SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

# SCHEDULE 13D

UNDER THE SECURITIES EXCHANGE ACT OF 1934

REGENCY REALTY CORPORATION
(Name of Issuer)

COMMON STOCK, $0.01 PAR VALUE
(Title of Class of Securities)

758939 10 2
(CUSIP Number)

PAUL E. SZUREK
SECURITY CAPITAL U.S. REALTY
69, ROUTE D'ESCH
L-1470 LUXEMBOURG

(352) 48 78 78
(Name, Address and Telephone Number of Person
Authorized to Receive Notices and Communications)

JUNE 11, 1996
(Date of Event Which Requires Filing of this Statement)

If the filing person has previously filed a statement on Schedule 13G to report the acquisition which is the subject of this Schedule 13D, and is filing this schedule because of Rule 13d--1(b)(3) or (4), check the following box / /.

Check the following box if a fee is being paid with this statement / X /. (A fee is not required only if the reporting person: (1) has a previous statement on file reporting beneficial ownership of more than five percent of the class of securities described in Item 1; and (2) has filed no amendment subsequent thereto reporting beneficial ownership of five percent or less of such class.) (See Rule 13d-7.)

Note: Six copies of this statement, including all exhibits, should be filed with the Commission. See Rule 13d-1(a) for other parties to whom copies are to be sent.

(Continued on following pages)




1 NAME OF PERSON
SECURITY CAPITAL U.S. REALTY
S.S. OR I.R.S. IDENTIFICATION NO. OF ABOVE PERSON

2 CHECK THE APPROPRIATE BOX IF A MEMBER OF A GROUP*

(a) / /

(b) /x/

3 SEC USE ONLY

4 SOURCE OF FUNDS*
BK, OO

5 CHECK BOX IF DISCLOSURE OF LEGAL PROCEEDINGS IS REQUIRED
PURSUANT TO ITEMS 2(d) or 2(e) / /

6 CITIZENSHIP OR PLACE OF ORGANIZATION
LUXEMBOURG

| | | |
|---|---|---|
| NUMBER OF SHARES BENEFICIALLY OWNED BY EACH REPORTING PERSON WITH | 7 | SOLE VOTING POWER 7,618,500 (SEE ITEM 5) |
| | 8 | SHARED VOTING POWER -0- |
| | 9 | SOLE DISPOSITIVE POWER 7,618,500 |
| | 10 | SHARED DISPOSITIVE POWER -0- |

11 AGGREGATE AMOUNT BENEFICIALLY OWNED BY EACH REPORTING PERSON
7,618,500 (SEE ITEM 5)

12 CHECK BOX IF THE AGGREGATE AMOUNT IN ROW (11) EXCLUDES
CERTAIN SHARES* / /

13 PERCENT OF CLASS REPRESENTED BY AMOUNT IN ROW (11)
53.1% (SEE ITEM 5)

14 TYPE OF PERSON REPORTING*
CO

*SEE INSTRUCTIONS BEFORE FILLING OUT



1 NAME OF PERSON
SECURITY CAPITAL HOLDINGS S.A.
S.S. OR I.R.S. IDENTIFICATION NO. OF ABOVE PERSON

2 CHECK THE APPROPRIATE BOX IF A MEMBER OF A GROUP*

(a) / /

(b) /x/

3 SEC USE ONLY

4 SOURCE OF FUNDS*
BK, OO

5 CHECK BOX IF DISCLOSURE OF LEGAL PROCEEDINGS IS REQUIRED
PURSUANT TO ITEMS 2(d) or 2(e) / /

6 CITIZENSHIP OR PLACE OF ORGANIZATION
LUXEMBOURG

| | | |
|---|---|---|
| NUMBER OF SHARES BENEFICIALLY OWNED BY EACH REPORTING PERSON WITH | 7 | SOLE VOTING POWER<br>7,618,500 (SEE ITEM 5) |
| | 8 | SHARED VOTING POWER<br>-0- |
| | 9 | SOLE DISPOSITIVE POWER<br>7,618,500 |
| | 10 | SHARED DISPOSITIVE POWER<br>-0- |

11 AGGREGATE AMOUNT BENEFICIALLY OWNED BY EACH REPORTING PERSON
7,618,500 (SEE ITEM 5)

12 CHECK BOX IF THE AGGREGATE AMOUNT IN ROW (11) EXCLUDES CERTAIN SHARES* / /

13 PERCENT OF CLASS REPRESENTED BY AMOUNT IN ROW (11)
53.1% (SEE ITEM 5)

14 TYPE OF PERSON REPORTING*
CO

*SEE INSTRUCTIONS BEFORE FILLING OUT

ITEM 1. SECURITY AND ISSUER.

This Statement relates to shares of common stock, par value $0.01 per share ("Common Stock"), of Regency Realty Corporation, a Florida corporation ("Regency"). The principal executive offices of Regency are located at 121 West Forsyth Street, Suite 200, Jacksonville, Florida 32202.

ITEM 2. IDENTITY AND BACKGROUND.

This Statement is filed by Security Capital U.S. Realty ("Security Capital U.S. Realty"), a corporation organized and existing under the laws of Luxembourg, and by Security Capital Holdings S.A. ("Holdings"), a corporation organized and existing under the laws of Luxembourg and a wholly owned subsidiary of Security Capital U.S. Realty (together with Security Capital U.S. Realty, "USRealty"). The business objective of USRealty is to become Europe's preeminent publicly-held real estate operating company with strategic investments in leading "value-added" real estate operating companies in the United States. USRealty intends to acquire 25% to 45% of the common stock of a limited number of U.S. real estate operating companies with specific market niches and the potential to be leaders in their respective peer groups. USRealty intends to maximize shareholder returns in these companies by investing sufficient capital and, by obtaining representation on the boards of directors and committees thereof, participating with managements in developing and implementing strategies for long-term growth in per share operating results. The principal offices of USRealty are located at 69, route d'Esch, L-1470, Luxembourg.

During the last five years, to the best of USRealty's knowledge, neither USRealty nor any of its executive officers or directors has been convicted in a criminal proceeding (excluding traffic violations or similar misdemeanors) or has been a party to a civil proceeding of a judicial or administrative body of competent jurisdiction as result of which USRealty or such person was or is subject to a judgment, decree, or final order enjoining future violations of, or prohibiting or man-

dating activities subject to, federal or state securities laws, or finding any violation with respect to such laws.

Each executive officer and each director of USRealty is a citizen of the United States but, with the exception of one director, all executive officers and directors are residents of various European countries. The name, business address, and present principal occupation (including the name, principal business and address of the corporation or organization in



which such employment is conducted) of each executive officer and director is set forth in Exhibit 1 to this Schedule 13D and is specifically incorporated herein by reference.

ITEM 3. SOURCE AND AMOUNT OF FUNDS OR OTHER CONSIDERATION.

Prior to February 3, 1996, USRealty purchased in stock market transactions 119,100 shares of Common Stock for an aggregate purchase price of $1,912,746 (including commissions). These funds were general capital funds of USRealty.

Pursuant to a Stock Purchase Agreement, dated as of June 11, 1996, by and among Regency, Security Capital U.S. Realty and Holdings (the "Stock Purchase Agreement"), subject to the terms and conditions thereof, Regency has agreed to sell and USRealty has agreed to purchase up to 7,499,400 shares of Common Stock (such Common Stock, the "Shares"). Security Capital U.S. Realty has agreed to advance to Holdings the funds necessary to purchase the Shares as required by the Stock Purchase Agreement, and has guaranteed the performance by Holdings of its obligations thereunder.

The aggregate purchase price for the Shares to be paid to Regency is up to $132,176,925 (the "Total Equity Commitment"). These funds will be obtained by USRealty from cash on hand and from draw downs under USRealty's $200,000,000 revolving credit facility pursuant to a Facility Agreement (the "Facility Agreement"), dated June 12, 1996, by and among Security Capital U.S. Realty, Holdings, Commerzbank Aktiengesellschaft, as arranger and collateral agent, Commerzbank International S.A., as administrative agent and the financial institutions listed in Schedule 1 thereto.

A copy of the Stock Purchase Agreement, and the various Exhibits thereto, is attached hereto as Exhibit 2 and is specifically incorporated herein by reference, and the description herein of such agreement and the Exhibits thereto is qualified in its entirety by reference to such agreement and Exhibits. A copy of the Facility Agreement is attached hereto as Exhibit 4 and is specifically incorporated herein by reference, and the description herein of such agreement is qualified in its entirety by reference to such agreement.

ITEM 4. PURPOSE OF TRANSACTION.

The purchase of the Shares is for the purpose of ownership and not with a view to or for sale in connection with any distribution thereof. USRealty has no present intention or plan to effect any distribution of the Shares.

Pursuant to the Stock Purchase Agreement, subject to certain conditions described below, USRealty will purchase 934,400 Shares (the "Initial Purchase") at a price of $17.625 per share at the initial closing under the Stock Purchase Agreement. Thereafter, subject to the terms of the Stock Purchase Agreement, at such time as Regency may determine (i) prior to December 1, 1996, USRealty will purchase 2,717,400 Shares (the "Second Purchase") at a price of $17.625 per share, provided that if the Second Purchase shall not have occurred by December 1, 1996, US Realty will have the right, at its election, to cause the Second Purchase on or before December 31, 1996, and (ii) prior to June 1, 1997, US Realty will purchase up to the remaining 3,847,600 Shares in minimum tranches of $30 million (each, and individually, a "Subsequent Purchase") at a price of $17.625 per share, provided that if the Subsequent Purchases shall not have occurred by June 1, 1997, USRealty will have the right, at its election, to make the Subsequent Purchases on or before June 30, 1997.

The Stock Purchase Agreement also provides that Regency will submit to a vote of its shareholders for their approval a proposed amendment to Regency's charter to, among other things, relax the ownership limitations therein with respect to USRealty and certain affiliates and transferees and to make certain other modifications to facilitate Regency's continued qualification as a domestically controlled real estate investment trust for federal income tax purposes (a "REIT").

The initial closing is subject to various conditions, including (i) an irrevocable waiver of application to USRealty of the ownership limitations contained in the Company's charter with respect to the Initial Shares plus 119,100 shares of Common Stock owned by USRealty as of June 11, 1996, (ii) the continued treatment of Regency as a REIT, and (iii) satisfaction of various customary conditions. In addition, if the initial closing shall not have occurred on or prior to October 31, 1996, the Stock Purchase Agreement may be terminated by either party, unless such party is then in default thereunder. The closings of the Second Purchase and each Subsequent Purchase are subject to various conditions, including (i) approval by Regency's shareholders of the transaction contemplated by the Stock Purchase Agreement, (ii) approval by Regency's shareholders of the proposed amendment to Regency's charter to amend the ownership limitations to permit USRealty to acquire up to 45% of the capital stock of Regency and to make certain other modifications to facilitate Regency's continued qualification as a REIT, (iii) the continued treatment of Regency as a REIT, and (iv) satisfaction of various customary conditions.



The Stock Purchase Agreement contemplates that the parties will enter into a Stockholders Agreement and a Registration Rights Agreement at the initial closing. Forms of such agreements are attached as Exhibits to the Stock Purchase Agreement filed as an exhibit hereto, are specifically incorporated herein by reference, and the description herein of such

agreements is qualified in its entirety by reference to such agreements. Pursuant to the Stockholders Agreement, USRealty will be entitled to certain rights and will be subject to certain restrictions, including the following: (i) from and after the date on which Regency's shareholders approve the transactions contemplated by the Stock Purchase Agreement (the "Shareholder Approval Date") until the next annual or special meeting at which any directors are to be elected, USRealty will have the right to have two directors on Regency's board of directors, and after such next annual or special meeting until such time as USRealty no longer owns at least 20% of the outstanding Common Stock or, if earlier, the expiration of the standstill period described in (iv) below, USRealty will generally have the right to nominate its proportionate share of Regency's board of directors (but in no event more than 49% of the directors), (ii) from and after the Shareholder Approval Date until USRealty no longer owns at least 20% of the outstanding Common Stock, USRealty will have the right to obtain certain operating and financial information, (iii) from and after the Shareholder Approval Date until USRealty no longer owns at least 15% of the outstanding Common Stock, USRealty will have the right to participate in Regency's future security offerings by purchasing its proportionate share of the securities offered therein, (iv) during a standstill period of five years (which period is subject to early termination in certain circumstances but, if not terminated early, shall be automatically extended for one-year increments unless USRealty gives Regency 270 days' notice cancelling such extensions or unless sooner terminated upon certain events), USRealty will be subject to certain limitations and restrictions relating to voting of its shares of Common Stock, acquisitions of additional shares of Common Stock (generally limited to 45% of the outstanding shares of Common Stock), transfers of its shares of Common Stock and various other matters, and (v) as long as USRealty owns 20% of the outstanding shares of Common Stock and as long as the standstill period (including extensions) is in effect, Regency may not take certain specified corporate actions relating to incurrence of indebtedness, third party property management, investments outside the retail shopping center industry and REIT termination. Moreover, pursuant to the Stockholders Agreement, from and after the Shareholder Approval Date until USRealty does not own at least 20% of the outstanding Common Stock, USRealty will consult with and advise Regency on certain matters including those concerning Regency's business strategy, financing arrangements, acquisition opportunities and investor relations. Pursuant to the Registration Rights Agreement, Regency will



grant USRealty certain registration rights to facilitate the resale of its Shares under certain conditions and certain tag-along rights to sell a portion of its Shares in connection with certain extraordinary issuances of stock by Regency.

