Consideration for the particular parcel all free rent, cash payments and allowances and other concessions to the tenant for post-Closing periods (all of which are and/or shall be the responsibility of Seller).

1.28 Permitted Exceptions means only the following interests, liens and encumbrances:

- (a) Liens for ad valorem taxes not yet due;
- (b) Rights of tenants under Leases; and

(c) Other matters determined by Buyer to be acceptable.

1.29 Personal Property means all (a) sprinkler, plumbing, heating, air-conditioning, electric power or lighting, incinerating, ventilating and cooling systems, with each of their respective appurtenant furnaces, boilers, engines, motors, dynamos, radiators, pipes, wiring and other apparatus, equipment and fixtures, elevators, partitions, fire prevention and extinguishing systems located in or on the Improvements, (b) all Materials, and (c) all other personal property used in connection with the Improvements, provided the same are now owned or are acquired by Seller prior to the Closing.

1.30 Phase One Parcel means the currently constructed and operating parcel within the Shopping Center identified as Phase One on the Site Plan as such, which includes the space between stores 268 and 280 as so identified on the Site Plan (containing approximately 1986 square feet, but such space shall not be taken into account in the Purchase Price for the Phase One Parcel, but shall be included when determining the Consideration for the Phase Two Parcel. .

1.31 Phase Two Parcel means collectively the multi-tenant parcel and the small outparcel more particularly identified as Site B and Site C, respectively, on the Site Plan. In addition, for purposes of determining Consideration for the Phase Two Parcel, the space between stores 268 and 280, identified on the Site Plan and containing approximately 1986 square feet of store area when built out shall be treated as if it were in the Phase Two Parcel.

1.32 Phase Three Parcel means the unimproved parcel more particularly identified as Phase Three on the Site Plan.

1.33 Property means the Real Property and the Improvements thereon, and the Personal Property of Seller used in connection therewith.

1.34 Prorated means the allocation of items of expense or income between Buyer and Seller based upon that percentage of the time period as to which such item of expense or income relates which has expired as of the date at which the proration is to be made.

1.35 Purchase Price means the Consideration for the purchase of the Property as set forth in Section 2.1 (subject to adjustments as provided herein).

1.36 Real Property means the Phase One Parcel (subject to changes determined by the Survey), and all easements, privileges, rights of way and all appurtenances pertaining to or accruing to the benefit of the Real Property, including without limitation easements for ingress, egress, parking, utilities, signage and surface water management over, under, across and upon the Phase Two Parcel, the Bank Parcel and the Phase Three Parcel.

1.37 Release means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the indoor or outdoor environment, including, without limitation, the abandonment or discarding of barrels, drums,

containers, tanks, and other receptacles containing or previously containing any Hazardous Material at or prior to the Closing Date.

1.38 Rent Roll, as to the Phase One Parcel, means the list of tenants and related information attached hereto as Exhibit 1.38. Additional Rent Rolls will be furnished to Buyer by Seller in connection with the development of the other parcels.

1.39 Seller means the party identified as Seller on the initial page hereof.

1.40 Seller Financial Statements means the unaudited balance sheets and statements of income, cash flows and changes in financial positions of Seller as of and for the years ended December 31, 1994 and 1995; and all monthly reports of income, expense and cash flow prepared by Seller consistent with past practice for any period beginning after December 31, 1995, and ending prior to Closing.

1.41 Shopping Center means the commercial enterprise commonly known as "Palm Harbor Shopping Village", including the Phase One Parcel, the Phase Two Parcel, the Bank Parcel and the Phase Three Parcel, all of which are identified on the Site Plan.

1.42 Site Plan means the plan of the Shopping Center attached hereto as Exhibit 1.42.

1.43 Survey means a map of a stake survey of the Shopping Center, identifying and establishing the legal description for each of the parcels and for the entire Shopping Center, which survey shall comply with Minimum Standard Detail Requirements for ALTA/ACSM Land Title Surveys, jointly established and adopted by ALTA and ACSM in 1992, and includes items 1, 2, 3, 4, 6, 7, 8, 9, 10 and 11 of Table "A" thereof, which meets the accuracy standards (as adopted by ALTA and ACSM and in effect on the date of the Survey) of an urban survey, which is dated not earlier than thirty (30) days prior to each Closing, and which is certified to Buyer, Seller, the Title Insurance company providing Title Insurance to Buyer, and Buyer's lender, and dated as of the date the Survey was made.

1.44 Tenant Estoppel Letter means a letter or other certificate from a tenant certifying as to certain matters regarding such tenant's Lease, in substantially the same form as attached hereto as Exhibit 1.44.

1.45 Title Defect means any exception in the Title Insurance Commitment or any matter disclosed by the Survey, other than a Permitted Exception.

1.46 Title Insurance means an ALTA Form B Owners Policy of Title Insurance for the full Purchase Price insuring Buyer's marketable fee simple title to the entire Shopping Center, subject only to the Permitted Exceptions (including, with respect to the Phase Two Parcel, the Phase Three Parcel and the Bank Parcel, the ground leases to be executed at Closing as provided in Article 8), the policy to be issued by Chicago Title Insurance Company. The legal descriptions for each of the parcels and the exceptions for each shall be separately stated.

1.47 Title Insurance Commitment means a binder whereby the title insurer agrees to issue the Title Insurance to Buyer.

## 2. PURCHASE PRICE AND PAYMENT

### 2.1 Purchase Price; Payment.

(a) Purchase Price and Terms. The total Purchase Price for the Property (subject to adjustment as provided herein) shall be determined by capitalizing the Annualized Net Operating Income of the Property by 0.105. The Purchase Price for the Property shall be payable in cash or by wire transfer of federal funds at Closing.

(b) Adjustments to the Purchase Price. The Purchase Price shall be adjusted as of the Allocation Date by:

(1) subtracting the portion of the Closing year's real and tangible personal property taxes for the period from January 1, of that year, through the Allocation Date (if the amount of the Closing year's property taxes are not available on the Allocation Date, such taxes will be prorated based upon the prior year's taxes); and

(2) subtracting the amount of security deposits, prepaid rents from tenants under the Leases and any other items customarily prorated in a transaction of this nature. Any percentage rents or tenant reimbursements payable after the Allocation Date but applicable to periods prior to the Allocation Date shall be remitted to Seller by Buyer within thirty (30) days after receipt. Buyer shall have no obligation to collect delinquencies, but should Buyer collect any delinquent rents or other sums which cover periods prior to the Allocation Date and for which Seller have received no proration or credit, Buyer shall remit same to Seller within thirty (30) days after receipt, less any actual out-of-pocket costs of collection. Buyer will not interfere in Seller's efforts to collect sums due it prior to the Closing. Seller will remit to Buyer promptly after receipt any rents, percentage rents or tenant reimbursements received by Seller after Closing which are attributable to periods occurring after the Allocation Date. Undesignated receipts of either Buyer or Seller from tenants in the Shopping Center shall be applied first to then current rents and reimbursements for such tenant(s), then to delinquent rents and reimbursements attributable first to post-Allocation Date periods, and then to pre-Allocation Date periods.

2.2 Deferred Portion of Purchase Price. The parties agree that Approved Leases which have been executed for the In-Line Spaces and which will be executed for the Earnout Spaces, (all of which Approved Leases for In-Line Spaces and Earnout Spaces are included in the Rent Roll but under which the particular tenants have not occupied and opened for business at such premises or commenced paying rent), will not be included in the computation of Net Operating Income to determine the Purchase Price payable for the Property at Closing. The Approved Leases for the In-Line Spaces and the Earnout Spaces, if executed, shall be assigned to Buyer at Closing. The Purchase Price attributable to the Approved Leases for the Earnout

Spaces shall be computed and paid (if not in material default) on the date which is the earlier of ten (10) days after the particular tenant has been lawfully in occupancy and paying rent for six (6) months or more, or 300 days following the initial Closing with respect to the Property. The deferred portion of the Purchase Price attributable to the In-Line Spaces (if not in material default) shall be computed and paid within ten (10) days after each of the tenants of the In-Line Spaces takes occupancy of the particular In-Line Space, opens for business therein and commences paying rent for such In-Line Space. If the Lease for a particular In-Line Space is or has been in material default between the Closing Date for the Property and the Closing Date for the particular In-Line Space, the Deferred Price Computation shall be deferred and paid at the same time as the Earnout Spaces, provided all such defaults have been cured by such date. The Consideration for the In-Line Spaces and the Earnout Spaces shall be computed by capitalizing at a capitalization rate of 0.105 the Annualized Net Operating Income attributable to the specific Approved Leases for the In-Line Spaces and Earnout Spaces, when in the case of the Earnout Spaces, but not the In-Line Spaces, the tenants have then been in occupancy, open for business and paying rent without material default for the preceding six (6) months. No other Leases shall be considered for the deferred payment pursuant to this Section 2.2. Any deferred payment hereunder shall be reduced by an amount equal to the Annualized Net Operating Income under any Lease for which Seller was given credit at the Closing Date or later in the case of an In-Line Space or Earnout Space, but which as of the Deferred Price Computation Date (i) had vacated their leased premises or (ii) had not paid their rent for the immediately preceding two (2) months, or (iii) is in material default under any other term of its lease, capitalized by 0.105, provided that if Seller has replaced the defaulting tenant with another tenant under an Approved Lease, and the tenant thereunder is in occupancy, open for business at the premises and has been paying its rent for six consecutive months as of the Deferred Price Computation Date, such reduction, as to that space, shall not be made. Buyer agrees that if a particular tenant for which Seller was given credit at the Closing of the Phase One Parcel acquisition defaults and Buyer intends to include such tenant in the foregoing reduction, Buyer shall within twenty (20) days of such default give written notice thereof to Seller and diligently seek a curing of such default. Further, Buyer shall keep Seller advised periodically of the status of such tenant and furnish copies of notices and other correspondence with such tenant as it relates to such default. With regard to the buildout of the ITT Property Management Space which is one of the In-Line Spaces, Seller has agreed to make certain interior improvements, the cost of which will be reimbursed by ITT Property Management. Such reimbursement shall be paid to Seller as received even if made after Closing.