Except as set forth in this Item 4, USRealty presently has no plans or proposals that relate to or would result in any of the actions specified in clauses (a) through (j) of Item 4 of Schedule 13D.

ITEM 5. INTEREST IN SECURITIES OF THE ISSUER.

As of June 11, 1996 USRealty may be deemed to beneficially own up to 7,618,500 shares of Common Stock because of USRealty's right to acquire up to 7,499,400 of such shares pursuant to and subject to the terms and conditions of the Stock

Purchase Agreement and because of USRealty's ownership of an additional 119,100 shares of Common Stock as of June 11, 1996. If USRealty acquires such additional 7,499,400 Shares, USRealty will own approximately 53.1% of the outstanding Common Stock, and approximately 43.1% on a fully diluted basis, based on the number of outstanding shares of Common Stock, and the number of outstanding options and other securities convertible into Common Stock. Security Capital Group Incorporated is the largest holder of the outstanding interests in Security Capital U.S. Realty (although such ownership is less than 40%) and may, for purposes of United States securities laws, be deemed to control Security Capital U.S. Realty. Security Capital Group Incorporated disclaims beneficial ownership of the Shares to be acquired by USRealty.

Prior to February 3, 1996, USRealty purchased 119,100 shares of Common Stock for an aggregate purchase price of $1,912,746 (including commissions) through stock market transactions using general capital funds of USRealty.

Except as set forth in this Item 5, to the best knowledge and belief of USRealty, no transactions involving Common Stock have been effected during the past 60 days by USRealty or by its directors, executive officers or controlling persons.

ITEM 6. CONTRACTS, ARRANGEMENTS, UNDERSTANDING OR RELATIONSHIPS WITH RESPECT TO SECURITIES OF THE ISSUER.

As described above in Item 4, the Stock Purchase Agreement, the Stockholders Agreement and the Registration Rights Agreement among Regency, Security Capital U.S. Realty and Holdings provide for various rights and restrictions with respect to Regency's Common Stock.



A copy of the Stock Purchase Agreement, and the various Exhibits thereto (including the forms of the Stockholders Agreement and the Registration Rights Agreement), is attached hereto as Exhibit 2 and is specifically incorporated herein by reference, and the description herein of such agreement and the Exhibits thereto is qualified in its entirety by reference to such agreement and Exhibits.

ITEM 7. MATERIAL TO BE FILED AS EXHIBITS.

The following Exhibits are filed as part of this Schedule 13D:

Exhibit 1 - Name, Business Address, and Present Principal Occupation of Each Executive Officer and Director of Security Capital U.S. Realty and of Security Capital Holdings S.A.

Exhibit 2 - Stock Purchase Agreement, dated as of June 11, 1996, by and among Regency Realty Corporation, Security Capital Holdings S.A. and Security Capital U.S. Realty

Exhibit 3 - Joint filing agreement pursuant to 13d-1(f)(1)

Exhibit 4 - Facility Agreement, dated June 12, 1996, by and among Security Capital U.S. Realty, Security Capital Holdings S.A., Commerzbank Aktiengesellschaft, as arranger and collateral agent, Com-

merzbank International S.A., as administrative agent and the financial institutions listed in Scedule 1 thereto



SIGNATURE

After reasonable inquiry and to the best of my knowledge and belief, I certify that the information set forth in this statement is true, complete, and correct.

SECURITY CAPITAL U.S. REALTY

By: /s/ Paul E. Szurek
Name: Paul E. Szurek
Title: Managing Director

SECURITY CAPITAL HOLDINGS S.A.

By: /s/ Paul E. Szurek
Name: Paul E. Szurek
Title: Managing Director

June 21, 1996

EXHIBIT INDEX

| EXHIBIT | DESCRIPTION | SEQUENTIAL PAGE NO. |
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| 4 | Facility Agreement, dated June 12, 1996, by and among Security Capital U.S. Realty, Security Capital Holdings S.A., Commerzbank Aktiengesellschaft, as arranger and collateral agent, Commerzbank International S.A., as administrative agent and the financial institutions listed in Scedule 1 thereto. | |

EXHIBIT 1

NAME, PRINCIPAL BUSINESS, AND ADDRESS
OF THE DIRECTORS AND EXECUTIVE OFFICERS
OF SECURITY CAPITAL U.S. REALTY
AND OF SECURITY CAPITAL HOLDINGS S.A.

The identity and background of the executive officers and directors of Security Capital U.S. Realty and Security Capital Holdings S.A. are as follows:

SECURITY CAPITAL U.S. REALTY:

1 W. Joseph Houlihan is a Director of Security Capital U.S. Realty. Mr. Houlihan's present principal occupation is as Executive Vice President and Director of the Institutional Management Group of GIM Algemeen Vermogensbeheer which provides investment management and advisory services. GIM Algemeen Vermogensbeheer's business address is Fellenoord 35, Postbus 365, 5600 AJ Eindhoven, The Netherlands.

2 James T. Mauck is a Director of Security Capital U.S. Realty. Mr. Mauck's present principal occupation is as Managing Director for Continental Europe of R.R. Donnelley & Sons Company which provides printing and related services. R.R. Donnelley & Sons Company's European business address is Overschiestraat 59a, 1062XD Amsterdam, The Netherlands.

3 William D. Sanders is a Director of Security Capital U.S. Realty. Mr. Sanders' present principal occupation is as Chairman of the Board of Directors and Chief Executive Officer of Security Capital Group Incorporated which controls and operates a group of highly focused, fully integrated real estate operating companies. Security Capital Group Incorporated's business address is 125 Lincoln Avenue, Santa Fe, New Mexico 87501.

4 Paul E. Szurek is a Managing Director of Security Capital U.S. Realty. Mr. Szurek's present principal occupation is as Managing Director of Security Capital U.S. Realty and as Managing Director of Security Capital (EU) Management S.A. Security Capital U.S. Realty's and Security Capital (EU) Management S.A.'s business address is 69, route d'Esch, L-1470 Luxembourg.

SECURITY CAPITAL HOLDINGS S.A.:

1. W. Joseph Houlihan is a Director of Security Capital Holdings S.A. Mr. Houlihan's present principal occupation is as Executive Vice President and Director of the Institutional Management Group of GIM Algemeen Vermogensbeheer which provides investment management and advisory services. GIM Algemeen Vermogensbeheer's business address is Fellenoord 35, Postbus 365, 5600 AJ Eindhoven, The Netherlands.

2. James T. Mauck is a Director of Security Capital Holdings S.A. Mr. Mauck's present principal occupation is as Managing Director for Continental Europe of R.R. Donnelley & Sons Company which provides printing and related services. R.R. Donnelley & Sons Company's European business address is Overschiestraat 59a, 1062XD Amsterdam, The Netherlands.

3. Paul E. Szurek is a Managing Director of Security Capital Holdings S.A. Mr. Szurek's present principal occupation

is as Managing Director of Security Capital U.S. Realty and as Managing Director of Security Capital (EU) Management S.A. Security Capital U.S. Realty's and Security Capital (EU) Management S.A.'s business address is 69, route d'Esch, L-1470 Luxembourg.

EXHIBIT 2

STOCK PURCHASE AGREEMENT

by and among

REGENCY REALTY CORPORATION

SECURITY CAPITAL HOLDINGS S.A.

and

SECURITY CAPITAL U.S. REALTY

dated as of

June 11, 1996

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EXHIBITS

THIS STOCK PURCHASE AGREEMENT (the "Agreement"), dated as of June 11, 1996, is made by and among Regency Realty Corporation, a Florida corporation (the "Company"), Security Capital U.S. Realty, a Luxembourg corporation (the "Advancing Party"), and Security Capital Holdings S.A., a Luxembourg corporation and a wholly owned subsidiary of the Advancing Party ("Buyer").

RECITALS:

WHEREAS, Buyer wishes to purchase from the Company, and the Company wishes to sell to Buyer, up to an aggregate of 7,499,400 shares (as such number may be adjusted as set forth below) of the Company's common stock, par value $0.01 per share (the "Company Common Stock") at a price of $17.625 per share; and

WHEREAS, Buyer and the Company are entering into this Agreement to provide for such purchase and sale and to establish various rights and obligations in connection therewith; and

WHEREAS, in consideration for the rights to be granted to it in the Stockholders Agreement (as defined below), the Advancing Party has agreed to advance to Buyer all funds for any and all purchases of Company Common Stock pursuant hereto and otherwise guarantee Buyer's obligations hereunder; and

WHEREAS, the Company and Buyer believe that the combination in a strategic partnership of the leadership, expertise and experience in the retail shopping center industry of the Company and the unique market knowledge, operating experience, research capabilities and access to capital of Buyer and its affiliates will significantly enhance the Company's ability to pursue its growth and operating strategies; and

WHEREAS, by separate agreement (the "Voting Agreements"), certain shareholders of the Company have agreed to support and vote in favor of this Agreement;

NOW, THEREFORE, in consideration of the premises and the representations, warranties, covenants and agreements contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and intending to be legally bound hereby, the parties hereto hereby agree as follows:

ARTICLE 1

Definitions

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

Section 1.1 "Action" shall mean any action, suit, arbitration, inquiry, proceeding or investigation by or before any Government Authority.

Section 1.2 "ADA" shall have the meaning set forth in Section 1.3.11(e).

Section 1.3 "Advancing Party" shall have the meaning set forth in the first paragraph hereof.

Section 1.4 "Affiliate" shall have the meaning ascribed thereto in Rule 12b-2 promulgated under the Exchange Act, and as in effect on the date hereof.

Section 1.5 "Agreement" shall have the meaning set forth in the first paragraph hereof.

Section 1.6 "Amended Company Charter" shall have the meaning set forth in Section 7.2(c).

Section 1.7 "Army Corps of Engineers" shall have the meaning set forth in Section 3.11(d).

Section 1.8 "Articles of Amendment" shall mean the Articles of Amendment to Articles of Incorporation of the Company, filed on December 20, 1995 with respect to the Class B Common Stock.

Section 1.9 "Benefit Arrangements" shall have the meaning set forth in Section 3.13(h).

Section 1.10 "Blue Sky Laws" shall have the meaning set forth in Section 3.4(e).

Section 1.11 "Breaching Matters" shall have the meaning set forth in Section 2.8(a).

Section 1.12 "Breakup Fee" shall have the meaning set forth in Section 9.3(c).

Section 1.13 "Business Day" shall mean any day other than a Saturday, a Sunday or a bank holiday in New York, N.Y.



Section 1.14 "Buyer" shall have the meaning set forth in the first paragraph hereof.

Section 1.15 "Capital Expenditure Budget and Schedule" shall have the meaning set forth in Section 3.11(i).

Section 1.16 "CERCLA" shall have the meaning set forth in Section 3.12(e).

Section 1.17 "Claim" shall have the meaning set forth in Section 3.12(g)(i).

Section 1.18 "Class B Common Stock" shall have the meaning set forth in Section 3.3(a).

Section 1.19 "Closing" shall mean the consummation of any Stock Purchase.

Section 1.20 "Closing Date" shall mean, with respect to the consummation of any Stock Purchase, three Business Days after the date on which the conditions set forth herein with respect thereto shall be satisfied or duly waived, or if the Company and Buyer mutually agree on a different date, the date upon which they have mutually agreed.

Section 1.21 "Code" shall mean the Internal Revenue Code of 1986, as amended, and any successor thereto, including all of the rules and regulations promulgated thereunder.

Section 1.22 "Commitment" shall have the meaning set forth in Section 3.7.

Section 1.23 "Company" shall have the meaning set forth in the first paragraph hereof.

Section 1.24 "Company Charter" shall mean the Articles of Amendment to the Charter of the Company, as in effect on the date hereof.

Section 1.25 "Company Common Stock" shall have the meaning set forth in the second paragraph hereof.

Section 1.26 "Company Environmental Reports" shall have the meaning set forth in Section 3.12(f).

Section 1.27 "Company Leases" shall have the meaning set forth in Section 3.11(f).

Section 1.28 "Company Plans" shall have the meaning set forth in Section 3.13(b).



Section 1.29 "Company Preferred Stock" shall have the meaning set forth in Section 3.3(a).

Section 1.30 "Company Properties" shall have the meaning set forth in Section 3.11(a).

Section 1.31 "Company Registration Statement" shall have the meaning set forth in Section 3.5(a).

Section 1.32 "Company Reports" shall have the meaning set forth in Section 3.5(a).

Section 1.33 "Company Stock" shall mean, collec-

tively, the Company Common Stock and any other shares of capital stock of the Company.

Section 1.34 "Competing Transaction" shall mean (i) any acquisition in any manner, directly or indirectly (including through any option, right to acquire or other beneficial ownership), of more than 15% of the equity securities, on a fully diluted basis, of the Company, or assets representing a material portion of the assets of the Company, other than any of the transactions contemplated by this Agreement, (ii) any merger, consolidation, sale of assets, share exchange, recapitalization, other business combination, liquidation, or other action out of the ordinary course of business of the Company, other than any of the transactions contemplated by this Agreement, or (iii) any public announcement of a proposal, plan or intention to do any of the foregoing or any agreement to engage in any of the foregoing.

Section 1.35 "Controlled Group Liability" shall have the meaning set forth in Section 3.13(h).

Section 1.36 "Cure Notice" shall have the meaning set forth in Section 2.8(b).

Section 1.37 "Debt Instruments" shall mean all notes, loan agreements, mortgages, deeds of trust or similar instruments which evidence or secure any indebtedness owing by the Company or any of its Subsidiaries.

Section 1.38 "Development Budget and Schedule" shall have the meaning set forth in Section 3.11(j).

Section 1.39 "Development Properties" shall have the meaning set forth in Section 3.11(j).

Section 1.40 "Employee Benefit Plans" shall have the meaning set forth in Section 3.13(h).



Section 1.41 "Employees" shall have the meaning set forth in Section 3.13(h).

Section 1.42 "Employment Agreements" shall have the meaning set forth in Section 3.7.

Section 1.43 "Environmental Claim" shall have the meaning set forth in Section 3.12(g)(ii).

Section 1.44 "Environmental Laws" shall have the meaning set forth in Section 3.12(g)(iii).

Section 1.45 "Environmental Permits" shall have the meaning set forth in Section 3.12(a).

Section 1.46 "ERISA" shall mean the Employee Retirement Income Security Act of 1974, as amended, and any successor thereto.

Section 1.47 "ERISA Affiliates" shall mean, with respect to any entity, trade or business, any other entity, trade or business that is a member of a group described in Section 1.4414(b), (c), (m) or (o) of the Code or Section 1.44001(b)(1) of ERISA that includes the first entity, trade or

business, or that is a member of the same "controlled group" as the first entity, trade or business pursuant to Section 1.44001(a)(14) of ERISA.

Section 1.48 "Exchange Act" shall have the meaning set forth in Section 3.4(e).

Section 1.49 "Executive Summaries of the Company Environmental Reports" shall have the meaning set forth in Section 3.12(f).

Section 1.50 "GAAP" shall have the meaning set forth in Section 3.5(b).

Section 1.51 "Government Authority" shall mean any government or state (or any subdivision thereof) of or in the United States, or any agency, authority, bureau, commission, department or similar body or instrumentality thereof, or any governmental court or tribunal.

Section 1.52 "HSR Act" shall have the meaning set forth in Section 3.4(e).

Section 1.53 "Indemnified Party" shall mean Buyer or the Company, as the context may require.



Section 1.54 "Initial Closing" shall mean the first Closing.

Section 1.55 "Initial Number of Shares" shall mean 934,400 shares of Company Common Stock.

Section 1.56 "Initial Purchase Price" shall mean $16,468,800.

Section 1.57 "Insurance Policies" shall have the meaning set forth in Section 3.16.

Section 1.58 "IRS" shall mean the Internal Revenue Service.

Section 1.59 "Lease Summaries" shall have the meaning set forth in Section 3.11(f).

Section 1.60 "Liabilities" shall mean, as to any person, all debts, adverse claims, liabilities and obligations, direct, indirect, absolute or contingent of such person, whether known or unknown, accrued, vested or otherwise, whether in contract, tort, strict liability or otherwise and whether or not actually reflected, or required by GAAP to be reflected, in such person's or entity's balance sheets or other books and records, including (i) obligations arising from non-compliance with any law, rule or regulation of any Government Authority or imposed by any court or any arbitrator of any kind, (ii) all indebtedness or liability of such person for borrowed money, or for the purchase price of property or services (including trade obligations), (iii) all obligations of such person as lessee under leases, capital or other, (iv) liabilities of such person in respect of plans covered by Title IV of ERISA, or otherwise arising in respect of plans for Employees or former Employees or their respective families or beneficiaries, (v) reimbursement obligations of such person in respect of letters of cred-

it, (vi) all obligations of such person arising under acceptance facilities, (vii) all liabilities of other persons or entities, directly or indirectly, guaranteed, endorsed (other than for collection or deposit in the ordinary course of business) or discounted with recourse by such person or with respect to which the person in question is otherwise directly or indirectly liable, (viii) all obligations secured by any Lien on property of such person, whether or not the obligations have been assumed, and (ix) all other items which have been, or in accordance with GAAP would be, included in determining total liabilities on the liability side of the balance sheet.



Section 1.61 "Liens" shall mean all liens, mortgages, deeds of trust, deeds to secure debt, security interests, pledges, claims, charges, easements and other encumbrances of any nature whatsoever.

Section 1.62 "Loss and Expenses" shall have the meaning set forth in Section 8.2(a).

Section 1.63 "Material Adverse Effect" shall mean a material adverse effect on the financial condition, results of operations or business of the Company and its Subsidiaries (to the extent of the Company's interests therein) taken as a whole.

Section 1.64 "Material Company Leases" shall have the meaning set forth in Section 3.11(f).

Section 1.65 "Materials of Environmental Concern" shall have the meaning set forth in Section 3.12(g)(iv).

Section 1.66 "Next Dividend" shall mean, with respect to each Closing, the first dividend paid by the Company after such Closing.

Section 1.67 "1997 and 1998 Preliminary Capital Expenditure Budgets and Schedules" shall have the meaning set forth in Section 3.11(i).

Section 1.68 "Other Filings" shall have the meaning set forth in Section 5.1(b).

Section 1.69 "Pension Plans" shall have the meaning set forth in Section 3.13(h).

Section 1.70 "Per Share Purchase Price" shall mean the price of $17.625 per share for the Company Common Stock.

Section 1.71 "Per Share Additional Purchase Price" shall mean, with respect to each share of Company Common Stock purchased by Buyer at any Closing, an amount equal to 85% of the product of (i) the per share amount of the Next Dividend multiplied by (ii) a fraction, the numerator of which is the number of days during the period commencing the day after the dividend payment date for the last dividend paid by the Company prior to the date of such Closing (the "Prior Dividend") and running through the day immediately prior to the date of such Closing (inclusive), and the denominator of which is the number of days during the period commencing the day after the dividend payment date for the Prior Dividend and running through the dividend payment date for the Next Dividend (inclusive).

Section 1.72 "Permitted Liens" shall mean (i) Liens (other than Liens imposed under ERISA or any Environmental Law or in connection with any Environmental Claim) for taxes or other assessments or charges of Governmental Authorities that are not yet delinquent or that are being contested in good faith by appropriate proceedings, in each case, with respect to which adequate reserves are being maintained by the Company or its Subsidiaries to the extent required by GAAP, (ii) statutory Liens of landlords, carriers, warehousemen, mechanics, materialmen and other Liens (other than Liens imposed under ERISA or any Environmental Law or in connection with any Environmental Claim) imposed by law and created in the ordinary course of business for amounts not yet overdue or which are being contested in good faith by appropriate proceedings, in each case, with respect to which adequate reserves or other appropriate provisions are being maintained by the Company or its Subsidiaries to the extent required by GAAP and which, to the extent same do not relate to work or materials provided for in the Capital Expenditure Budget and Schedule, the 1997 and 1998 Preliminary Capital Expenditure Budgets and Schedules or the Development Budget and Schedule, do not exceed $200,000 in the aggregate (excluding from such calculation, any amounts disclosed in writing by the Company to Buyer which (a) are fully covered by insurance held by the Company under which the Company reasonably expects full recovery of such amounts, or (b) for which an adequate escrow has been established and is, at the relevant time, maintained), (iii) the Company Leases, (v) easements, rights-of-way, covenants and restrictions which are customary and typical for properties similar to the Company Properties and which do not (x) interfere materially with the ordinary conduct of any Company Property or the business of the Company and its Subsidiaries as a whole or (y) detract materially from the value or usefulness of the Company Properties to which they apply, (iv) the Liens which were granted by the Company or any of its Subsidiaries to lenders pursuant to credit agreements in existence on the date hereof which are described in Schedule 3.9(c), (v) the other Liens, if any, described in Schedule 1.70, and (vii) such imperfections of title and encumbrances, if any, as would not, individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect.

Section 1.73 "person" shall mean any individual, corporation, partnership, limited liability company, joint venture, trust, unincorporated organization, other form of business or legal entity or Government Authority.

Section 1.74 "Prior Dividend" shall have the meaning set forth in Section 1.65.

Section 1.75 "Projects" shall have the meaning set forth in Section 3.11(j).

Section 1.76 "Property Restrictions" shall have the meaning set forth in Section 3.11(a).

Section 1.77 "Proxy Statement" shall have the meaning set forth in Section 5.1(b).

Section 1.78 "Purchase Price" shall mean the Per Share Purchase Price multiplied by the number of shares of Company Common Stock to be purchased and sold at a particular Closing.

Section 1.79 "Purchased Shares" shall have the meaning set forth in Section 2.1.

Section 1.80 "Registration Rights Agreement" shall have the meaning set forth in Section 2.5(a).

Section 1.81 "Regulatory Filings" shall have the meaning set forth in Section 3.4(e).

Section 1.82 "REIT" shall have the meaning set forth in Section 3.8(b).

Section 1.83 "Release" shall have the meaning set forth in Section 3.12(g)(v).

Section 1.84 "Remaining Equity Commitment" shall mean, on any given date after the Initial Closing, the Total Equity Commitment minus the sum of the Initial Purchase Price and, if any Subsequent Purchases shall have occurred, minus the Subsequent Purchase Prices. The Remaining Equity Commitment shall be deemed to be zero on the earlier of (i) the date that the Remaining Equity Commitment equals zero pursuant to the previous sentence, or (ii) the later of (A) June 30, 1997 (unless otherwise extended by Buyer and the Company in their sole discretion) or (B) if Buyer timely notifies the Company that it is, pursuant to Section 2.4(b) or 2.4(c), exercising its right to make the Second Purchase and/or part or all of any remaining Subsequent Purchase, then, the date as soon thereafter as (x) all conditions to Buyer's obligations to effect such purchase(s) shall have been satisfied or waived, and (y) such purchase(s) shall have been effected.

Section 1.85 "Rent Roll" shall have the meaning set forth in Section 3.11(f).



Section 1.86 "SEC" shall have the meaning set forth in Section 3.5(a).

Section 1.87 "Second Closing" shall mean the Closing of the Second Purchase pursuant to Section 2.4(a) or (b) after the Initial Purchase.

Section 1.88 "Second Purchase" shall have the meaning set forth in Section 2.4(a).

Section 1.89 "Securities Act" shall have the meaning

set forth in Section 3.4(e).

Section 1.90 "Securities Laws" shall have the meaning set forth in Section 3.5(a).

Section 1.91 "Stock Purchase" shall have the meaning set forth in Section 2.1.

Section 1.92 "Stockholders Agreement" shall have the meaning set forth in Section 2.5(a).

Section 1.93 "Subsequent Purchase Price" shall mean the Per Share Purchase Price multiplied by the number of Purchased Shares purchased by Buyer in a Subsequent Purchase.

Section 1.94 "Subsequent Purchases" shall have the meaning set forth in Section 2.4(a).

Section 1.95 "Subsidiaries" shall mean with respect to any person, any corporation, partnership, joint venture, business trust or other entity, of which such person, directly or indirectly, owns or controls at least 50% of the securities or other interests entitled to vote in the election of directors or others performing similar functions with respect to such corporation or other organization, or to otherwise control such corporation, partnership, joint venture, business trust or other entity. Without limiting the generality of the foregoing, the Company's Subsidiaries include each of the entities set forth on Schedule 3.1(d).

Section 1.96 "Tax" means any federal, state, local, or foreign income, gross receipts, license, payroll, employment, excise, severance, stamp, occupation, premium, windfall profits, environmental (including taxes under Code Section 1.959A), customs duties, capital stock, franchise, profits, withholding, social security (or similar), unemployment, disability, real property, personal property, sales, use, transfer,



registration, value added, alternative or add-on minimum, estimated, or other tax of any kind whatsoever, including any interest, penalty, or addition thereto, whether disputed or not. The term "Tax" also includes any amounts payable pursuant to any tax sharing agreement to which any relevant entity is liable as a successor or pursuant to contract.