2.3 Earnest Money Deposit. An Earnest Money Deposit in the amount of \$25,000.00 shall be delivered to Escrow Agent within three (3) days after execution and delivery of this Agreement by all parties. Should Buyer elect to extend the initial Inspection Period or proceed beyond the expiration of the Inspection Period to Closing, Buyer shall deliver to the Escrow Agent with a copy of the notice described in the third or penultimate sentence, as the case may be, of Section 3.1(a) below, an additional deposit of \$75,000, which shall thereupon be deemed part of the Earnest Money Deposit for all purposes. This Agreement may be terminated by Seller if the Earnest Money Deposit is not received by Escrow Agent by such deadline. The Earnest Money Deposit paid by Buyer shall be held as specifically provided in this Agreement and shall be applied to the Purchase Price at the Closing.

2.4 Closing Costs.

(a) Seller shall pay:

- (1) Seller's attorneys' fees relating to the sale of the Property;
- (2) Documentary stamp taxes imposed by the State of Florida and/or other governmental entities upon the transactions contemplated hereby;
- (3) Cost of the Survey;
- (4) Cost of satisfying any liens on the Property;
- (5) One-half the cost of title insurance and the entire cost, if any, of curing title defects and recording any curative title documents; and
- (6) All broker's commissions, finders' fees and similar expenses incurred by either party in connection with the sale of the Property, subject however to Buyer's indemnity given in Section 5.3 of this Agreement.

(b) Buyer shall pay:

- (1) Buyer's attorneys' fees;
- (2) Cost of Buyer's due diligence inspection;
- (3) Costs of the Phase 1 environmental site assessment to be obtained by Buyer;
- (4) One-half the cost of title insurance; and
- (5) Cost of recording the deed.

2.5 Prorations. Matters of income and expense shall be prorated as of the Allocation Date.

3. INSPECTION PERIOD AND CLOSING

3.1 Inspection Period.

(a) Buyer agrees that it will have the Inspection Period to physically inspect the Shopping Center, review the economic data, underwrite the tenants and review their leases, and to otherwise conduct its due diligence review of the Shopping Center and all books, records and accounts of Seller related thereto. Buyer hereby agrees to indemnify and hold Seller

harmless from any damages, liabilities or claims for property damage or personal injury arising out of such inspection and investigation by Buyer or its agents or independent contractors, which indemnity shall survive the termination of this Agreement. Within the Inspection Period, Buyer may, in its sole discretion and for any reason or no reason, elect to go forward with this Agreement to closing, which election shall be made by notice to Seller given within the Inspection Period. If such notice is not timely given, this Agreement and all rights, duties and obligations of Buyer and Seller hereunder, except any which expressly survive termination, shall terminate and Escrow Agent shall forthwith return to Buyer the Earnest Money Deposit. If Buyer so elects to go forward, the Earnest Money Deposit shall not be refundable except upon the terms otherwise set forth herein. The Inspection Period may be extended by Buyer for one successive period of thirty (30) days, by written notice to Seller given within the Inspection Period, as extended, as the case may be accompanied by evidence reflecting the increase of the Earnest Money Deposit by Buyer by \$75,000, for a total Earnest Money Deposit of \$100,000. The Earnest Money Deposit will not be increased further (such that if the Inspection Period is extended and the Earnest Money Deposit increased, another increase will not be necessary at the end of the extended Inspection Period). Buyer will promptly after execution of this Agreement deliver to Seller a copy of Buyer's standard form lease and any information questionnaires required to be completed with respect to any prospective tenant.

(b) Buyer, through its officers, employees and other authorized representatives, shall have the right to reasonable access to the Shopping Center and all records of Seller related thereto, upon prior notice to Seller, at reasonable times during the Inspection Period for the purpose of inspecting the Property, taking soil borings, conducting Hazardous Materials inspections and reviewing the books and records of Seller concerning the Shopping Center. Seller shall cooperate with and assist Buyer in making such inspections and reviews. Seller shall give Buyer any authorizations which may be required by Buyer in order to gain access to records or other information pertaining to the Shopping Center or the use thereof maintained by any governmental or quasi-governmental authority or organization. Buyer, for itself and its agents, agrees not to enter into any contract with existing tenants without the written consent of Seller if such contract would be binding upon Seller should this transaction fail to close. Buyer shall have the right to have due diligence interviews and other discussions or negotiations with tenants, provided Seller is given prior notice of the time and place of such interviews and/or discussions and an opportunity to be present.

(c) Buyer, through its officers or other authorized representatives, shall have the right to reasonable access to all Materials (other than privileged or confidential litigation materials) for the purpose of reviewing and copying the same.

(d) In the event Buyer elects to terminate this Agreement at the end of the Inspection Period, Buyer shall deliver to Seller prior to the return of the Deposit, originals or true copies of the following documents, if obtained by Buyer during the Inspection Period:

- (1) Survey;
- (2) Environmental Reports;

(3) Building Condition Report;

(4) Any correspondence with any existing or prospective tenant for the Shopping Center; and

(5) Financial information and leases delivered to Buyer by Seller.

Buyer's certification that it has delivered all such documents to the Escrow Agent for further delivery to Seller shall be conclusive that Buyer has delivered such documents.

(e) Attached to this Agreement as Exhibit 3.1(e) is a pro forma income and expense statement for the Property. If Buyer's examination of the Property and Seller's books and records concerning the Property, or other due diligence, reflects any material difference from either the income or the expenses set forth on the pro forma, then in such event Buyer at its option may terminate this Agreement upon notice to Seller prior to the expiration of the Inspection Period, whereupon each party shall be relieved of all further liability hereunder except for those indemnities which by their terms specifically survive the termination of this Agreement. If such material differences, if any, would result in the Purchase Price at the initial Closing being less than \$13,000,000.00 computed as required hereunder using the actual Net Operating Income as established during the Inspection Period, Seller by notice to Buyer given within ten (10) days after the expiration of the Inspection Period may terminate this Agreement, whereupon the Earnest Money Deposit shall be returned to Buyer and each party relieved of all further liability hereunder except for those indemnities which by their terms expressly survive the termination of this Agreement.

3.2 Hazardous Material. Buyer may at its sole expense cause a "Phase 1" environmental assessment of the Shopping Center to be made during the Inspection Period, and thereafter updated in connection with the payment of Consideration with respect to the Phase Two Parcel, Phase Three Parcel and the Bank Parcel, and a copy of any report shall be submitted to Buyer and Seller promptly upon its completion. If the assessment discloses the existence of any Hazardous Material on any unpurchased parcel, Buyer may notify Seller in writing, within five (5) business days after receipt of the Phase 1 assessment report that it elects to terminate this Agreement as to any or all unpurchased parcels, whereupon the Agreement shall terminate and Escrow Agent shall return to Buyer the Earnest Money Deposit, if any.

3.3 Time and Place of Closing. Unless otherwise agreed in writing by the parties, the Closing for the Property and each subsequent parcel shall take place at the offices of Escrow Agent in Jacksonville, Florida, at 10:00 A.M. on a date selected by Buyer which is (A) no later than the thirtieth (30th) day following the expiration of the Inspection Period and (B) no earlier than the sixtieth (60th) day following the Effective Date.

#### 4. WARRANTIES, REPRESENTATIONS AND COVENANTS OF SELLER

Seller warrants and represents as follows as of the date of this Agreement and as of the Closing and where indicated covenants and agrees as follows:

4.1 Organization; Authority. Seller is a general partnership organized and validly existing under the laws of Florida. Seller has full power and authority to enter into and perform this Agreement in accordance with its terms, and the persons executing this Agreement and other Transaction Documents have been duly authorized to do so on behalf of Seller.

4.2 Authorization; Validity. The execution and delivery of this Agreement and the consummation of the transactions contemplated by this Agreement have been duly and validly authorized by the Board of Directors of Seller's general partner. This Agreement has been duly and validly executed and delivered by Seller and (assuming the valid execution and delivery of this Agreement by Buyer) constitutes a legal, valid and binding agreement of Seller enforceable against it in accordance with its terms.

4.3 Title. Seller is the owner in fee simple of all of the Shopping Center, subject only to the Permitted Exceptions.

4.4 Commissions. Seller has neither dealt with nor does it have any knowledge of any broker or other party who has or may have any claim against Seller, Buyer or the Property for a brokerage commission or finder's fee or like payment arising out of or in connection with the transaction provided herein except for Southern Development Services, whose commission is equal to two percent (2.0%) of the Purchase Price for the Property, shall be paid by Seller at Closing. A similar commission will be paid by Seller at the closings of the transactions contemplated by Article 8 of this Agreement. Seller agrees to indemnify Buyer from any such claim arising by, through or under Seller.

4.5 Sale Agreements. The Shopping Center is not subject to any outstanding agreement(s) of sale, option(s), or other right(s) of third parties to acquire any interest therein, except for Permitted Exceptions and this Agreement.

4.6 Litigation. There is no litigation or proceeding pending, or to the best of Seller's knowledge, threatened against Seller relating to the Shopping Center. Seller and Publix Super Markets, Inc. ("Publix") have a dispute concerning the construction of additional buildings in the Phase Two Parcel, which dispute Seller may seek to resolve by declaratory action or other action which will not give rise in Publix of a right to terminate or modify its lease or withhold, offset or abate rents thereunder. Buyer consents to Seller instituting and maintaining such declaratory or other action at no cost to Buyer. Should Publix prevail in the dispute as to either Site B or Site C, Buyer shall have no further obligation with respect to Site B or Site C of the Phase Two Parcel, as the case may be, and the lease to Seller of the Phase Two Parcel shall terminate as to the relevant site as of the entry of a final judgment in favor of Publix finding that no buildings may be constructed thereon.

4.7 Leases. There are no Leases affecting the Shopping Center, oral or written, except as listed on the Rent Roll attached hereto. Copies of the Leases, all of which shall be delivered to Buyer within ten (10) days from the date hereof, are, to the best knowledge of Seller, true, correct and complete copies thereof, subject to the matters set forth on the Rent Roll. Between the date hereof and the date which is five business days prior to the end of the Inspection Period as extended, as the case may be, Seller may enter into new leases for portions of the Property after full disclosure to and consultation with Buyer. Seller will not thereafter terminate or modify existing Leases for the Property or enter into any new Leases for the Property without the consent of Buyer, not to be unreasonably withheld or delayed. Buyer shall advise Seller as to whether it will give or withhold its consent as to any proposed Lease for the Property within five (5) business days after the proposed lease and supporting information as to creditworthiness and operating experience is received by Buyer from Seller. If there is no answer to a request within said five (5) day period, the particular Lease shall be deemed approved. If Buyer objects to a particular proposed lease, it shall with its notice of objection furnish to Seller the specifics of such objection(s). If Seller corrects such deficiencies to Buyer's satisfaction within a reasonable period, Buyer shall approve such lease. All of the Property's tenant leases are in good standing and to the best of Seller's knowledge no material defaults exist thereunder except as noted on the Rent Roll. No rent has been paid more than one (1) month in advance and no security deposit or prepaid rent has been paid, except as stated on the Rent Roll. No tenants under the Leases are entitled to interest on any security deposits. No tenant under any Lease has or will be promised any inducement, concession or consideration by Seller other than as expressly stated in such Lease, and except as stated therein there are and will be no side agreements between Seller and any tenant.

4.8 Financial Statements. Each of the Seller Financial Statements delivered or to be delivered to Buyer hereunder has or will have been prepared in accordance with the books and records of Seller and presents fairly in all material respects the financial condition, results of operations and cash flows as of and for the periods to which they relate, and except for monthly reports of cash flow for periods after December 31, 1995, all are in conformity with generally accepted accounting principles applied on a consistent basis. There has been no material adverse change in the operations of the Property or its prospects since the date of the most recent Seller Financial Statements. Seller covenants to furnish Buyer with unaudited updated monthly reports of cash flow for interim periods beginning after December 31, 1995, promptly after such statements are first made available to Seller; and Buyer and its independent certified accountants shall be given access to Seller's books and records at any time prior to Closing and for six months thereafter, upon reasonable advance notice, in order that they may verify the Seller Financial Statements. Seller agrees to execute and deliver to Buyer the Audit Representation Letter should Buyer's accountants audit the records of all or any portion of the Shopping Center.

4.9 Contracts. Except for Leases and Permitted Exceptions, there are no management, service, maintenance, utility or other contracts or agreements affecting the Shopping Center, oral or written, which extend beyond the Closing Date and which would bind Buyer or encumber the Shopping Center after the Closing, except as contemplated hereby. All such Contracts are in full force and effect in accordance with their respective terms, and all

obligations of Seller under the Contracts required to be performed to date have been performed in all material respects; no party to any Contract has asserted any claim of default or offset against Seller with respect thereto and no event has occurred or failed to occur, which would in any way affect the validity or enforceability of any such Contract; and the copies of the Contracts delivered to Buyer prior to the date hereof are true, correct and complete copies thereof. Between the date hereof and the Closing, Seller covenants to fulfill all of its obligations under all Contracts, and covenants not to terminate or modify any such Contracts or enter into any new contractual obligations without the consent of Buyer (not to be unreasonably withheld) except such obligations as are freely terminable without penalty by Seller upon not more than thirty (30) days' written notice.

4.10 Maintenance and Operation of Property. From and after the date hereof and until the Closing, Seller covenants to keep and maintain and operate the Shopping Center substantially in the manner in which it is currently being maintained and operated and covenants not to cause or permit any waste of the Shopping Center nor undertake any action with respect to the operation thereof outside the ordinary course of business without Buyer's prior written consent, except as contemplated hereby. In connection therewith, Seller covenants with respect to the Property to be purchased at the initial Closing to make all necessary repairs and replacements until the Closing so that such Property shall be of substantially the same quality and condition at the time of Closing as on the date hereof. Seller covenants not to remove any article included in the Personal Property. Seller covenants to maintain such casualty and liability insurance on the Shopping Center as it is presently being maintained.

4.11 Permits and Zoning. To the best knowledge of Seller, there are no material permits and licenses (collectively referred to as "Permits") required to be issued to Seller by any governmental body, agency or department having jurisdiction over the Shopping Center which materially affect the ownership or the use thereof which have not been issued. The Shopping Center is properly zoned for its present use and is neither subject to any development of regional impact ("DRI") development order under Chapter 380, Florida Statutes, nor is it subject to aggregation with any other property of Seller or with any property which heretofore was subject to a DRI development order. The use of the Shopping Center is consistent with the land use designation for the Shopping Center under the comprehensive plan or plans applicable thereto, and all concurrency requirements have been satisfied. There are no outstanding assessments, impact fees or other charges related to the Shopping Center.

4.12 Rent Roll; Estoppel Letters. The Rent Roll is true and correct in all respects. Seller agrees to use its best reasonable efforts to obtain current estoppel letters acceptable to Buyer from all Tenants under Leases.

4.13 Condemnation. Neither the whole nor any portion of the Shopping Center, including access thereto or any easement benefiting the Shopping Center, is subject to temporary requisition of use by any governmental authority or has been condemned, or taken in any proceeding similar to a condemnation proceeding, nor is there now pending any condemnation, expropriation, requisition or similar proceeding against the Shopping Center or any portion

thereof. Seller has received no notice nor has any knowledge that any such proceeding is contemplated.

4.14 Governmental Matters. Except as set forth on Exhibit 4.14 of this Agreement, Seller has not entered into any commitments or agreements with any governmental authorities or agencies affecting the Shopping Center that have not been disclosed in writing to Buyer and Seller has received no notices from any such governmental authorities or agencies of uncured violations at the Shopping Center of building, fire, air pollution or zoning codes, rules, ordinances or regulations, environmental and hazardous substances laws, or other rules, ordinances or regulations. Seller shall be responsible for the remittance of all sales tax for periods occurring prior to the Allocation Date directly to the appropriate state department of revenue.

4.15 Repairs. Seller has received no notice of any requirements or recommendations by any lender, insurance companies, or governmental body or agencies requiring or recommending any repairs or work to be done on the Property which have not already been completed.

4.16 Consents and Approvals; No Violation. Neither the execution and delivery of this Agreement by Seller nor the consummation by Seller of the transactions contemplated hereby will (a) require Seller to file or register with, notify, or obtain any permit, authorization, consent, or approval of, any governmental or regulatory authority; (b) conflict with or breach any provision of the organizational documents of Seller; (c) violate or breach any provision of, or constitute a default (or an event which, with notice or lapse of time or both, would constitute a default) under, any note, bond, mortgage, indenture, deed of trust, license, franchise, permit, lease, contract, agreement or other instrument, commitment or obligation to which Seller is a party, or by which Seller, the Shopping Center or any of Seller's material assets may be bound; or (d) violate any order, writ, injunction, decree, judgment, statute, law or ruling of any court or governmental authority applicable to Seller, the Property or any of Seller's material assets.

4.17 Environmental Matters.

(a) Seller represents and warrants as of the date hereof and as of the Closing that:

(1) Seller has not, and has no actual knowledge of any other person who has, caused any Release, threatened Release, or disposal of any Hazardous Material at the Shopping Center in any material quantity; the Shopping Center is not adversely affected by any Release, threatened Release, or disposal of a Hazardous Material originating or emanating from any other property;

(2) the Shopping Center does not now contain and to the best of Seller's knowledge (subject to change if hereafter disclosed in the environmental assessment reports to be obtained by Buyer), has not contained any: (a) underground storage tank, (b) material amounts of asbestos-containing building material, (c) landfills or dumps, (d) hazardous

waste management facility as defined pursuant to the Resource Conservation and Recovery Act ("RCRA") or any comparable state law, or (e) site on or nominated for the National Priority List promulgated pursuant to Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA") or any state remedial priority list promulgated or published pursuant to any comparable state law;

and

(3) there are to the best of Seller's knowledge no conditions or circumstances at the Shopping Center which pose a risk to the environment or the health or safety of persons, except that Seller has disclosed to Buyer that one of the tenants of the Property is a drycleaning plant.

(b) Seller shall indemnify, hold harmless, and hereby waives any claim for contribution against Buyer for any damages to the extent they arise from

the inaccuracy or breach of any representation or warranty by Seller in this section of this Agreement.

4.18 Foreign Investment and Real Property Tax Act. Seller is not a "foreign person" within the meaning of Sections 1445 or 897 of the Code, and has furnished Buyer with its federal tax identification number, and at closing will execute and deliver to Buyer an affidavit regarding the same, or if Seller fails to execute and deliver such affidavit, Buyer may deduct and withhold from the Purchase Price such amounts as may be required by Buyer in order to satisfy its tax withholding obligations.

4.19 No Untrue Statement. Neither this Agreement nor any Exhibit nor any written statement or Transaction Document furnished or to be furnished by Seller to Buyer in connection with the transactions contemplated by this Agreement contains or will contain any untrue statement of material fact or omits or will omit any material fact necessary to make the statements contained therein, in light of the circumstances under which they were made, not misleading.

#### 5. WARRANTIES, REPRESENTATIONS AND COVENANTS OF BUYER

Buyer hereby warrants and represents as of the date of this Agreement and as of the Closing and where indicated covenants and agrees as follows:

5.1 Organization; Authority. Buyer is a corporation duly organized, validly existing and in good standing under laws of Florida and has full power and authority to enter into and perform this Agreement in accordance with its terms, and the persons executing this Agreement and other Transaction Documents on behalf of Buyer have been duly authorized to do so.

5.2 Authorization; Validity. The execution, delivery and performance of this Agreement and the other Transaction Documents have been duly and validly authorized by the Board of Directors of Buyer. This Agreement has been duly and validly executed and delivered by Buyer and (assuming the valid execution and delivery of this Agreement by Seller) constitutes a legal, valid and binding agreement of Buyer enforceable against it in accordance with its terms.