Section 1.97 "Tax Return" means any return, declaration, report, claim for refund, or information return or statement relating to Taxes, including any schedule or attachment thereto, and including any amendment thereof.

Section 1.98 "Tenancy Leases" shall have the meaning set forth in Section 3.11(l).

Section 1.99 "Total Equity Commitment" shall mean the amount of $132,176,925.00 or, if the total number of Purchased Shares shall have been reduced pursuant to Section 2.1 of this Agreement, the number of Purchased Shares, as so reduced, multiplied by the Per Share Purchase Price.

Section 1.100 "Voting Agreements" shall have the meaning set forth in the fifth paragraph hereof, and shall be in the form set forth in Exhibit A.

Section 1.101 "Welfare Plans" shall have the meaning set forth in Section 3.13(h).

ARTICLE 2

Purchase and Sale of Shares; Closing

Section 2.1 Purchase and Sale. Subject to the terms and conditions hereof, from time to time after the date hereof, at each Closing, the Company will sell, convey, assign, transfer, and deliver, and Buyer will purchase and acquire from the Company, an aggregate of up to 7,499,400 shares of Company Common Stock (the "Purchased Shares"); provided, however, that if at any Closing following such time as Buyer shall have purchased 6,845,000 Purchased Shares or at which Buyer shall acquire in the aggregate (at such Closing together with all prior Closings) in excess of 6,845,000 Purchased Shares the purchase by Buyer of Purchased Shares in excess of 6,845,000 Purchased Shares would result in any holder of Class B Common Stock having the right to convert shares of Class B Common Stock into more than 9.8% of the Voting Securities (as defined in the Stockholders Agreement), then, unless any such conversion right has been waived, the number of Purchased Shares shall be reduced to 6,845,000 or such greater number as would not result



in such conversion right (and the number of Purchased Shares to be purchased at such Closing and any Subsequent Closing shall be reduced accordingly). Each Closing at which Buyer purchases any Purchased Shares is herein referred to as a "Stock Purchase."

Section 2.2 Consideration. Subject to the terms and conditions hereof, at each Closing, Buyer shall deliver to the Company the relevant Purchase Price with respect to the number of shares of Company Common Stock to be purchased and sold at such Closing by wire transfer of immediately available funds in U.S. dollars to the account or accounts specified by the Company.

Section 2.3 Initial Closing. Subject to the terms and conditions hereof, at a mutually agreeable time promptly following the date on which the applicable conditions set forth in Sections 7.1, 7.3 and 7.4 shall have been satisfied or duly waived (but, in any event, no sooner than 20 days after the date hereof), Buyer will purchase and acquire (and the Advancing Party shall advance sufficient funds for such purchase) from the Company, and the Company will sell, convey, assign, transfer and deliver to Buyer, the Initial Number of Shares of Company Common Stock, and Buyer will pay to the Company the Initial Purchase Price for such shares of Company Common Stock.

Section 2.4 Subsequent Purchases and Sales. (a) Subject to the terms and conditions hereof, following the Initial Closing, the Company shall have the right to require, subject to satisfaction or waiver of the applicable conditions set forth in Sections 7.2 and 7.3, Buyer to purchase (and to require the Advancing Party to advance sufficient funds for such purchase) from the Company (i) at the Second Closing, 2,717,400 Purchased Shares (the "Second Purchase"), and (ii) from time to time at one or more Subseqent Closings, up to an aggregate of 3,847,600 (as such number may be reduced pursuant to Section 2.1) Purchased Shares; provided that the Subsequent Purchase Price at each Subseqent Closing shall be not less than $30 mil-

lion (or a minimum of 1,702,128 Purchased Shares) (each, and individually and the Second Purchase referred to as a "Subsequent Purchase" and, together, the "Subsequent Purchases"). Subject to the terms and conditions hereof, the Closing of any Subsequent Purchase shall occur as soon as possible following the date on which the applicable conditions set forth in Sections 7.2, 7.3 and 7.4 shall have been satisfied or duly waived.

(b) If the Second Purchase shall not have occurred on or before December 1, 1996, then Buyer shall have the right,



subject to the satisfaction or waiver of the applicable conditions set forth in Sections 7.2, 7.3 and 7.4, to make the Second Purchase from the Company on or before December 31, 1996, or as soon thereafter as all conditions to Buyer's obligation to effect the Second Purchase hereunder shall have been satisfied or waived.

(c) If less than 3,847,600 (as such number may be reduced pursuant to Section 2.1) Purchased Shares shall have been issued and sold at any and all Subsequent Purchases other than at the Second Purchase on or before June 1, 1997, then Buyer shall have the right, subject to the satisfaction or waiver of the applicable conditions set forth in Sections 7.2, 7.3 and 7.4, to make a Subsequent Purchase from the Company on or before June 30, 1997, or as soon thereafter as all conditions to Buyer's obligation to effect the Subsequent Purchase hereunder shall have been satisfied or waived.

(d) If the condition set forth in Section 7.3(f) is not satisfied (which determination shall be made by Buyer, in its sole discretion) or waived at any time when a Closing would otherwise occur, the relevant Closing will be effected as to the number of Purchased Shares, if any, as will not result in such condition failing to be satisfied, and Buyer shall acquire any remaining Purchased Shares as soon thereafter as such condition to Buyer's obligation to effect the Subsequent Purchase shall have been, as determined in Buyer's sole discretion, satisfied or waived.

Section 2.5 Additional Agreements and Closing Deliveries. (a) At the Initial Closing, and as a condition to the parties' obligations hereunder to effect the transactions contemplated hereby at the Initial Closing, the Company and Buyer shall enter into a registration rights agreement substantially in the form attached as Exhibit B (the "Registration Rights Agreement"), and the Company, Buyer and the Advancing Party shall enter into a shareholders agreement substantially in the form attached as Exhibit C (the "Stockholders Agreement").

(b) In addition to the other things required to be done hereby, at each Closing, the Company shall deliver, or cause to be delivered, to Buyer the following: (i) certificates representing the number of shares of Company Common Stock to be issued and delivered at such Closing, free and clear of all Liens (unless created by Buyer or any of its Affiliates), with all necessary share transfer and other documentary stamps attached, (ii) a certificate, dated the relevant Closing Date and validly executed on behalf of the Company, as contemplated by Section 7.1(a), as to the Initial Closing only, by Section 7.2(a), as to each Subsequent Closing, and by Section 7.3(a) as

to all Closings, (iii) evidence or copies of any consents, approvals, orders, qualifications or waivers required pursuant to Section 7.1, as to the Initial Closing only, pursuant to Section 7.2, as to each Subsequent Closing, and pursuant to Section 7.3, as to all Closings, (iv) all certificates and other instruments and documents required by this Agreement to be delivered by the Company to Buyer at or prior to each Closing, and (v) such other instruments reasonably requested by Buyer, as may be necessary or appropriate to confirm or carry out the provisions of this Agreement.

(c) In addition to the delivery of the Purchase Price and the other things required to be done hereby, at each Closing, Buyer shall deliver, or cause to be delivered, to the Company the following: (i) a certificate, dated the relevant Closing Date and validly executed by Buyer, as contemplated by Section 7.4(a), (ii) if not previously delivered to the Company, all other certificates, documents, instruments and writings required pursuant hereto to be delivered by or on behalf of Buyer at or before each Closing, and (iii) such other instruments reasonably requested by the Company, as may be necessary or appropriate to confirm or carry out the provisions of this Agreement.

Section 2.6 Time and Place of Closings. Each Closing shall take place on the relevant Closing Date at such place and time as the Company and Buyer shall mutually agree.

Section 2.7 Right to Assign. Buyer may assign its rights and delegate its obligations created hereby to purchase Company Common Stock in accordance with the provisions of Section 10.5.

Section 2.8 Company's Right to Cure. (a) From the date hereof until the date that is four weeks from the date hereof, Buyer may conduct such investigation as it deems appropriate to confirm the accuracy of the representations and warranties of the Company contained herein. No later than the second Business Day after the last day of such four-week period, Buyer shall deliver to the Company a written notice setting forth in reasonable detail any matters as to which Buyer has knowledge (if any) and that render any of the Company's representations and warranties contained herein untrue or incorrect in such a way as would, individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect (the "Breaching Matters").

(b) If Buyer shall have set forth one or more Breaching Matters in any notice delivered pursuant to Section 2.8(a), within 30 Business Days after receipt of such notice



the Company shall attempt, to the extent commercially reasonable and practicable, to cause the Breaching Matters identified by Buyer in such notice to be true or correct so as would not,

individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect and, if so, shall deliver to Buyer written notice (the "Cure Notice") stating that all Breaching Matters identified by Buyer in Buyer's notice have been cured to the extent required and describing the manner in which such Breaching Matters were so cured. If the Company fails to deliver the Cure Notice within 30 Business Days after its receipt of Buyer's notice, Buyer shall have 10 Business Days to terminate this Agreement without liability to any party. If Buyer does not timely terminate this Agreement pursuant to the preceding sentence, Buyer shall be deemed to have waived the relevant Breaching Matters as conditions to any Closing or as a basis for indemnification hereunder. If Buyer obtains actual knowledge of any Breaching Matter during the four-week period from the date hereof, but fails to include such Breaching Matter in its notice pursuant to Section 2.8(a), Buyer shall also be deemed to have waived such Breaching Matter.

Section 2.9 Additional Purchase Price. As additional consideration from Buyer to the Company for the shares of Company Common Stock purchased at each Closing, Buyer agrees that, simultaneously with its receipt of the Next Dividend payable with respect to each such share of Company Common Stock purchased at such Closing, Buyer shall pay to the Company the amount of the Per Share Additional Purchase Price applicable to each such share of Company Common Stock.

## ARTICLE 3

## Representations and Warranties of the Company

The Company hereby represents and warrants to Buyer as follows:

Section 3.1 Organization and Qualification; Subsidiaries. (a) The Company is a corporation duly incorporated, validly existing and in good standing under the laws of the State of Florida. The Company has all requisite corporate power and authority to own, operate, lease and encumber its properties and carry on its business as now conducted, and to enter into this Agreement, the Registration Rights Agreement, and the Stockholders Agreement and to perform its obligations hereunder and thereunder.



(b) Each of the Subsidiaries of the Company is a corporation, partnership or limited liability company duly organized, validly existing and in good standing under the laws of the jurisdiction of its incorporation or organization, and has the corporate or partnership power and authority to own its properties and to carry on its business as it is now being conducted.

(c) Each of the Company and its Subsidiaries is duly qualified to do business and in good standing in each jurisdiction in which the ownership of its property or the conduct of its business requires such qualification, except for any failures to be so qualified or to be in good standing as would not, individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect.

(d) Schedule 3.1(d) sets forth the name of each Sub-

sidiary of the Company (whether owned, directly or indirectly, through one or more intermediaries). All of the outstanding shares of capital stock of, or other equity interest in, each of the Subsidiaries owned by the Company are duly authorized, validly issued, fully paid and nonassessable, and are owned, directly or indirectly, by the Company free and clear of all Liens, except as set forth in Schedule 3.1(d). The following information for each Subsidiary is set forth in Schedule 3.1(d), if applicable: (i) its name and jurisdiction of incorporation or organization, (ii) the type of and percentage interest held by the Company in the Subsidiary and the names of and percentage interest held by the other interest holders, if any, in the Subsidiary, and (iii) any loans from the Company to, or priority payments due to the Company from, the Subsidiary, and the rate of return thereon. Except as contemplated hereby, there are no existing options, warrants, calls, subscriptions, convertible securities or other rights, agreements or commitments which obligate the Company or any of the Subsidiaries to issue, transfer or sell any shares of capital stock or equity interests in any of the Subsidiaries except as would not, individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect.

Section 3.2 Authority Relative to Agreements; Board Approval. (a) The execution, delivery and performance of this Agreement, the Registration Rights Agreement and the Stockholders Agreement have been duly and validly authorized by all necessary corporate action on the part of the Company, subject only to the approval of the issuance of Company Common Stock pursuant to this Agreement and of the Amended Company Charter by the Company's shareholders. This Agreement has been duly executed and delivered by the Company for itself and constitutes the valid and legally binding obligation of the Company,



enforceable against the Company in accordance with its terms, subject to applicable bankruptcy, insolvency, moratorium or other similar laws relating to creditors' rights or general principles of equity.

(b) The Board of Directors of the Company has, as of the date hereof, approved this Agreement, the Registration Rights Agreement, the Stockholders Agreement and the transactions contemplated hereby and thereby, and determined to recommend that the shareholders of the Company vote in favor of and approve the issuance of Company Common Stock pursuant to this Agreement.

(c) The shares of Company Common Stock to be acquired pursuant to this Agreement have been duly authorized for issuance, and upon issuance will be duly and validly issued, fully paid and nonassessable.