5.3 Commissions. Buyer has neither dealt with nor does it have any knowledge of any broker or other party who has or may have any claim against Buyer or Seller for a brokerage commission or finder's fee or like payment arising out of or in connection with the transaction provided herein except Southern Development Services, whose commission shall be paid by Seller at Closing and, with respect to the Closings contemplated by Article 8, such other Closings. Buyer agrees to indemnify Seller from any other such claim arising by, through or under Buyer.

## 6. POSSESSION; RISK OF LOSS

6.1 Possession. Possession of the Property will be transferred to Buyer at the conclusion of the Closing.

6.2 Risk of Loss. All risk of loss with respect to a particular parcel shall remain upon Seller until the conclusion of the Closing of the purchase of that parcel. If, before the possession of a particular parcel has been transferred to Buyer, any material portion of the parcel is damaged by fire or other casualty and will not be restored by the requisite Closing Date or if any material portion of such parcel is taken by eminent domain or there is a material obstruction of access to the Improvements by virtue of a taking by eminent domain, Seller shall, within ten (10) days of such damage or taking, notify Buyer thereof and Buyer shall have the option to:

(a) terminate this Agreement as to any parcel not purchased upon notice to Seller given within ten (10) business days after such notice from Seller, in which case Buyer shall receive a return of its Earnest Money Deposit; or

(b) proceed with such purchase, in which event Seller shall assign to Buyer all Seller's right, title and interest in all amounts due or collected by Seller under the insurance policies or as condemnation awards. In such event, the Purchase Price shall be reduced by the amount of any insurance deductible to the extent it reduced the insurance proceeds payable.

"Material" shall mean twenty-five percent (25%) or more of the Improvements or parcel.

## 7. TITLE MATTERS

### 7.1 Title.

(a) Title Insurance. Within two (2) days after the Effective Date, Seller shall order the Title Insurance Commitment covering the Shopping Center and identifying each parcel, from Chicago Title Insurance Company (acting through the agency offices of both Tripp, Scott, Conklin & Smith, and Ulmer, Murchison, Ashby & Taylor), and the Survey from a reputable surveyor familiar with the Shopping Center (Seller also agreeing to furnish to Buyer copies of any existing surveys and title information in its possession promptly after execution of this Agreement). With respect to the Phase Two Parcel, Phase Three Parcel and the Bank Parcel, the Title Insurance Commitment and Survey shall be updated to a current date relative to the Closing(s) for such parcel(s). Buyer will have ten (10) days from receipt of the Title Commitment, and update, as the case may be (including legible copies of all recorded exceptions noted therein), and Survey, updated for each parcel, as provided above, to notify Seller in writing of any Title Defects, encroachments or other matters not acceptable to Buyer which are not permitted by this Agreement. Any Title Defect or other objection disclosed by the Title Insurance Commitment (other than liens removable by the payment of money) or the Survey which is not timely specified in Buyer's written notice to Seller of Title Defects shall be deemed a Permitted Exception. Seller shall notify Buyer in writing within five (5) days of Buyer's notice if Seller intends to cure any Title Defect or other objection. If Seller elects to cure, Seller shall use diligent efforts to cure the Title Defects and/or objections by the Closing Date (as it may be extended), for each of the parcels. If Seller elects not to cure or if such Title Defects and/or objections are not cured, Buyer shall have the right, in lieu of any other remedies, to: (i) refuse to purchase the particular parcel, terminate this Agreement and receive a return of the Earnest Money Deposit, if any; or (ii) waive such Title Defects and/or objections and close the purchase(s) subject to them.

(b) Miscellaneous Title Matters. If a search of the title discloses judgments, bankruptcies or other returns against other persons having names the same as or similar to that of Seller, Seller shall on request deliver to Buyer an affidavit stating, if true, that such judgments, bankruptcies or the returns are not against Seller. Seller further agrees to execute and deliver to the Title Insurance agent at Closing such documentation, if any, as the Title Insurance underwriter shall reasonably require to evidence that the execution and delivery of this Agreement and the consummation of the transactions contemplated hereby have been duly authorized and that there are no mechanics' liens or parties in possession of other than tenants under Leases and Seller.

## 8. DEVELOPMENT OF CERTAIN PARCELS

8.1 Overall Development. Seller has intended that the Shopping Center be developed as generally depicted on the Site Plan, but only a portion of such development has been accomplished. Seller desires to develop the Phase Two Parcel, the Phase Three Parcel and the Bank Parcel, and receive additional Consideration therefor as hereinafter provided. In order to

accomplish such future development it is intended that Seller at the Closing of the Property will convey the entire Shopping Center to Buyer, immediately following which Buyer will lease to Seller, and Seller will lease from Buyer, the Phase Two Parcel, the Phase Three Parcel and the Bank Parcel pursuant to leases which will permit Seller to develop each parcel in accordance with the Site Plan and as hereinafter provided. The form of each lease will be negotiated and agreed to during the Inspection Period, the business terms of which are enumerated below.

8.2 Ground Lease for Phase Two Parcel. The lease for the Phase Two Parcel will be a ground lease for a term of two and one-half (2 1/2) years, beginning on the Closing Date of the purchase of the Property, at a rental of Ten Dollars (\$10.00) for the term, plus ad valorem taxes on the land and improvements on the Phase Two Parcel (or its share of such taxes allocated to the Phase Two Parcel by the Flagler County Property Appraiser). Taxes and expenses related to the improvements on the Phase Two Parcel and such parcel's proportionate share of increases in common area expenses of the Shopping Center (i) over the common area expenses charged to Seller in the computation of Net Operating Income for the Phase One Parcel or (ii) caused by the construction of improvements on the Phase Two Parcel (including, if applicable, increases for such matters as parking lot maintenance, landscaping, lighting and other ordinary operating expenses) shall be paid by Seller as the tenant. The lease will permit the construction of additional retail space in accordance with plans and specifications heretofore approved by the Buyer as listed on Exhibit 8.2 attached hereto, as landlord, provided they are in compliance with zoning and building requirements. The construction and use of the additional space will be subject to use, building and other restrictions imposed on the Shopping Center by existing covenants and restrictions, existing leases and other reasonable covenants and restrictions imposed by Buyer (including covenants and restrictions created under the ground lease or under the Declaration, hereinafter defined), so as to make the Phase Two Parcel architecturally compatible with the Shopping Center and limited as to use, size and height so as to not impair the operation of the Shopping Center or breach the lease of any tenant of the Shopping Center. The entire cost of the development on the Phase Two Parcel and for required improvements on the Phase One Parcel necessary for such development shall be borne by Seller, and the landlord's estate will not be subordinated or subject to any liens. Subletting will be permitted to third party occupancy tenants under Approved Leases as provided below. The occupancy tenants will attorn to the Buyer upon expiration of the ground lease, and the Buyer will agree to recognize the occupancy lease as a direct lease for periods beyond the term of the ground lease.

8.3 Consideration for Phase Two Parcel. The Consideration for the Phase Two Parcel will be an amount equal to (A) the Annualized Net Operating Income from each Approved Lease for space in the Phase Two Parcel, projected for the period commencing with the Qualification Date for such Approved Lease, and ending twelve months thereafter, (B) divided by (i) in the case of credit tenants whose leases have an initial term of five (5) or more years and no less than three (3) years remaining on their term(s), the capitalization rate of 0.105 (without the credit reserve adjustment described in Section 1.27 above), or (ii) in the case of "local tenants" and all credit tenants whose leases have less than three (3) years remaining on their term(s) as of the commencement of the twelve month computation period, the capitalization rate of 0.105 (taking into account the credit reserve adjustment described in

Section 1.27 above), the result obtained being reduced by (C) the Annualized Net Operating Income (as defined in Section 1.27 of this Agreement) for the same twelve (12) month period for any tenant of the Phase One Parcel who relocates to the Phase Two Parcel, divided by the pertinent aforesaid capitalization rate. Seller may before the Qualification Date for the payment of Consideration for the Approved Lease of such relocated Phase One Parcel tenant replace such relocating Phase One Parcel tenant with another Approved Lease for the Phase One Parcel space that was vacated, and if the replacement tenant thereunder is in occupancy, open for business at the premises, and has been paying its rent for six consecutive months, as of the Qualification Date for such relocated tenant, such reduction as to that space shall not be made. The Qualification Date for each Approved Lease of space in the Phase Two Parcel shall be the date upon which each of the following shall have occurred and be continuing with respect to such Approved Lease:

- (a) The Approved Lease shall have been executed by each of the parties;
- (b) The tenant shall have accepted the space and be lawfully open for business therein;
- (c) The tenant has been paying full rent for at least six (6) months;
- (d) There shall be no material default under such Approved Lease;
- (e) All sums payable for the construction of the improvements on the Phase Two Parcel shall have been paid and releases of liens and final payment affidavits for such work have been delivered to Seller; and
- (f) The tenant shall have executed and delivered to Buyer a Tenant Estoppel Letter regarding its lease and occupancy.

If the Qualification Date for a particular Approved Lease occurs after the end of the term of the ground lease, no Consideration with respect to such Approved Lease shall be paid or payable. With respect to monetary defaults, a tenant shall not be considered to be in material default so long as no payment under its lease is more than twenty (20) days overdue. The Seller, as ground tenant, will be responsible for all leasing commissions, buildout, tenant improvements, free rent and other concessions made to or for each occupancy subtenant, and if any extend beyond the term of the ground lease, Seller will pay such amounts to Buyer on the Qualification Date. To qualify as a Lease for which Buyer is willing to pay additional Consideration, the tenant must be a tenant who has been accepted by Buyer as a tenant under an Approved Lease. The Consideration for a particular Approved Lease in the Phase Two Parcel shall be paid within ten (10) business days after the Qualification Date for such Approved Lease, provided that if the Qualification Date for a particular Approved Lease occurs after the expiration of the term of the ground lease for the Phase Two Parcel, there shall be no Consideration paid or payable (and Buyer shall have no obligation) with respect to such Lease.

8.4 Lease for Bank Parcel. The lease for the Bank Parcel shall be "triple net" and shall be for a term of ninety-nine (99) years, beginning on the Closing Date of the purchase of the Property, at a rental of Ten Dollars (\$10.00) for the term, plus ad valorem taxes on the land and improvements on the Bank Parcel (or its share of such taxes allocated to the Bank Parcel by the Flagler County Property Appraiser). The lease will prohibit the tenant from modifying the exterior of the current improvements on the Bank Parcel without the consent of Buyer, not to be unreasonably withheld or delayed (such prohibition not to include repainting or reroofing in the same color and materials as now in place). The lease will permit the construction of any interior modifications without the requirement for such consent. The construction and use of any improvements on the Bank Parcel will be subject to use, building and other restrictions imposed on the Shopping Center by existing covenants and restrictions, existing leases and other reasonable covenants and restrictions imposed by Buyer (including covenants and restrictions created under the ground lease or under the Declaration, hereinafter defined), so as to make the Bank Parcel architecturally compatible with the Shopping Center and limited as to use, size and height so as to not impair the operation of the Shopping Center or breach the lease of any tenant of the Shopping Center. The entire cost of the development on the Bank Parcel shall be borne by Seller, and the landlord's estate will not be subordinated or subject to any liens. Subletting will be permitted to third party occupancy tenants under an Approved Lease or Approved Leases as provided in Section 8.5. The term of any sublease on the Bank Parcel shall not extend beyond the term of the lease without the express consent of Buyer.

8.5 Consideration for Bank Parcel. A building and other improvements now existing on the Bank Parcel and owned by Seller were formerly used as a bank. A portion of the Bank Parcel is currently leased to \_\_\_\_\_, the term of which lease is \_\_\_\_\_. Buyer will evaluate such tenant and lease for consideration as an Approved Lease during the Inspection Period. Seller hopes to find another third party creditworthy occupancy tenant or tenants for the Bank Parcel and then to be paid additional Consideration with respect to each occupancy under an Approved Lease on the Qualification Date for such Approved Lease. The Qualification Date for each Approved Lease of space in the Bank Parcel shall be the date upon which each of the following shall have occurred and be continuing with respect to such Approved Lease:

- (a) The Approved Lease shall have been executed by each of the parties;
- (b) The tenant shall have accepted the space and be lawfully open for business therein;
- (c) The tenant has been paying rent for at least six (6) months;
- (d) There shall be no material default under such Approved Lease;
- (e) All sums payable for the construction of the improvements on the Bank Parcel shall have been paid and releases of liens and final payment affidavits for such work have been delivered to Seller; and

(f) The tenant shall have executed and delivered to Buyer a Tenant Estoppel Letter regarding its lease and occupancy.

To be considered an Approved Lease for the Bank Parcel, the initial term shall be no less than five (5) years. Buyer shall have the option to terminate the ground lease for the Bank Parcel, to be exercised within fifteen (15) days after such Qualification Date, and if exercised Buyer will pay to Seller a Consideration equal to the Annualized Net Operating Income (as defined in Section 1.27 of this Agreement) from such Approved Lease(s), as projected for the first twelve (12) months of the Approved Lease term following the "free rent" period, if any, under such Lease, capitalized by 0.105. The computation of Annualized Net Income for each such Lease shall be made in accordance with the definition contained in Section 1.27 above. Seller has indicated that the building on the Bank Parcel may be divisible into two (2) spaces, each of which may be leased under an Approved Lease to an occupancy tenant. Should Seller determine to lease the Bank Parcel to two (2) tenants, it may do so provided the Consideration shall be payable at the same time and not staggered. Payment of the Consideration for Approved Leases on the Bank Parcel shall occur within thirty (30) days after the end of the Inspection Period for such parcel, which shall commence on the date of exercise by Buyer of its option and terminate thirty (30) days thereafter, as provided in Section 1.24, and Buyer shall be afforded the same inspection rights with respect to the Bank Parcel as are provided in Section 3.1 (but no deposits shall be payable). At closing, Seller and Buyer will execute a lease termination agreement concerning the applicable parcel(s) and will obtain an updated Survey at Buyer's expense, and endorsement to the Title Insurance insuring Buyer's marketable, fee simple title to such property, subject only to additional matters acceptable to Buyer, and increasing the policy amount by the Consideration, shall be provided, the costs to be otherwise apportioned as provided in Section 2.4. At closing, the ground lease as to the Bank Parcel shall be terminated and the entire Consideration for the Bank Parcel shall be payable in cash or by wire transfer, subject to ad valorem taxes of the year of closing and such other matters as are acceptable to Buyer. Taxes for the year of closing will be prorated as of the closing date, and the closing costs will be apportioned as provided in Section 2.4 hereof. Notwithstanding anything herein, if the foregoing conditions with respect to the leasing of space in the Bank Parcel and the payment of Consideration for Approved Leases on the Bank Parcel shall not have occurred within five (5) years after the Closing Date of the purchase of the Property, Buyer shall have no option with respect to the Bank Parcel, and the ground lease to Seller shall continue in full force and effect to the end of its term.

8.6 Ground Lease for Phase Three Parcel. The lease for the Phase Three Parcel will be a ground lease for a term of ninety-nine (99) years, beginning on the Closing Date of the purchase of the Property, at a rental of Ten Dollars (\$10.00) for the term, plus ad valorem taxes on the land and improvements on the Phase Three Parcel (or its share of such taxes allocated to the Phase Three Parcel by the Flagler County Property Appraiser). Taxes and expenses related to the improvements on the Phase Three Parcel, and such parcel's proportionate share of increases in common area expenses of the Shopping Center (i) over the common area expenses charged to Seller in the computation of Net Operating Income for the Phase One Parcel or (ii) otherwise attributable to such improvements (including, if applicable, increases for such matters as parking lot maintenance, landscaping, lighting and other ordinary

operating expenses) shall be paid by Seller as the tenant. The lease will permit the construction of retail space in accordance with plans and specifications to be approved by the Buyer, as landlord, provided they are in compliance with zoning and building requirements. The construction and use of the additional space will be subject to use, building and other restrictions imposed on the Shopping Center by existing covenants and restrictions, existing leases and other reasonable covenants and restrictions imposed by Buyer (including covenants and restrictions created under the ground lease or under the Declaration, hereinafter defined), so as to make the Phase Three Parcel architecturally compatible with the Shopping Center and limited as to use, size and height so as to not impair the operation of the Shopping Center or breach the lease of any tenant of the Shopping Center. Until the Phase Three Parcel is developed, Seller shall not be required to reimburse Buyer for common area maintenance and similar charges with respect to the Phase Three Parcel. The entire cost of the development on the Phase Three Parcel shall be borne by Seller, and the landlord's estate will not be subordinated or subject to any liens. Subletting will be permitted to third party occupancy tenants under Approved Leases as provided below. The term of any sublease on the Phase Three Parcel shall not extend beyond the term of the lease without the express consent of Buyer.

8.7 Development of and Consideration for Phase Three Parcel. Buyer and Seller have agreed with respect to the Phase Three Parcel as follows:

(a) Seller grants to Buyer the continuing option to terminate the ground lease for the Phase Three Parcel as a whole or in two phases, such phases being identified as "Phase X" and "Phase Y" on the Site Plan. If the ground lease is terminated as a whole, the Consideration for the termination shall be \$750,000. If terminated in phases, the Consideration for each phase shall be \$375,000. The Consideration shall escalate by five percent (5.0%), compounded annually on each anniversary of the Closing Date of the initial purchase of the Property. The option to terminate herein granted shall expire at 5:00 P.M. on the day following the fifth anniversary of the commencement of the term of the Ground Lease. Buyer may exercise its option(s) hereunder by notice to Seller given prior to the expiration of the option period, in which event, as to each exercise, the termination shall occur not later than thirty (30) days following the end of the Inspection Period for such parcel. The Inspection Period for such parcel shall commence on the date of exercise of the option and end thirty (30) days thereafter, as provided in Section 1.24, and Buyer shall be afforded the same inspection rights with respect to the parcel to be terminated or released from the ground lease as are provided in Section 3.1 (but no deposits shall be payable or extensions granted). At termination, the entire Consideration for the parcel, or phase, as the case may be, shall be payable in cash or by wire transfer, subject to ad valorem taxes of the year of termination and such other matters as are acceptable to Buyer. Taxes for the year of closing will be prorated as of the closing date, and the closing costs will be apportioned as provided in Section 2.4 hereof. At closing, Seller and Buyer will execute a lease termination agreement concerning the applicable parcel(s) and will obtain an updated Survey at Buyer's expense and endorsement to the Title Insurance insuring Buyer's marketable, fee simple title to such property, subject only to additional matters acceptable to Buyer, and increasing the policy amount by the

Consideration, shall be provided, the costs to be otherwise apportioned as provided in Section 2.4.

(b) If during the five (5) year termination option period specified in (a) above, Seller receives a bonafide offer from an unrelated third party (who is not an "end-user") to purchase all or any portion of the Phase Three Parcel which Seller intends to accept (such purchase to take the form of an outright purchase or, if required because of subdivision regulations, an assignment of the ground lease or subletting of the leasehold estate), Seller shall furnish a copy thereof to Buyer; whereupon Buyer shall have a period of ten (10) business days within which to elect to acquire the parcel which is the subject of the offer, on the same terms and conditions as stated in the offer. Buyer shall elect such right by giving notice to Seller within said period, whereupon Seller and Buyer shall be deemed to have agreed to sell and purchase such parcel in accordance with and subject to the terms and conditions of such offer. If Buyer does not elect to acquire within said period, the right to acquire herein granted as to such phase (including the rights granted under (a), this (b) and (c), shall be deemed to have lapsed as to such parcel upon the transfer of such parcel to the offeror, provided that no substantial change in the terms of such offer shall be made without notice to Buyer and an opportunity afforded to Buyer to acquire the parcel on the modified terms, following the same procedure as enumerated above. If Buyer does not elect to terminate the lease under this subparagraph and Seller proceeds to a closing with the third party, Buyer will execute and deliver to Seller or Seller's designee a special warranty deed and other standard seller documents as to such parcel, the expenses with respect thereto to be borne by Seller, including without limitation documentary stamp taxes.