(d) The issue and sale of the shares of Company Common Stock hereunder will not give any shareholder of the Company the right to demand payment for its shares under Florida law or give rise to any preemptive or similar rights. Neither the entry into or announcement of this Agreement nor the consummation of the transactions contemplated hereby will result in any holder of Class B Common Stock having the right to convert any shares of Class B Common Stock into shares of Company Common Stock pursuant to Section 4(a) of the Articles of Amendment.

(e) The Board of Directors of the Company has

adopted a resolution authorizing the placement of the Investor Nominees (as defined in the Stockholders Agreement) on the Board of Directors of the Company in accordance with the terms of the Stockholders Agreement, and approving any necessary expansion of the number of directors constituting the Board of Directors, all in accordance with the requirements of the Company Charter.

Section 3.3 Capital Stock. (a) The authorized capital stock of the Company as of the date hereof consists of 25,000,000 shares of Company Common Stock, par value $0.01 per share, 10,000,000 shares of Special Common Stock, par value $0.01 per share, and 10,000,000 shares of Preferred Stock, par value $0.01 per share. As of May 31, 1996, there are 6,848,699 shares of Company Common Stock issued and outstanding, 1,916 shares of Series A 8% Cumulative Preferred Stock, par value $.01 per share ("Company Preferred Stock"), issued and outstanding and 2,500,000 shares of Class B Non-voting Common Stock, par value $0.01 per share ("Class B Common Stock"), issued and outstanding. All such issued and outstanding shares



of Company Common Stock are duly authorized, validly issued, fully paid, nonassessable and free of preemptive rights. The Company has no outstanding bonds, debentures, notes or other obligations the holders of which have the right to vote (or which are convertible into or exercisable for securities the holders of which have the right to vote) with the shareholders of the Company on any matter. As of the date hereof, except as set forth in Schedule 3.3(a) to this Agreement, there are no existing options, warrants, calls, subscriptions, convertible securities, or other rights, agreements or commitments which obligate the Company to issue, transfer or sell any shares of capital stock or other equity interests of the Company.

(b) Except for interests in the Subsidiaries of the Company and except as set forth in Schedule 3.3(b), none of the Company or any of its Subsidiaries owns directly or indirectly any interest or investment (whether equity or debt) in any corporation, partnership, joint venture, business, trust or entity (other than investments in short-term investment securities).

Section 3.4 No Conflicts; No Defaults; Required Filings and Consents. Except as contemplated hereby, neither the execution and delivery by the Company hereof nor the consummation by the Company of the transactions contemplated hereby in accordance with the terms hereof, will:

(a) conflict with or result in a breach of any provisions of the Company Charter or by-laws of the Company;

(b) result in a breach or violation of, a default under, or the triggering of any payment or other obligations pursuant to, or, except as set forth in Schedule 3.9(g), accelerate vesting under, any of the Regency Realty Corporation 1993 Long Term Omnibus Plan or similar compensation plan or any grant or award made under any of the foregoing;

(c) violate or conflict with any statute, regulation, judgment, order, writ, decree or injunction applicable to the Company or its Subsidiaries, except as would not, individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect;

(d) subject to the Company obtaining the third party consents set forth in Schedule 3.4(d)-A (with respect to the Initial Closing), Schedule 3.4(d)-B (with respect to the Second Closing), and Schedule 3.4(d)-C (with respect to each other Subsequent Closing), violate or conflict with or result in a breach of any provision of, or constitute a default (or any event which, with notice or



lapse of time or both, would constitute a default) under, or result in the termination or in a right of termination or cancellation of, or accelerate the performance required by, or result in the creation of any Lien upon any of the properties of the Company or its Subsidiaries under, or result in being declared void, voidable or without further binding effect, any of the terms, conditions or provisions of any note, bond, mortgage, indenture, deed of trust or any license, franchise, permit, lease, contract, agreement or other instrument, commitment or obligation to which the Company or its Subsidiaries is a party, or by which the Company or its Subsidiaries or any of their properties is bound or affected, except for any of the foregoing matters which would not reasonably be expected to, individually or in the aggregate, result in a Material Adverse Effect; or

(e) require any consent, approval or authorization of, or declaration, filing or registration with, any Government Authority, other than any filings required under the Securities Act of 1933, as amended (the "Securities Act"), the Securities Exchange Act of 1934, as amended (the "Exchange Act"), the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended (the "HSR Act"), state securities laws ("Blue Sky Laws") (collectively, the "Regulatory Filings"), and any filings required to be made with the Secretary of State of Florida or any national securities exchange on which the Company Common Stock is listed, except as would not, individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect.

Section 3.5 SEC and Other Documents; Financial Statements; Undisclosed Liabilities. (a) The Company has delivered or made available to Buyer the registration statement of the Company filed with the Securities and Exchange Commission ("SEC") in connection with the Company's initial public offering of Company Common Stock, and all exhibits, amendments and supplements thereto (collectively, the "Company Registration Statement"), and each registration statement, report, proxy statement or information statement and all exhibits thereto prepared by it or relating to its properties since the effective date of the Company Registration Statement, which are set forth in Schedule 3.5(a), each in the form (including exhibits and any amendments thereto) filed with the SEC (collectively, the "Company Reports"). The Company Reports were filed with the SEC in a timely manner and constitute all forms, reports and documents required to be filed by the Company under the Securities Act, the Exchange Act and the rules and regulations promulgated thereunder (the "Securities Laws"). As of their respective dates, the Company Reports (i) complied as to

form in all material respects with the applicable requirements of the Securities Laws and (ii) did not contain any untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements made therein, in the light of the circumstances under which they were made, not misleading. There is no unresolved violation asserted by any Government Authority with respect to any of the Company Reports.

(b) Each of the balance sheets included in or incorporated by reference into the Company Reports (including the related notes and schedules) fairly presented the financial position of the entity or entities to which it relates as of its date and each of the statements of operations, shareholders' equity (deficit) and cash flows included in or incorporated by reference into the Company Reports (including any related notes and schedules) fairly presented the results of operations, retained earnings or cash flows, as the case may be, of the entity or entities to which it relates for the periods set forth therein, in each case in accordance with United States generally accepted accounting principles ("GAAP") consistently applied during the periods involved, except as may be noted therein and except, in the case of the unaudited statements, normal recurring year-end adjustments which would not, individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect. The projections set forth in the Regency Realty Corporation 1996 Consolidated Operating Reproject dated May 30, 1996 which has previously been delivered by the Company to Buyer represent the Company's good faith expectations and estimates with respect to the matters set forth therein.

(c) Except as and to the extent set forth in the Company Reports or any Schedule hereto, to the Company's knowledge, none of the Company or any of its Subsidiaries has any Liabilities (nor do there exist any circumstances) that would, individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect.

Section 3.6 Litigation; Compliance With Law. (a) There are no Actions pending or, to the Company's knowledge, threatened against the Company or any of its Subsidiaries that would, individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect, or which question the validity hereof or any action taken or to be taken in connection herewith. Except as disclosed in Schedule 3.6(a), there are no continuing orders, injunctions or decrees of any Government Authority to which the Company or any of its Subsidiaries is a party or by which any of its properties or assets are bound.



(b) None of the Company or its Subsidiaries is in violation of any statute, rule, regulation, order, writ, decree or injunction of any Government Authority or any body having jurisdiction over them or any of their respective properties which, if enforced, would, individually or in the aggregate,

reasonably be expected to result in a Material Adverse Effect.

Section 3.7 Absence of Certain Changes or Events. Except as disclosed in the Company Reports filed with the SEC prior to the date hereof or in Schedule 3.7 and except for the entering into employment agreements in the form attached as Exhibit D (the "Employment Agreements") with the employees listed on Schedule 3.7, since December 31, 1994, the Company and each of its Subsidiaries has conducted its business only in the ordinary course and has acquired real estate and entered into financing arrangements in connection therewith only in the ordinary course of such business, and there has not been any change, circumstance or event that would reasonably be expected to result in a Material Adverse Effect, any declaration, setting aside or payment of any dividend or other distribution with respect to the Company Common Stock, except in accordance with Section 5.5, (c) any commitment, contractual obligation, borrowing, capital expenditure or transaction (each, a "Commitment") entered into by the Company or any of its Subsidiaries, other than Commitments which would not, individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect, or (d) any change in the Company's accounting principles, practices or methods which would, individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect.

Section 3.8 Tax Matters; REIT and Partnership Status. (a) The Company and each of its Subsidiaries has timely filed with the appropriate taxing authority all Tax Returns required to be filed by it or has timely requested extensions and any such request has been granted and has not expired. Each such Tax Return is complete and accurate in all respects. All Taxes shown as owed by the Company or any of its Subsidiaries on any Tax Return have been paid or accrued, except for Taxes being contested in good faith and for which adequate reserves have been taken. The Company and each of its Subsidiaries has properly accrued all Taxes for such periods subsequent to the periods covered by such Tax Returns as required by GAAP. None of the Company or any of its Subsidiaries has executed or filed with the IRS or any other taxing authority any agreement now in effect extending the period for assessment or collection of any Tax. Except as set forth in Schedule 3.8(a), none of the Company or any of its Subsidiaries is being audited or examined by any taxing authority with respect to any Tax or is a party to any pending action or proceedings by any taxing authority for



assessment or collection of any Tax, and no claim for assessment or collection of any Tax has been asserted against it. True and complete copies of all federal, state and local income or franchise Tax Returns filed by the Company and each of its Subsidiaries for 1993, 1994 and 1995 and all communications relating thereto have been delivered to Buyer or made available to representatives of Buyer prior to the date hereof. No claim has been made in writing or, to the Company's knowledge, otherwise by an authority in a jurisdiction where the Company or any of its Subsidiaries does not file Tax Returns that it is or may be subject to taxation by that jurisdiction. Except as set forth in Schedule 3.8(a), there is no dispute or claim concerning any Tax liability of the Company or any of its Subsidiaries, (i) claimed or raised by any taxing authority in writing or (ii) as to which the Company or any of its Subsidiaries has knowledge. To the Company's knowledge, as of the date hereof, (i) the Company is a "domestically-controlled" REIT within the meaning of Code Section 897(h)(4)(B), and (ii) all

non-domestic beneficial owners (whether direct or indirect) of Company Common Stock are set forth in Schedule 3.8(a). To the Company's knowledge, except as set forth in Schedule 3.8(a), no person or entity which would be treated as an "individual" for purposes of Section 542(a)(2) of the Code (as modified by Section 856(h) of the Code) owns or would be considered to own (taking into account the ownership attribution rules under Section 544 of the Code, as modified by Section 856(h) of the Code) in excess of 9.8% of the value of the outstanding equity interest in the Company. Except as contemplated by this Agreement or as set forth in Schedule 3.8(a), the Board of Directors has not exempted any Person from the Ownership Limit, the Related Tenant Limit or the Existing Holder Limit or otherwise waived any of the provisions of Article 5 of the Company Charter (as all capitalized terms used in this sentence are defined in the Company Charter). The Exiting Holder Limit and the Ownership Limit (as such terms are defined in the Company Charter) have not been modified pursuant to Section 5.8 or 5.9 of the Company Charter or otherwise. Each ownership interest that the Company and each of its Subsidiaries has in an entity formed as a partnership (or which files federal income tax returns as a partnership) qualified, and since the date of its formation qualified, to be treated as a partnership for federal income tax purposes or as a "qualified REIT subsidiary" within the meaning of Section 856(i)(2) of the Code.

(b) The Company (i) intends in its federal income tax return for the tax year ended December 31, 1995 and for the tax year that will end on December 31, 1996 to be taxed as a real estate investment trust within the meaning of Section 856 of the Code ("REIT") and has complied (or will comply) with all applicable provisions of the Code relating to a REIT, for 1995



and 1996, (ii) has operated, and intends to continue to operate, in such a manner as to qualify as a REIT for 1995 and 1996, (iii) has not taken or omitted to take any action which would reasonably be expected to result in a challenge to its status as a REIT, and, to the Company's knowledge, no such challenge is pending or threatened, and (iv) to the Company's knowledge, and assuming the accuracy of Buyer's representation in Section 4.7, will not be rendered unable to qualify as a REIT for federal income tax purposes as a consequence of the transactions contemplated hereby.

(c) Any amount or other entitlement that could be received (whether in cash or property or the vesting of property) as a result of any of the transactions contemplated hereby by any Employee, officer, or director of the Company or any of their Affiliates who is a "disqualified individual" (as such term is defined in proposed Treasury Regulation Section 1.280G-1) under any employment, severance or termination agreement, other compensation arrangement or plan currently in effect would not be characterized as an "excess parachute payment" (as such term is defined in Section 280G(b)(1) of the Code).

(d) The disallowance of a deduction under Section 162(m) of the Code for employee remuneration will not apply to any amount paid or payable by the Company or any of its Subsidiaries under any contract, stock plan, program, arrangement or understanding currently in effect.

(e) The Company was eligible to and did validly elect to be taxed as a REIT for federal income tax purposes for calendar year 1993 and all subsequent taxable periods. Each

Subsidiary of the Company organized as a partnership (and any other Subsidiary that files Tax Returns as a partnership for federal income tax purposes) was and continues to be classified as a partnership for federal income tax purposes or as a "qualified REIT subsidiary" within the meaning of Section 856(i)(2) of the Code.

(f) For purposes of this Section 3.8, no representation set forth in Section 3.8 shall be deemed to be untrue or incorrect unless such untruths or inaccuracies would, individually or in the aggregate, be reasonably expected to result in a Material Adverse Effect.

Section 3.9 Compliance with Agreements; Material Agreements. (a) Neither the Company nor any of its Subsidiaries is in default under or in violation of any provision of the Company Charter or the By-laws of the Company (or equivalent documents), except for such defaults or violations which would



not, individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect.

(b) The Company and each of its Subsidiaries have filed all material reports, registrations and statements, together with any amendments required to be made with respect thereto, that they were required to file with any Government Authority and all other material reports and statements required to be filed by them, including any report or statement required to be filed pursuant to the laws, rules or regulations of the United States, and have paid all fees or assessments due and payable in connection therewith, except for such failures to file or pay which would not, individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect. There is no unresolved violation asserted by any regulatory agency of which the Company has received written notice with respect to any report or statement relating to an examination of the Company or any of its Subsidiaries which, if resolved in a manner unfavorable to the Company or such Subsidiary, would, individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect.

(c) The Company Reports or Schedule 3.9(c) set forth (i) a description of all material indebtedness of the Company and each of its Subsidiaries, whether unsecured, or secured or collateralized by mortgages, deeds of trust or other security interests in the Company Properties or any other assets of the Company and each of its Subsidiaries, or otherwise and (ii) each Commitment entered into by the Company or any of its Subsidiaries (including any guarantees of any third party's debt or any obligations in respect of letters of credit issued for the Company's or any Subsidiary's account) which may result in total payments or liability in excess of $200,000, excluding Commitments made in the ordinary course of business with a maturity of less than one year or that are terminable on 30 days or less notice, and excluding Commitments the breach of which would not, individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect. True and complete copies of the documents relating to the foregoing have been delivered or made available to Buyer prior to the date hereof. Neither the Company nor any of its Subsidiaries is in default, and, to the Company's knowledge, no event has occurred which, with the giving of notice or the lapse of time or both, would constitute a default, under any of the documents described in clause (i) or (ii) of this paragraph or in respect

of any payment obligations thereunder except as would not, individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect. All joint venture and partnership agreements to which the Company or any of its Subsidiaries is a party as of the date hereof are set forth in Schedule 3.9(c), all of which are in full force and effect as against the Company or such Subsidiary and, to the Company's knowledge, as against the other parties thereto, and none of the Company or any of its Subsidiaries is in default, and, to the Company's knowledge, no event has occurred which, with the giving of notice or the lapse of time or both, would constitute a default, with respect to any obligations thereunder, except as would not, individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect. To the Company's knowledge, the other parties to such agreements are not in breach of any of their respective obligations thereunder, except as would not, individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect. To the Company's knowledge, there is no condition with respect to the Company's Subsidiaries (including with respect to the partnership agreements for the Company's Subsidiaries that are partnerships) that would, individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect.

(d) Except as disclosed in the Company Reports or any other Schedule hereto, Schedule 3.9(d) sets forth a complete and accurate list of all material agreements entered into by the Company or any of its Subsidiaries as of the date hereof relating to the development or construction of, additions or expansions to, or management or leasing services for retail shopping centers and suburban office properties or other real properties which are currently in effect and under which the Company or any of its Subsidiaries currently has, or expects to incur, any material obligation. True and complete copies of such agreements have been delivered or made available to Buyer prior to the date hereof.

(e) Except as disclosed in the Company Reports and except for (i) agreements made in the ordinary course of business with a maturity of less than one year or that are terminable on 30 days or less notice, and (ii) agreements the breach or non-fulfillment of which would not, individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect, Schedule 3.9(e) sets forth a complete and accurate list of all material agreements entered into by the Company as of the date hereof which are not listed in any other Schedule hereto, including the material Debt Instruments. Each agreement set forth in Schedule 3.9(e) is in full force and effect as against the Company and, to the Company's knowledge,



as against the other parties thereto, no payments, if any, thereunder are delinquent, the Company is not in default thereun-

der, and no notice of default thereunder has been sent or received by the Company or any of its Subsidiaries, except where the same would not, individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect. To the Company's knowledge, no event has occurred which, with notice or lapse of time or both, would constitute a default by the Company under any agreement set forth in Schedule 3.9(e), except as would not, individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect. To the Company's knowledge, the other parties to such agreements are not in breach of their respective obligations thereunder, except as would not, individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect. True and complete copies of each such agreement have been delivered or made available to Buyer prior to the date hereof. The representations and warranties of the Company and its Affiliates set forth in the agreements listed under Items 6 and 7 of Schedule 3.9(e) have not been breached.

(f) Schedule 3.9(f) sets forth a complete and accurate list of all agreements and policies of the Company in effect on the date hereof relating to transactions with affiliates and potential conflicts of interest. Each agreement or policy set forth in Schedule 3.9(f) is in full force and effect, and the Company, each of its Subsidiaries, and, to the Company's knowledge, the other parties thereto are in compliance with such agreements and policies, or such compliance has been waived by the Company's Board of Directors as set forth in Schedule 3.9(f). True and complete copies of each such agreement or policy have been delivered to Buyer.

(g) Except as set forth on Schedule 3.9(g), there are no change of control or similar provisions in any employment, severance, stock option, stock incentive, or similar agreement or arrangement which would be triggered by the transactions contemplated by this Agreement. Schedule 3.9(g) identifies the obligations (including any payment or other obligation, forgiveness of debt, other release from obligations, or acceleration of vesting) which are created, accelerated or triggered by the execution, delivery or performance of this Agreement or the consummation of the transactions contemplated hereby.

Section 3.10 Financial Records; Company Charter and By-laws; Corporate Records. (a) The books of account and other financial records of the Company and each of its Subsidiaries are in all respects true and complete, have been maintained in accordance with good business practices, and are accurately



reflected in all respects in the financial statements included in the Company Reports, except, in each case, as would not, individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect.

(b) The Company has previously delivered or made available to Buyer true and complete copies of the Company Charter and the By-laws of the Company, as amended to date, and the charter, by-laws, organization documents, partnership agreements and joint venture agreements of its Subsidiaries, and all amendments thereto. All such documents are listed in Schedule 3.10(b).

(c) The minute books and other records of corporate or partnership proceedings of the Company and each of its Sub-

sidiaries have been made available to Buyer, contain in all material respects accurate records of all meetings and accurately reflect in all material respects all other corporate action of the shareholders and directors and any committees of the Board of Directors of the Company and their Subsidiaries which are corporations and all actions of the partners of the Subsidiaries which are partnerships, except for documentation of discussions relating to or in connection with the transactions contemplated hereby or matters related hereto, and except as would not, individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect.

Section 3.11 Properties. (a) Schedule 3.11(a) sets forth a complete and accurate list and the address of all real property owned or leased by the Company or any of its Subsidiaries or otherwise used by the Company or its Subsidiaries in the conduct of their business or operations (collectively, and together with the land at each address referenced in Schedule 3.11(a) and all buildings, structures and other improvements and fixtures located on or under such land and all easements, rights and other appurtenances to such land, the "Company Properties"). The Company, or in the case of Company Properties owned by Subsidiaries that are not wholly owned Subsidiaries of the Company, to the Company's knowledge, such Subsidiaries, owns or own, as the case may be, good and marketable fee simple title (or, if so indicated in Schedule 3.11(a), leasehold title) to each of the Company Properties, in each case free and clear of any Liens, title defects, contractual restrictions or covenants, laws, ordinances or regulations affecting use or occupancy (including zoning regulations and building codes) or reservations of interests in title (collectively, "Property Restrictions"), except for (i) Permitted Liens and (ii) Property Restrictions imposed or promulgated by law or by any Government Authority which are customary and typical for similar properties. To the Company's knowledge, none of the matters



described in clauses (i) and (ii) of the immediately preceding sentence materially interferes with, impairs, or is violated by, the existence of any building or other structure or improvement which constitutes a part of, or the present use, occupancy or operation (or, if applicable, development) of, the Company Properties taken as a whole, and such matters do not, individually or in the aggregate, have a Material Adverse Effect. American Land Title Association policies of title insurance (or marked title insurance commitments having the same force and effect as title insurance policies) have been issued by national title insurance companies insuring the fee simple or leasehold, as applicable, title of the Company or its Subsidiaries, as applicable, to each of the Company Properties in amounts at least equal to the original cost thereof, subject only to Permitted Liens, and, to the Company's knowledge, such policies are valid and in full force and effect and no claim has been made under any such policy. The Company has delivered or made available to Buyer true and complete copies of all such policies and of the most recent surveys of the Company Properties, and true and complete copies of all material exceptions referenced in such policies and the most recent title reports for and surveys (to the extent not previously delivered or made available to Buyer) of each of the Company Properties available to the Company or any of its Subsidiaries will be provided or made available by the Company for inspection by Buyer or its representatives within five Business Days of Buyer's request therefor.

(b) Except as set forth in Schedule 3.11(b), and except for matters which would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect or to materially and adversely affect the use or occupancy (or, if applicable, development) of the Company Properties taken as a whole, the Company has no knowledge (i) that any currently required certificate, permit or license (including building permits and certificates of occupancy for tenant spaces) from any Government Authority having jurisdiction over any Company Property or any agreement, easement or other right which is necessary to permit the lawful use, occupancy or operation of the existing buildings, structures or other improvements which constitute a part of any of the Company Properties or which are necessary to permit the lawful use and operation of utility service to any Company Property or of any existing driveways, roads or other means of egress and ingress to and from any of the Company Properties has not been obtained or is not in full force and effect, or of any pending threat of modification or cancellation of any of same, or (ii) of any violation by any Company Property of any federal, state or municipal law, ordinance, order, regulation or requirement, including any applicable zoning law or building code, as a result of the use



or occupancy of such Company Property or otherwise. Except as set forth in Schedule 3.11(b), the Company has no knowledge of uninsured physical damage to any Company Property in excess of $200,000 in the aggregate. To the Company's knowledge, except for repairs identified in the Capital Expenditure Budget and Schedule, each Company Property, (i) is in good operating condition and repair and is structurally sound and free of defects, with no material alterations or repairs being required thereto under applicable law or insurance company requirements, and (ii) consists of sufficient land, parking areas, driveways and other improvements and lawful means of access and utility service and capacity to permit the use thereof in the manner and for the purposes to which it is presently devoted (or, in the case of the Development Property, for the development and operation thereon of the applicable Project), except, in each such case, to the extent that failure to meet such standards would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect or to materially and adversely affect the use or occupancy of the Company Properties taken as a whole (or, in the case of the Development Property, the development and operation thereon of the applicable Project). The Company has delivered or made available to Buyer true and complete copies of all engineering reports, inspection reports, maintenance plans and other documents relating to the condition of any Company Property prepared for the Company or otherwise in the Company's or any Subsidiary's possession.

(c) The Company has no knowledge (i) that any condemnation, eminent domain or rezoning proceedings are pending or threatened with respect to any of the Company Properties, (ii) that any road widening or change of grade of any road adjacent to any Company Property is underway or has been proposed, (iii) of any proposed change in the assessed valuation of any Company Property other than customarily scheduled revaluations, (iv) of any special assessment made or threatened against any Company Property, or (v) that any of the Company Properties is subject to any so-called "impact fee" or to any agreement with any Government Authority to pay for sewer extension, oversizing utilities, lighting or like expenses or charges for work or services by such Government Authority, except, in the case of each of the foregoing, to the extent that same

would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect or to materially and adversely affect the use or occupancy (or, if applicable, development) of the Company Properties taken as a whole.