(c) Should Seller during the five (5) year option period contemplated by subparagraph (a) above determine to develop Phase X or Phase Y on the Phase Three Parcel itself, Seller may do so, subject to the Declaration, and provided no less than fifty percent (50%) of the leasable space in the new development is preleased under Approved Leases to "credit tenants" or other tenants approved by Buyer (none of whom without the express consent of Buyer can be tenants of the Phase One or Phase Two Parcels). Upon Seller's notice to Buyer given during such five (5) year period that Seller has determined to develop either or both of Phase X or Phase Y on the Phase Three Parcel itself, which notice shall be accompanied by (i) copies of the executed Approved Leases for the preleased space, (ii) copies of executed bonafide construction contract(s) with third party contractors, and (iii) financing commitments or other information reasonably satisfactory to Buyer to indicate Seller's ability to construct, complete and pay for such improvements and related costs, Buyer's option to terminate as to such Phase under subparagraph (a) shall lapse and Buyer will have the option to be exercised within ten (10) business days after the delivery to Buyer of the foregoing notice and supporting documentation to terminate the ground lease as to the Phase X or Phase Y Parcel on the Phase Three Parcel, as the case may be, upon completion and occupancy of such development. The construction shall proceed in accordance with the Declaration and without material interference with the operation of the Phase One and Phase Two Parcels. If Buyer exercises its option as provided in this paragraph, upon completion of the development, Buyer shall have an Inspection Period for such parcel commencing on the date of issuance of the last certificate of occupancy for tenants accepted by Seller in and leasing to a level acceptable to

Seller for the Phase Three development and ending thirty (30) days thereafter, as provided in Section 1.24, during which Buyer shall be afforded the same inspection and cancellation rights with respect to the parcel to be acquired as are provided in Section 3.1 (but no deposits shall be payable or extensions granted). If not cancelled, the Closing shall occur on the date which is one hundred ninety (190) days after the date of the expiration of the free rent period for the tenants occupying their Phase Three Parcel premises as aforesaid. At closing, the ground lease as to the Phase Three Parcel shall be terminated and the entire Consideration for the Phase Three Parcel shall be payable in cash or by wire transfer, subject to ad valorem taxes of the year of closing and such other matters as are acceptable to Buyer. Taxes for the year of closing will be prorated as of the closing date, and the closing costs will be apportioned as provided in Section 2.4 hereof. At closing, Seller and Buyer will execute a lease termination agreement covering the property to be acquired and will obtain an updated Survey at Buyer's expense with respect to such parcel and endorsement to the Title Insurance insuring Buyer's marketable, fee simple title to such property, subject only to additional matters acceptable to Buyer, the other costs to be apportioned as provided in Section 2.4. If the development and leasing to a level acceptable to Seller of the Phase Three Parcel is not completed within seven (7) years after the commencement of the term of the Phase Three Parcel ground lease, Buyer may rescind its exercise of the option herein granted by notice to Seller given on or before 5:00 p.m. on the tenth (10th) day following such sixth anniversary, in which event the option to terminate as to the Phase being developed shall terminate. The Consideration to be paid to Seller by Buyer at Closing Purchase Price for the Phase Three Parcel will be an amount equal to (A) the Annualized Net Operating Income from Approved Leases in the Phase Three Parcel (but only considering Approved Leases of the tenants thereunder which have [i] accepted their premises and opened for business therein, [ii] been paying rent for at least six [6] months without material default under their lease; and [iii] executed and delivered to Buyer a Tenant Estoppel Letter), projected for the period commencing with the date of the Closing of the option and ending twelve months thereafter, (B) divided by (i) in the case of credit tenants whose leases have initial terms of five (5) or more years remaining on their terms, the capitalization rate of 0.105 (without the credit reserve adjustment described in Section 1.27 above), or (ii) in the case of "local tenants" whose leases have initial terms of three (3) or more years, the capitalization rate of 0.12 (taking into account the credit reserve adjustment described in Section 1.27 above), the result obtained being reduced by (C) the Annualized Net Operating Income for the same twelve (12) month period for any tenant of the Phase One or Phase Two Parcels who relocates with Buyer's permission to the Phase Three Parcel, divided by the pertinent aforesaid capitalization rate. Seller may replace such relocating tenant with another Approved Lease, and if the tenant thereunder is in occupancy, open for business at the premises, and has been paying its rent for six consecutive months, as of the Closing, such reduction as to that space shall not be made. Seller will be responsible for the entire cost and expense of lien-free construction of the development on the Phase Three Parcel, and shall be responsible for all leasing commissions, buildout, tenant improvements, free rent and other concessions made to the occupancy tenants, all which shall be paid or credited to Buyer by Seller as contemplated by Section 1.27.

8.8 Covenants and Restrictions. During the Inspection Period Seller and Buyer shall negotiate a declaration of covenants, restrictions and easements (the "Declaration") which will

be imposed upon the Phase Two Parcel, Phase Three Parcel and the Bank Parcel in order to insure that any development thereon will be integrated with the Shopping Center, will be architecturally compatible with the Shopping Center and will be limited as to use, size and height so as not to impair the operation of the Shopping Center or breach the lease of any tenant of the Shopping Center. The declaration will be executed, delivered and recorded at the Closing of the initial purchase of the Property.

8.9 Construction of Provisions. All provisions of this Agreement shall be construed in a manner with respect to future development of the Phase Two Parcel, the Phase Three Parcel and the Bank Parcel (such as, by way of example, definitions, inspection rights, title, survey, representations, warranties, estoppels, and price computation), so as to be applicable to the additional Consideration for the Phase Two Parcel, Phase Three Parcel and the Bank Parcel.

8.10 Platting and Permitting. Buyer agrees, if necessary, to apply for and cooperate with Seller in connection with any applications, replatting, permitting, or other governmental approvals required relating to the construction of any new improvements. The parties acknowledge that in all likelihood the Shopping Center will have to be replatted before the Phase Three Parcel can be developed. Buyer and Seller agree to cooperate with each other in good faith so as to insure that future development, including if necessary any replatting, shall proceed in as expeditious and efficient manner as possible. The reasonable costs of replatting incurred from and after January 1, 1996, shall be shared equally by Seller and Buyer (the aggregate cost to Buyer not to exceed \$7,500), but Seller shall have control over the process, subject to Buyer's reasonable approval rights with respect thereto. Upon completion of the replatting Seller may elect, prior to the exercise of any option by Buyer as to the Phase Three Parcel, to terminate the lease of the Phase Three Parcel and acquire fee simple title thereto, in which event Buyer upon notice of such election by Seller shall convey the Phase Three Parcel by special warranty deed to Seller, subject to current taxes, matters of record as of Buyer's acquisition of title and the Declaration. All of the costs of such conveyance shall be paid by Seller. In such event the options herein granted to Buyer with respect to the Phase Three Parcel shall be incorporated into the Declaration, and construed to apply as if Buyer were to have an option to acquire Seller's fee rather than leasehold interest in the Phase Three Parcel on the terms and conditions provided above.

8.11 Certain Sewer and Water Credits. Buyer and Seller acknowledge that Seller currently has certain water and sewer credits available from the local utilities and that such credits will not initially be transferred to Buyer as part of the purchase, but shall be retained by Seller and used for the construction of the improvements to be located on the various parcels, as contemplated hereby. Buyer agrees to cooperate with Seller in allocating these credits to the various construction projects. If, however, Seller does not develop a particular parcel, or if there are unused credits, they shall be transferred to Buyer without additional consideration.

8.12 Approval of Leases for Phase Two and Three and the Bank Parcel. Buyer shall advise Seller as to whether it will give or withhold its consent as to any proposed Lease for space in Phase Two, Phase Three or the Bank Parcel within ten (10) business days after the proposed Lease and supporting information as to creditworthiness and operating experience is

received by Buyer from Seller. If there is no answer to a request within said ten (10) day period, the particular Lease shall be deemed approved. If Buyer objects to a particular proposed Lease, it shall with its notice of objection furnish to Seller the specifics of such objection(s). If Seller corrects such deficiencies to Buyer's satisfaction within a reasonable period, Buyer shall approve such Lease.

#### 9. CONDITIONS PRECEDENT

9.1 Conditions Precedent to Buyer's Obligations. The obligations of Buyer under this Agreement are subject to satisfaction (or written waiver by Buyer) of each of the following conditions or requirements on or before the initial Closing Date for the purchase of the Property:

(a) Seller's warranties and representations under this Agreement shall be true and correct, and Seller shall not be in default hereunder.

(b) All obligations of Seller contained in this Agreement, shall have been fully performed in all material respects and Seller shall not be in default under any covenant, restriction, right-of-way or easement affecting the Property.

(c) There shall have been no material adverse change in the Shopping Center, its operations or future prospects (taking into account those contemplated hereby), the Leases or the financial condition of tenants leasing space in excess of 10,000 square feet since the date of this Agreement. Publix Super Markets, Inc., Eckerds, Inc., Blockbuster Video, Raymond's and Boston Chicken, and no less than eighty percent (80%) of the other tenants shall be open for business in the Shopping Center and be current in paying rent and not otherwise in material default under their respective leases.

(d) A Title Insurance Policy covering the Shopping Center, by parcel, and all appurtenant easements, shall have been issued, subject only to Permitted Exceptions.

(e) The physical and environmental condition of the Shopping Center shall be unchanged from the date of this Agreement, ordinary wear and tear and the improvements contemplated hereby excepted.