(d) To the Company's knowledge, each of the Company Properties is an independent unit which does not rely on any facilities located on any property not included in such Company Property to fulfill any municipal or governmental requirement



or for the furnishing to such Company Property of any essential building systems or utilities, other than facilities the benefit of which inures to the Company Properties pursuant to one or more valid easements. Each of the Company Properties is served by public water and sanitary systems and all other utilities, and, to the Company's knowledge, each of the Company Properties has lawful access to public roads, in all cases sufficient for the current use and occupancy of each Company Property (or, in the case of the Development Property, for the development and operation thereon of the applicable Project). To the Company's knowledge, all parcels of land included in each Company Property that purport to be contiguous are contiguous and are not separated by strips or gores. Except as set forth in Schedule 3.11(d), to the Company's knowledge, no portion of any Company Property lies in any flood plain area (as defined, as of the date hereof, by the U.S. Army Corps of Engineers (the "Army Corps of Engineers") or otherwise) or includes any wetlands or vegetation or species protected by any applicable laws. Except as set forth on Schedule 3.11(d), none of the Company Properties lies in any 100-year flood plain area, as established by the Army Corps of Engineers. Schedule 3.11(d) accurately describes the Army Corps of Engineers' flood-plain designation for each flood plain area in which any Company Property listed in such Schedule 3.11(d) is located. The improvements on each Company Property which lies in a flood plain area comply with applicable building codes and other relevant laws and regulations, and the Company or its Subsidiaries carry and presently maintain in full force and effect flood insurance in connection with such Company Properties as required by applicable law and as accurately described in Schedule 3.11(d). To the Company's knowledge, no improvements constituting a part of any Company Property encroach on real property not constituting a part of such Company Property. No representation set forth in this subsection (d) shall be deemed to be untrue unless such untruths are, individually or in the aggregate, reasonably expected to have a Material Adverse Effect or to materially and adversely affect the use or occupancy (or, if applicable, development) of the Company Properties taken as a whole.

(e) Schedule 3.11(e) contains a complete and accurate list of each survey, study or report prepared by or for the Company or any Subsidiary in connection with any Company Property's compliance or non-compliance with the requirements of the Americans with Disabilities Act (the "ADA"), other than routine correspondence or memoranda. Except for matters addressed in the Capital Expenditure Budget and Schedule, to the knowledge of the Company, no Company Property fails to comply with the requirements of the ADA except for such non-compliance

as the Company believes will not, individually or in the aggregate, have a material adverse effect on the financial condition, results of operations or business of the Company and its Subsidiaries (to the extent of the Company's interest therein) taken as a whole.

(f) The Company has provided to Buyer an accurate rent roll for each Company Property as of May 31, 1996 (the "Rent Roll"), which identifies and accurately describes each lease of space in each Company Property (collectively, the "Company Leases"). The Company has delivered to Buyer a summary of each Company Lease (the "Lease Summaries") which accurately describes the material terms thereof. The Company has delivered or will make available to Buyer a true and complete copy of each Company Lease, including all amendments and modifications thereto. With respect to each Company Lease for premises larger than 10,000 square feet of rentable space (collectively, the "Material Company Leases"), except as set forth in Schedule 3.11(f) and except for matters which are not, individually or in the aggregate, reasonably expected to have a Material Adverse Effect, (i) each of the Material Company Leases is valid and subsisting and in full force and effect as against the Company or the Subsidiary, as applicable, and, to the Company's knowledge, as against the tenant, and has not been amended, modified or supplemented, (ii) the tenant under each of the Material Company Leases is in actual possession of the premises leased thereunder, (iii) no tenant under any Material Company Lease is more than 30 days in arrears in the payment of rent, (iv) none of the Company or any of its Subsidiaries has received any written notice from any tenant under any Material Company Lease of its intention to vacate, (v) none of the Company or any of its Subsidiaries has collected payment of rent under any Material Company Lease (other than security deposits) accruing for a period which is more than one month in advance, (vi) no notice of default has been sent or received by the landlord under any Material Company Lease which remains uncured as of the date hereof, no default has occurred under any Material Company Lease and, to the Company's knowledge, no event has occurred and is continuing which, with notice or lapse of time or both, would constitute a default under any Material Company Lease, (vii) no tenant under any of the Material Company Leases has any purchase options or kick-out rights or is entitled to any concessions, allowances, abatements, setoffs, rebates or refunds, (viii) none of the Material Company Leases and none of the rents or other amounts payable thereunder has been mortgaged, assigned, pledged or encumbered by any party thereto or otherwise, except in connection with financing secured by the applicable Company Property which is described in Schedule 3.9(c), (ix) (A) as of the date hereof, except as



set forth in Schedule 3.11(f), no brokerage or leasing commission or other compensation is due or payable to any person with respect to or on account of any of the Material Company Leases or any extensions or renewals thereof incurred after the date hereof, and (B) any brokerage or leasing commission or other compensation due or payable to any person with respect to or on account of any of the Material Company Leases or any extensions

or renewals thereof have been incurred in the ordinary course of business of the Company consistent with past practice and market terms, (x) except as set forth in the Lease Summaries, no space of a material size in any Company Property is occupied by a tenant rent-free, (xi) no tenant under any of the Material Company Leases has asserted any claim which is likely to affect the collection of rent from such tenant, (xii) no tenant under any of the Material Company Leases has any right to remove material improvements or fixtures that have at any time been affixed to the premises leased thereunder, (xiii) each tenant under the Material Company Leases is required thereunder to maintain, at its cost and expenses, public liability and property damage insurance with liability limits which reasonably relate to the value of the contingent liabilities being insured thereby, and (xiv) the landlord under each Material Company Lease has fulfilled all of its obligations thereunder in respect of tenant improvements and capital expenditures. Other than the tenants identified in the Rent Roll and Lease Summaries and parties to easement agreements which constitute Permitted Liens, no third party has any right to occupy or use any portion of any Company Property. The Rent Roll or Lease Summaries include a budget for all material tenant improvement and similar material work required to be made by the lessor under each of the Material Company Leases. None of the matters disclosed in Schedule 3.11(f) has or could have, individually or in the aggregate, a Material Adverse Effect.

(g) Schedule 3.11(g) sets forth a complete and accurate list of all material commitments, letters of intent or similar written understandings made or entered into by the Company or any of its Subsidiaries as of the date hereof (x) to lease any space larger than 10,000 rentable square feet at any of the Company Properties, (y) to sell, mortgage, pledge or hypothecate any Company Property or Properties, which, individually or in the aggregate, are material, or to otherwise enter into a material transaction in respect of the ownership or financing of any Company Property, or (z) to purchase or to acquire an option, right of first refusal or similar right in respect of any real property, which, individually or in the aggregate, are material, which, in any such case, has not yet been reduced to a written lease or contract, and sets forth with respect to each such commitment, letter of intent or other understanding the principal terms thereof. The Company has



previously delivered or made available to Buyer a true and complete copy of each such commitment, letter of intent or other understanding. Schedule 3.11(g) also sets forth a complete and accurate list of all agreements to purchase real property to which the Company or any Subsidiary is a party.

(h) Except as set forth in Schedule 3.11(h), none of the Company or any of its Subsidiaries has granted any outstanding options or has entered into any outstanding contracts with others for the sale, mortgage, pledge, hypothecation, assignment, sublease, lease or other transfer of all or any part of any Company Property, and no person has any right or option to acquire, or right of first refusal with respect to, the Company's or any of its Subsidiaries' interest in any Company Property or any part thereof. Except as set forth in Schedule 3.11(h) or 3.11(g), none of the Company or any of its Subsidiaries has any outstanding options or rights of first refusal or has entered into any outstanding contracts with others for the purchase of any real property.

(i) Schedule 3.11(i) contains a complete and accurate description of any non-compliance by any Company Property, to the Company's knowledge, with any law, ordinance, code, health and safety regulation or insurance requirement (except for the ADA, which is addressed in this respect in Section 3.11(e) above), other than such non-compliance as would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect. Schedule 3.11(i) also sets forth the Company's or any Subsidiary's capital expenditure budget and schedule for each Company Property, which describes the capital expenditures which the Company or any Subsidiary has budgeted for such Company Property for the period running through December 31, 1996 (the "Capital Expenditure Budget and Schedule"), and the Company's or any Subsidiary's preliminary capital expenditure budget and schedule for each Company Property, which describes the capital expenditures which the Company or any Subsidiary has budgeted for such Company Property for the period commencing January 1, 1997 and running through December 31, 1998 (the "1997 and 1998 Preliminary Capital Expenditure Budgets and Schedules"). Each of the Capital Expenditure Budget and the 1997 and 1998 Preliminary Capital Expenditure Budgets and Schedules also describes other capital expenditures as are necessary, to the Company's knowledge, in order to bring such Company Property into compliance with applicable laws, ordinances, codes, health and safety regulations and insurance requirements (including in respect of fire sprinklers, compliance with the ADA (except to the extent that (x) a tenant under any Company Lease is contractually responsible and liable for such ADA compliance under its Company Lease or (y) with respect to shopping center properties, any work required



to cause such compliance is not material and the related expenditures are, in the aggregate with all other such expenditures, less than $200,000) and asbestos containing material) or which the Company otherwise plans or expects to make in order to cure or remedy any construction, electrical, mechanical or other defects, to renovate, rehabilitate or modernize such Company Property, or otherwise, excluding, however, any tenant improvements required to be made under any Company Lease. To the Company's knowledge, the costs and time schedules for 1996 set forth in the Capital Expenditure Budget and Schedule are reasonable estimates and projections. To the Company's knowledge, the costs and time schedules for 1997 and 1998 set forth in the 1997 and 1998 Preliminary Capital Expenditure Budgets and Schedules are reasonable estimates and projections based upon information available to the Company at the time that the 1997 and 1998 Preliminary Capital Expenditure Budgets and Schedules were prepared, and, nothing has come to the attention of the Company since such time which would indicate that the 1997 and 1998 Preliminary Capital Expenditure Budgets and Schedules are inaccurate or misleading in any material respect. Except as set forth in Schedule 3.11(i), there are no outstanding or, to the Company's knowledge, threatened requirements by any insurance company which has issued an insurance policy covering any Company Property, or by any board of fire underwriters or other body exercising similar functions, requiring any repairs or alterations to be made to any Company Property that would, individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect.

(j) Schedule 3.11(j) contains a list of each Company Property which consists of or includes undeveloped land or which is in the process of being developed or rehabilitated (collectively, the "Development Properties") and a brief de-

scription of the development or rehabilitation intended by the Company or any Subsidiary to be carried out or completed thereon (collectively, the "Projects"), including any budget and development or rehabilitation schedule therefor prepared by or for the Company or any Subsidiary (collectively, the "Development Budget and Schedule"). Except as disclosed in Schedule 3.11(j), each Development Property is zoned for the lawful development thereon of the applicable Project, and the Company or its Subsidiaries have obtained all permits, licenses, consents and authorizations required for the lawful development or rehabilitation thereon of such Project, except only for such failure to meet the foregoing standards as would not, individually or in the aggregate, be reasonably expected to have a Material Adverse Effect. Except as set forth in Schedule 3.11(j), to the Company's knowledge, there are no material impediments to or constraints on the development or rehabilitation of any Project in all material respects within the time



frame and for the cost set forth in the Development Budget and Schedule applicable thereto. In the case of each Project the development of which has commenced, to the Company's knowledge, the costs and expenses incurred in connection with such Project and the progress thereof are, except as set forth in Schedule 3.11(j), consistent and in compliance in all material respects with all aspects of the Development Budget and Schedule applicable thereto. The Company has delivered to Buyer all feasibility studies, soil tests, due diligence reports and other studies, tests or reports performed by or for the Company, or otherwise in the possession of the Company, which relate to the Development Properties or the Projects.

(k) The Company has disclosed to Buyer all adverse matters known to the Company with respect to or in connection with the Company Properties (including the Company Leases and the Tenancy Leases), which would, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

(l) The ground leases underlying the leased Company Properties referenced in Schedule 3.11(a) (collectively, the "Tenancy Leases") are accurately described in Schedule 3.11(l). Each of the Tenancy Leases is valid, binding and in full force and effect as against the Subsidiary and, to the Company's knowledge, as against the other party thereto. Except as indicated in Schedule 3.11(l), none of the Tenancy Leases is subject to any mortgage, pledge, Lien, sublease, assignment, license or other agreement granting to any third party any interest therein, collateral or otherwise, or any right to the use or occupancy of any premises leased thereunder. True and complete copies of the Tenancy Leases (including all amendments, modifications and supplements thereto) have been delivered to Buyer prior to the date hereof. To the Company's knowledge, except as set forth in Schedule 3.11(l), there is no pending or threatened proceeding which is reasonably likely to interfere with the quiet enjoyment of the tenant under any of the Tenancy Leases. Except as set forth in Schedule 3.11(l), as of the last day of the month preceding the date hereof and as of the last day of the month preceding the date of the Initial Closing, no payments under any Tenancy Lease are delinquent and no notice of default thereunder has been sent or received by the Company or any of its Subsidiaries, and, as of the date of each Subsequent Closing, there will be no material deterioration with respect to such matters from the Company's perspective. There does not exist under any of the Tenancy Leases

any default, and, to the Company's knowledge, no event has occurred which, with notice or lapse of time or both, would constitute such a default, except as would not, individually or in



the aggregate, be reasonably expected to result in a Material Adverse Effect.

(m) The Company and each of its Subsidiaries have good and sufficient title to all the personal and non-real properties and assets reflected in their books and records as being owned by them (including those reflected in the balance sheets of the Company and its Subsidiaries as of March 31, 1996, except as since sold or otherwise disposed of in the ordinary course of business), free and clear of all Liens, except for Permitted Liens which are not, individually or in the aggregate, reasonably expected to have a Material Adverse Effect.