(f) Seller shall have delivered to Buyer the following in form reasonably satisfactory to Buyer:

(1) Special warranty deed in proper form for recording, duly executed and acknowledged so as to convey to Buyer the fee simple title to the Shopping Center, subject only to the Permitted Exceptions, the ground leases and the Declaration;

(2) The Declaration;

(3) Leases of the Phase Two Parcel, the Phase Three Parcel and the Bank Parcel, executed by Seller;

(4) Originals, if available, or if not, true copies of the Leases and of the contracts, agreements, permits and licenses, and such Materials as may be in the possession or control of Seller;

(5) A blanket assignment to Buyer of all Leases and the Contracts, agreements, permits and licenses (to the extent assignable) as they affect the Property and an indemnity against breach of such instruments by Seller prior to the Closing Date;

(6) A bill of sale with respect to the Personal Property and Materials;

(7) A title certificate, properly endorsed by Seller, as to any items for which title certificates exist;

(8) A current rent roll for all Leases in effect showing no changes from the rent roll attached to this Agreement other than those set forth in the Leases or approved in writing by Buyer;

(9) All tenant estoppel letters obtained by Seller, which in the case of the Phase One Parcel must include Publix Super Markets, Inc., Eckerds, Inc., Blockbuster Video, Raymond's and Boston Chicken, and eighty percent (80%) of the other tenants who have signed leases (and which in the case of any other parcel shall include all credit tenants and eighty percent [80%] of the other tenants who have signed leases for such parcel), without any material exceptions, covenants, or changes to the form approved by Buyer and distributed to the tenants by Seller;

(10) A general assignment of all assignable existing warranties;

(11) An owner's affidavit, non-foreign affidavit and such further instruments of conveyance, transfer and assignment and other documents as may reasonably be required by Buyer or its counsel in order to effectuate the provisions of this Agreement and the transactions contemplated herein;

(12) The originals or copies of any real property tax bills for the then current fiscal year and the previous year, and, if requested, the originals or copies of any current water, sewer and utility bills which are in Seller's custody or control;

(13) Resolutions of Seller authorizing the transactions described herein, certified by the general partner of Seller;

(14) All keys and other means of access to the Improvements in the possession of Seller or its agents;

(15) Materials; and

(16) Such other documents as Buyer may reasonably request to effect the transactions contemplated by this Agreement.

In the event that all of the foregoing provisions of this Section 9.1 are not satisfied and Buyer elects in writing to terminate this Agreement, then the Earnest Money Deposit shall be promptly delivered to Buyer by Escrow Agent and, upon the making of such delivery, neither party shall have any further claim against the other by reasons of this Agreement, except as provided in Article 10.

9.2 Conditions Precedent to Seller's Obligations. The obligations of Seller under this Agreement are subject to satisfaction (or written waiver by Seller) of each of the following conditions or requirements on or before the Closing Date for each parcel:

(a) Buyer's warranties and representations under this Agreement shall be true and correct, and Buyer shall not be in default hereunder;

(b) All of the obligations of Buyer contained in this Agreement shall have been fully performed by or on the date of Closing in compliance with the terms and provisions of this Agreement;

(c) Buyer shall have delivered to Seller at or prior to the Closing the following, which shall be reasonably satisfactory to Seller:

(1) Delivery and/or payment of the balance of the Purchase Price for such parcel;

(2) The execution of the Leases of the Phase Two, Phase Three and the Bank Parcel, executed by Buyer;

(3) The execution of the Declaration as to the Bank Parcel and Phase Three Parcel; and

(4) Such other documents as Seller may reasonably request to effect the transactions contemplated by this Agreement.

In the event that all conditions precedent to Buyer's obligation to purchase shall have been satisfied but the foregoing provisions of this Section 9.2 have not, and Seller elects in writing to terminate this Agreement, then the Earnest Money Deposit shall be promptly delivered to Seller by Escrow Agent and, upon the making of such delivery, neither party shall have any further claim against the other by reasons of this Agreement, except as provided in Article 10.

9.3 Insurance. Seller and Buyer agree to cooperate with each other such that insurance coverage for the Shopping Center after each Closing shall be coordinated and obtained

at economical and reasonable prices. The decision as to joint coverage shall be made at each Closing and the decision of either Seller or Buyer with respect to such coverage shall be totally within the discretion of each.

9.4 Best Efforts. Each of the parties hereto agrees to use reasonable best efforts to take or cause to be taken all actions necessary, proper or advisable to consummate the transactions contemplated by this Agreement.

#### 10. POST CLOSING INDEMNITIES AND COVENANTS

10.1 Seller's Indemnity. From and after each Closing, Seller, subject to the limitations set forth herein, shall indemnify, defend and hold harmless Buyer from all claims, demands, liabilities, damages, penalties, costs and expenses, including, without limitation, reasonable attorneys' fees and disbursements, which may be imposed upon, asserted against or incurred or paid by Buyer by reason of, or on account of, any breach by Seller of Seller's warranties, representations and covenants. Seller's warranties, representations and covenants, and the foregoing indemnity, shall survive such Closing for a period of one (1) year. Buyer's rights and remedies herein against Seller shall be in addition to, and not in lieu of all other rights and remedies of Buyer at law or in equity.

10.2 Buyer's Indemnity. From and after each Closing, Buyer shall indemnify, defend and hold harmless Seller from all claims, demands, liabilities, damages, penalties, costs and expenses, including, without limitation, reasonable attorneys' fees and disbursements, which may be imposed upon, asserted against or incurred or paid by Seller by reason of, or on account of, any breach by Buyer of Buyer's warranties, representations and covenants. Buyer's warranties, representations and covenants, and the foregoing indemnity, shall survive such Closing for a period of one (1) year. Seller's rights and remedies herein against Buyer shall be in addition to, and not in lieu of all other rights and remedies of Seller at law or in equity.

#### 11. BREACH; REMEDIES

11.1 Breach by Seller. In the event of a breach of Seller's covenants or warranties herein and failure by Seller to cure such breach within the time provided for each Closing, Buyer may, at Buyer's election (i) terminate this Agreement with respect to that purchase and receive a return of the Earnest Money Deposit, if any, and the parties shall have no further rights or obligations under this Agreement with respect to such purchase (except as survive termination); (ii) enforce this Agreement by suit for specific performance; or (iii) waive such breach and close the purchase contemplated hereby, notwithstanding such breach. Buyer shall have no other remedy except that with respect to the indemnities given to it hereunder which survive Closing, Buyer shall have all remedies at law and in equity.

11.2 Breach by Buyer. In the event of a breach of Buyer's covenants or warranties herein and failure of Buyer to cure such breach within the time provided for each Closing,

Seller's sole remedy shall be to terminate this Agreement with respect to such purchase and retain Buyer's Earnest Money Deposit, if any, as agreed liquidated damages for such breach, and upon payment in full to Seller of such amounts, the parties shall have no further rights, claims, liabilities or obligations under this Agreement with respect to such purchase (except as survive termination), except that Seller shall have all remedies at law or in equity for indemnities given to it hereunder which survive Closing.

## 12. ESCROW AGENT; EARNEST MONEY DEPOSIT

12.1 Duties. By signing a copy of this Agreement, Escrow Agent acknowledges receipt of the initial Earnest Money Deposit and agrees to comply with the terms hereof insofar as they apply to Escrow Agent. Escrow Agent shall receive and hold the Earnest Money Deposit in trust, to be disposed of in accordance with the provisions of this section and Section 2.3 above.

12.2 Indemnity. Escrow Agent shall not be liable to either party except for claims resulting from the gross negligence or willful misconduct of Escrow Agent. If the escrow is involved in any controversy or litigation, the parties hereto shall jointly and severally indemnify and hold Escrow Agent free and harmless from and against any and all loss, cost, damage, liability or expense, including costs of reasonable attorneys' fees to which Escrow Agent may be put or which may incur by reason of or in connection with such controversy or litigation, except to the extent it is finally determined that such controversy or litigation resulted from Escrow Agent's gross negligence or willful misconduct. If the indemnity amounts payable hereunder result from the fault of Buyer or Seller (or their respective agents), the party at fault shall pay, and hold the other party harmless against, such amounts.

12.3 Conflicting Demands. If conflicting demands are made upon Escrow Agent with respect to the escrow, the parties hereto expressly agree that Escrow Agent shall have the absolute right to do either or both of the following: (i) withhold and stop all proceedings in performance of this escrow and await settlement of the controversy by final appropriate legal proceedings or otherwise as it may require; or (ii) file suit for declaratory relief and/or inter-pleader and obtain an order from the court requiring the parties to interplead and litigate in such court their several claims and rights between themselves. Upon the filing of any such declaratory relief or interpleader suit and tender of the Earnest Money Deposit to the court, Escrow Agent shall thereupon be fully released and discharged from any and all obligations to further perform the duties or obligations imposed upon it by this Agreement. Buyer and Seller agree to respond promptly in writing to any request by Escrow Agent for clarification, consent or instructions. Any action proposed to be taken by Escrow Agent for which approval of Buyer and/or Seller is requested shall be considered approved if Escrow Agent does not receive written notice of disapproval within fourteen (14) days after a written request for approval is received by the party whose approval is being requested. Escrow Agent shall not be required to take any action for which approval of Buyer and/or Seller has been sought unless such approval has been received. No disbursements shall be made, other than as provided in Section 2.3 or to a court in an interpleader action, unless Escrow Agent shall have given written

notice of the proposed disbursement to Buyer and Seller and neither Buyer nor Seller shall have delivered any written objection to the disbursement within 14 days after receipt of Escrow Agent's notice. No notice by Buyer or Seller to Escrow Agent of disapproval of a proposed action shall affect the right of Escrow Agent to take any action as to which such approval is not required.

12.4 Continuing Counsel. Seller acknowledges that Escrow Agent is counsel to Buyer herein and Seller agrees that in the event of a dispute hereunder or otherwise between Seller and Buyer, Escrow Agent may continue to represent Buyer notwithstanding that it is acting and will continue to act as Escrow Agent hereunder, it being acknowledged by all parties that Escrow Agent's duties hereunder are ministerial in nature.

12.5 Withdrawal. No party shall have the right to withdraw any monies or documents deposited by it with Escrow Agent prior to the Closing or termination of this Agreement except in accordance with the terms of this Agreement.

12.6 Tax Identification. Seller and Buyer shall provide to Escrow Agent appropriate Federal tax identification numbers.

### 13. MISCELLANEOUS

13.1 Disclosure. Neither party shall disclose the transactions contemplated by this Agreement without the prior approval of the other, except where disclosure is required by law.

13.2 Radon Gas. Radon is a naturally occurring radioactive gas which, when it has accumulated in a building in sufficient quantities, may present health risks to persons who are exposed to it over time. Levels of radon which exceed federal and state guidelines have been found in buildings in Florida. Additional information regarding radon and radon testing may be obtained from the county public health unit.

13.3 Entire Agreement. This Agreement, together with the Exhibits attached hereto, constitutes the entire agreement between the parties hereto with respect to the subject matter hereof and may not be modified, amended or otherwise changed in any manner except by a writing executed by Buyer and Seller.

13.4 Notices. All written notices and demands of any kind which either party may be required or may desire to serve upon the other party in connection with this Agreement may be served (as an alternative to personal service) by overnight courier service at the addresses set forth below:

As to Seller: Palm Harbour Centers Associates  
Attention: Jim Zengage  
2499 Glades Road, Suite 104  
Boca Raton, Florida 33431

With a copy to: Tripp, Scott, Conklin & Smith  
Attention: Drake M. Batchelder, Esq.  
110 S.E. 6th Street, 28th Floor  
Ft. Lauderdale, Florida 33301

As to Buyer: RRC Acquisitions, Inc.  
Attention: Robert L. Miller  
Suite 200, 121 W. Forsyth St.  
Jacksonville, Florida 32202

With a copy to: RRC Acquisitions, Inc.  
Attention: Randle P. Shoemaker, Esq.  
Suite 200, 121 W. Forsyth St.  
Jacksonville, Florida 32202

With a copy to: Ulmer, Murchison, Ashby & Taylor  
Attention: William E. Scheu, Esq.  
P. O. Box 479  
Suite 1600, 200 W. Forsyth St.  
Jacksonville, FL 32201 (32202 for courier)

Any such notice or demand given by reputable overnight courier with charges thereon fully prepaid and addressed to the party to be served at the addresses set forth above shall constitute proper notice hereunder upon delivery to such overnight courier. Seller prefers Federal Express as an overnight courier but its use is not required.

13.5 Headings. The titles and headings of the various sections hereof are intended solely for means of reference and are not intended for any purpose whatsoever to modify, explain or place any construction on any of the provisions of this Agreement.

13.6 Validity. If any of the provisions of this Agreement or the application thereof to any persons or circumstances shall, to any extent, be invalid or unenforceable, the remainder of this Agreement by the application of such provision or provisions to persons or circumstances other than those as to whom or which it is held invalid or unenforceable shall not be affected thereby, and every provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

13.7 Attorneys' Fees. In the event of any litigation between the parties hereto to enforce any of the provisions of this Agreement or any right of either party hereto, the unsuccessful party to such litigation agrees to pay to the successful party all costs and expenses,

including reasonable attorneys' fees, whether or not incurred in trial or on appeal, incurred therein by the successful party, all of which may be included in and as a part of the judgment rendered in such litigation. Any indemnity provisions herein shall include indemnification for reasonable attorneys' fees and costs, whether or not suit be brought and including fees and costs on appeal.

13.8 Time of Essence. Time is of the essence of this Agreement.

13.9 Governing Law. This Agreement shall be governed by the laws of Florida and the parties hereto agree that any litigation between the parties hereto relating to this Agreement shall take place in a court located in Flagler County, State of Florida. Each party waives its right to jurisdiction or venue in any other location.

13.10 Successors and Assigns. The terms and provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns. No third parties, including any brokers or creditors, shall be beneficiaries hereof.

13.11 Exhibits. All exhibits attached hereto are incorporated herein by reference to the same extent as though such exhibits were included in the body of this Agreement verbatim.

13.12 Gender; Plural; Singular; Terms. A reference in this Agreement to any gender, masculine, feminine or neuter, shall be deemed a reference to the other, and the singular shall be deemed to include the plural and vice versa, unless the context otherwise requires. The terms "herein," "hereof," "hereunder," and other words of a similar nature mean and refer to this Agreement as a whole and not merely to the specified section or clause in which the respective word appears unless expressly so stated.

13.13 Further Instruments, Etc. Seller and Buyer shall, at or after Closing, execute any and all documents and perform any and all acts reasonably necessary to fully implement this Agreement.

13.14 Survival. The obligations of Seller and Buyer intended to be performed after the Closing shall survive the closing.

13.15 No Recording. Neither this Agreement nor any notice, memorandum or other notice or document relating hereto shall be recorded.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

Witnesses:

RRC ACQUISITIONS, INC.,  
a Florida corporation

\_\_\_\_\_  
[ - - - - - ]  
Name (Please Print)

By:  
Its:  
Date: \_\_\_\_\_, 1996

\_\_\_\_\_  
[ - - - - - ]  
Name (Please Print)

Tax Identification No. 59-3210155

"BUYER"

PALM HARBOUR CENTERS ASSOCIATES,  
a Florida general partnership

By Its General Partner:

P. Coast Corp., a Florida corporation

\_\_\_\_\_  
[ - - - - - ]  
Name (Please Print)

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

\_\_\_\_\_  
President Name (Please Print) Jim Zengage [ - - - - - ]  
Date: \_\_\_\_\_, 1996

Tax Identification No:

"SELLER"

ULMER, MURCHISON, ASHBY & TAYLOR

\_\_\_\_\_  
[ - - - - - ]  
Name (Please Print)

By:  
Its Authorized Agent

\_\_\_\_\_  
[ - - - - - ]  
Name (Please Print)

Date: \_\_\_\_\_, 1996

"ESCROW AGENT"

EXHIBIT 1.5

Audit Representation Letter

-----  
(Acquisition Completion Date)

KPMG Peat Marwick LLP  
2700 Independent Square  
One Independent Drive  
Jacksonville, Florida 32202

RE: \_\_\_\_\_  
(Acquisition Property Name)

Dear Sirs:

We are writing at your request to confirm our understanding that your audit of the Statement of Revenue and Certain Expenses of \_\_\_\_\_ for the twelve months ended December 31, 19\_\_\_\_, was made for the purpose of expressing an opinion as to whether the statement presents fairly in all material respects the results of its operations in conformity with generally accepted accounting principles. In connection with your audit we confirm, to the best of our knowledge and belief, the following representations made to you during your audit:

1. We have made available to you all financial records and related data in our possession for the period under audit.

2. To the best of our knowledge there have been no undisclosed:

(a) Irregularities involving any member of management or employees who have significant roles in the system of internal accounting control;

(b) Irregularities involving other persons that could have a material effect on the statement of revenue and certain expenses;

(c) Violations or possible violations of laws or regulations the effects of which should be considered for disclosure in the statement of revenue and certain expenses.

3. There are no:

(a) Unasserted claims or assessments that our lawyers have advised us are probable of assertion and must be disclosed in accordance with Statement of Financial Accounting Standards No. 5;

(b) Material gain or loss contingencies that are required to be disclosed by Statement of Financial Accounting Standards No. 5;

(c) Material transactions that have not been properly recorded in the accounting records underlying the financial statement; and

(d) Events that have occurred subsequent to the audit period that should require adjustment to or disclosure in the Statement of Revenue and Certain Expenses.

4. Provision, when material, has been made for losses to be sustained in the fulfillment of, or from inability to fulfill, any contract commitments.

5. The shopping center has satisfactory title to all owned assets, and there are no liens or encumbrances on such assets nor has any asset been pledged, that has not been disclosed.

6. All contractual agreements that would have a material effect on the Statement of Revenue and Certain Expenses have been complied with.

7. There have been no:

(a) Material undisclosed related party transactions and related amounts receivable or payable, including sales, purchases, loans, transfer, and guarantees;

(b) Agreements to repurchase assets previously sold.

Further, we acknowledge that we are responsible for the fair presentation of the Statement of Revenue and Certain Expenses prepared in accordance with generally accepted accounting principles.

Very truly yours,

\_\_\_\_\_(Seller)

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

EXHIBIT 1.38

Rent Roll

EXHIBIT 1.42

Site Plan

EXHIBIT 1.44

Form of Estoppel Letter

\_\_\_\_\_, 199\_

RE: \_\_\_\_\_ (Name of Shopping Center)

Ladies and Gentlemen:

The undersigned (Tenant) has been advised you may purchase the above Shopping Center, and we hereby confirm to you that:

1. The undersigned is the Tenant of \_\_\_\_\_, Landlord, in the above Shopping Center, and is currently in possession and paying rent on premises known as Store No. \_\_\_\_\_ [or Address: \_\_\_\_\_], and containing approximately \_\_\_\_\_ square feet, under the terms of the lease dated \_\_\_\_\_, which has (not) been amended by amendment dated \_\_\_\_\_ (the "Lease"). There are no other written or oral agreements between Tenant and Landlord. Tenant neither expects nor has been promised any inducement, concession or consideration for entering into the Lease, except as stated therein, and there are no side agreements or understandings between Landlord and Tenant.
2. The term of the Lease commenced on \_\_\_\_\_, expiring on \_\_\_\_\_, with options to extend of \_\_\_\_\_ (\_\_\_\_) years each.
3. As of \_\_\_\_\_, monthly minimum rental is \$\_\_\_\_\_ a month.
4. Current additional monthly payments for expense reimbursement total \$\_\_\_\_\_ per month for common area maintenance, property insurance and real estate taxes.
5. Tenant has given [no security deposit] [a security deposit of \$\_\_\_\_\_].
6. No payments by Tenant under the Lease have been made for more than one (1) month in advance, and minimum rents and other charges under the Lease are current.

7. All matters of an inducement nature and all obligations of the Landlord under the Lease concerning the construction of the Tenant's premises and development of the Shopping Center, including without limitation, parking requirements, have been performed by Landlord.
8. Tenant knows of no default by either Landlord or Tenant under the Lease, and knows of no situations which, with notice or the passage of time, or both, would constitute a default. Tenant has no rights to off-set or defense against Landlord as of the date hereof.

Very truly yours,

-----  
\_\_\_\_\_(Tenant)

Mailing Address:

\_\_\_\_\_  
-----

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

EXHIBIT 3.1(e)

Pro Forma Income and Expense Statement  
for the Shopping Center

EXHIBIT 4.14  
Governmental Agreements

EXHIBIT 8.2

Plans and Specifications  
for Additional Retail Space

I:\USERS\WES\REG\PALM\PSA