Section 3.12 Environmental Matters. (a) To the Company's knowledge, each of the Company and its Subsidiaries has obtained, and now maintains as currently valid and effective, all permits, certificates of financial responsibility and other governmental authorizations required under the Environmental Laws (the "Environmental Permits") in connection with the operation of its businesses and properties, all of which are listed in Schedule 3.12(a). To the Company's knowledge, except as disclosed in the Executive Summaries of the Company Environmental Reports, each of the Company and its Subsidiaries, and each Company Property is and has been in compliance with all terms and conditions of the Environmental Permits and all Environmental Laws, except only to an extent which would not, individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect. The Company has no knowledge of any circumstances or conditions that may prevent or interfere with such compliance in the future.

(b) Each of the Company and its Subsidiaries has provided to Buyer all formal communications, oral or written (whether from a Government Authority, citizens' group, employee or other person), which the Company has received regarding (x) alleged or suspected noncompliance of any of the Company Properties with any Environmental Laws or Environmental Permits or (y) alleged or suspected Liability of the Company or its Subsidiaries under any Environmental Law, which noncompliance or Liability would, individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect.

(c) There are no liens or encumbrances on any of the Company Properties which arose pursuant to or in connection with any Environmental Law or Environmental Claim and, to the Company's knowledge, no government actions have been taken or threatened to be taken or are in process which are reasonably likely to subject any Company Property to such liens or other encumbrances.

(d) No Environmental Claim with respect to the operations or the businesses of the Company or its Subsidiaries, or with respect to the Company Properties, has been asserted or, to the Company's knowledge, threatened, and, to the Company's knowledge, no circumstances, past or present actions, conditions, events or incidents which exist with respect to the Company or its Subsidiaries or the Company Properties that would reasonably be expected to result in any Environmental Claim being asserted, in any such case, against (i) the Company or its Subsidiaries, or (ii) to the Company's knowledge, any person whose liability for any Environmental Claims the Company or its Subsidiaries has or may have retained or assumed either contractually or by operation of law.

(e) Except as disclosed in Schedule 3.12(e) (none of which matters would, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect), or set forth in the Executive Summaries of the Company Environmental Reports, (i) none of the Company or its Subsidiaries has been notified or anticipates being notified of potential responsibility in connection with any site that has been placed on, or proposed to be placed on, the National Priorities List or its state or foreign equivalents pursuant to the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), 42 U.S.C. Section 9601 et seq., or analogous state or foreign laws, (ii) to the Company's knowledge, no Materials of Environmental Concern are present on, in or under any Company Property in a manner or condition that is reasonably likely to give rise to an Environmental Claim which would reasonably be expected to result in a Material Adverse Effect, (iii) to the Company's knowledge, none of the Company or its Subsidiaries has Released or arranged for the Release of any Materials of Environmental Concern at any location to an extent or in a manner which would reasonably be expected to result in a Material Adverse Effect, (iv) to the Company's knowledge, no underground storage tanks, surface impoundments, disposal areas, pits, ponds, lagoons, open trenches or disused industrial equipment is present at any Company Property in a manner or condition that is reasonably likely to give rise to an Environmental Claim which would reasonably be expected to result in a Material Adverse Effect, (v) to the Company's knowledge, no transformers, capacitors or other equipment containing fluid with more than 50 parts per million polychlorinated biphenyls are present at any Company Property in a manner or condition that is reasonably likely to give rise to an Environmental Claim which would reasonably be expected to result in a Material Adverse Effect, except for any such transformers, capacitors or other equipment owned by any utility company, and (vi) to the Company's knowledge, no asbestos or asbestos-containing material is present at any Company Property



other than floor tiles that do not contain any friable asbestos and no Employee, agent, contractor or subcontractor of the Company or its Subsidiaries or any other person is now or has in the past been exposed to friable asbestos or asbestos-containing material at any Company Property, except, in the case of each of the matters set forth in this subpart (vi), for such matters as would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

(f) Schedule 3.12(f) contains a list of each envi-

ronmental report prepared for the Company or its Subsidiaries or otherwise in the possession of any of them with respect to the environmental condition of any Company Property (collectively, the "Company Environmental Reports"). The Company has previously delivered or made available to Buyer true and complete copies of (i) the executive summary or conclusion included in each Company Environmental Report (collectively, the "Executive Summaries of the Company Environmental Reports") and (ii) each Company Environmental Report which constitutes a "Phase II" (or higher) environmental report or which is otherwise more detailed or in-depth than a typical "Phase I" environmental report. The Executive Summaries of the Company Environmental Reports disclose all materially adverse matters known to the Company in respect of the environmental condition (including violations of Environmental Laws, Environmental Claims and the presence or Release of any Materials of Environmental Concern) of the Company Properties (it being understood, however, that reference in the Executive Summaries of the Company Environmental Reports to other environmental reports, investigations, assessments or other documents shall not constitute disclosure of the contents thereof except to the extent such contents are fully discussed in the Executive Summaries of the Company Environmental Reports). To the Company's knowledge, none of the matters disclosed by the Executive Summaries of the Company Environmental Reports would, individually or in the aggregate, be reasonably likely to have a Material Adverse Effect. The Company has no knowledge of any facts or circumstances relating to the environmental condition of any property owned, leased or otherwise held by the Company that is not a Company Property that are reasonably likely to result in a Material Adverse Effect.

(g) For purposes hereof, the terms listed below shall have the following meanings:

(i) "Claim" shall mean all actions, causes of action, suits, debts, dues, accounts, reckonings, bonds, bills, covenants, contracts, controversies, promises, trespasses, damages, judgments, executions,



claims, liabilities and demands whatsoever, in law or equity.

(ii) "Environmental Claim" shall mean any Claim investigation or notice (written or oral) by any person alleging potential liability (including potential liability for investigatory costs, cleanup costs, governmental response costs, natural resources damages, property damages, personal injuries or fatalities, or penalties) arising out of, based on or resulting from (A) the presence, generation, transportation, treatment, use, storage, disposal or Release of Materials of Environmental Concern or the threatened Release of Materials of Environmental Concern at any location, or (B) activities or conditions forming the basis of any violation, or alleged violation of, or liability or alleged liability under, any Environmental Law.

(iii) "Environmental Laws" shall mean federal, state, local, provincial, municipal and foreign laws, ordinances, principles of common law, rules, by-laws, orders, governmental policies, statutes, regulations, agreements, treaties, customary law, and interna-

tional principles relating to the pollution or protection of the environment or of flora or fauna or their habitat or of human health and safety, or to the cleanup or restoration of the environment, including, but not limited to, any laws or regulations relating to (A) generation, treatment, storage, disposal or transportation of Materials of Environmental Concern, emissions or discharges or protection of the environment from the same, (B) exposure of persons to, or Release or threat of Release of, Materials of Environmental Concern, and (C) noise.

(iv) "Materials of Environmental Concern" shall mean all chemicals, pollutants, contaminants, wastes, toxic substances, petroleum or any fraction thereof, petroleum products and hazardous substances (as defined in Section 101(14) of CERCLA, 42 U.S.C. Section 6601(14)), or solid or hazardous wastes as now defined and regulated under any Environmental Laws.

(v) "Release" shall mean any release, spill, emission, leaking, pumping, injection, deposit, disposal, discharge, dispersal, leaching or migration



Section 3.13 Employees and Employee Benefit Plans. (a) Schedule 3.13(a) sets forth a complete and accurate list of all employment agreements with employees of the Company or any of its Subsidiaries. Except for the employees who are parties to such employment agreements, all of the employees of the Company and each of its Subsidiaries are employed on an at-will basis (except for restrictions or limitations on the at-will basis of such employees imposed by general principles of law or equity).

(b) The Company Reports or Schedule 3.13(b) sets forth a complete and accurate list of all Employee Benefit Plans and all material Benefit Arrangements which affect Employees of the Company or any of its Subsidiaries (the "Company Plans"). With respect to each Company Plan, the Company has delivered or made available to Buyer true and complete copies of: (i) the plans and related trust documents and amendments thereto, (ii) the most recent summary plan descriptions, if any, and the most recent annual report, if any, and (iii) the most recent actuarial valuation (to the extent applicable).

(c) With respect to each Company Plan, (i) the Company and each of its Subsidiaries is in compliance in all material respects with the terms of each Company Plan and with the requirements prescribed by all applicable statutes, orders or governmental rules or regulations, (ii) the Company and each of its Subsidiaries has contributed to each Pension Plan included in the Company Plans not less than the amounts accrued for such plan for all plan periods for which payment is due, and (iii) none of the Company or any of its Subsidiaries has any funding commitment or other liabilities except as reserved for in the financial statements in or incorporated by reference into the Company Reports, and, in the case of clause (i) through (iii), except for such matters as would not, individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect.

(d) None of the Company or any of its Subsidiaries has made any commitment to establish any new Employee Benefit Plan, to modify any Employee Benefit Plan, or to increase benefits or compensation of Employees of the Company or any of its Subsidiaries (except for normal increases in compensation consistent with past practices), and to the Company's knowledge, no intention to do so has been communicated to Employees of the Company or any of its Subsidiaries.

(e) There are no pending or, to the Company's knowledge, anticipated claims against or otherwise involving any of the Company Plans or any fiduciaries thereof with respect to



their duties to the Plans and no suit, action or other litigation (excluding claims for benefits incurred in the ordinary course of Company Plan activities) has been brought against or with respect to any such Company Plans.

(f) Neither the Company or any entity under "common control" with the Company within the meaning of Section 4001 of ERISA has contributed to, or been required to contribute to, any "multiemployer plan" (as defined in Sections 3(37) and 4001(a)(3) of ERISA).

(g) Except as set forth on Schedule 3.13(g), the Company and its Subsidiaries do not maintain or contribute to any plan or arrangement which provides or has any liability to provide life insurance, medical or other employee welfare benefits to any Employee or former Employee upon his retirement or termination of employment and, to the Company's knowledge, the Company and its Subsidiaries have never represented, promised or contracted (whether in oral or written form) to any Employee or former Employee that such benefits would be provided.

(h) For purposes hereof, "Employee Benefit Plans" means each and all "employee benefit plans" as defined in Section 3(3) of ERISA maintained or contributed to by a party hereto or in which a party hereto participates or participated and which provides benefits to Employees, including (i) any such plan that are "employee welfare benefit plans" as defined in Section 3(1) of ERISA, including retiree medical and life insurance plans ("Welfare Plans"), and (ii) any such plans that constitute "employee pension benefit plans" as defined in Section 3(2) of ERISA ("Pension Plans"). "Benefit Arrangements" means life and health insurance, hospitalization, savings, bonus, deferred compensation, incentive compensation, holiday, vacation, severance pay, sick pay, sick leave, disability, tuition refund, service award, company car, scholarship, relocation, patent award, fringe benefit, individual employment, consultancy or severance contracts and other polices or practices of a party hereto providing employee or executive compensation or benefits to Employees, other than Employee Benefit Plans. "Employees" mean all current employees, former employees and retired employees of a party hereto or any of its Subsidiaries, including employees on disability, layoff or leave status. "Controlled Group Liability" means any and all liabilities under (i) Title IV of ERISA, (ii) Section 302 of ERISA, (iii) Sections 412 and 4971 of the Code, (iv) the continuation coverage requirements of Section 601 et seq. of ERISA and Section 4980B of the Code, and (v) corresponding or similar provisions of foreign laws or regulations, other than such liabilities that arise solely out of, or relate solely to, the Plans.

(i) To the Company's knowledge, with respect to each plan that is subject to Title IV or Section 302 of ERISA or Section 412 or 4971 of the Code: (i) there does not exist any accumulated funding deficiency within the meaning of Section 412 of the Code or Section 302 of ERISA, whether or not waived, (ii) the fair market value of the assets of such plan equals or exceeds the actuarial present value of all accrued benefits under plan (whether or not vested), on a termination basis, (iii) no reportable event within the meaning of Section 4043(c) of ERISA has occurred, and the consummation of the transactions contemplated by this agreement will not result in the occurrence of any such reportable event, and (iv) all premiums to the Pension Benefit Guaranty Corporation have been timely paid in full.

(j) There does not now exist, nor do any circumstances exist that could result in, any Controlled Group Liability that would be a liability of the Company following the Closing. Without limiting the generality of the foregoing, neither the Company nor any ERISA Affiliate has engaged in any transaction described in Section 4069 or Section 4204 of ERISA.

(k) Neither the execution and delivery of this Agreement nor the consummation of the transactions contemplated hereby will (either alone or in conjunction with any other event) result in, cause the accelerated vesting (except as set forth in Schedule 3.9(g)) or delivery of, or increase the amount or value of, any payment or benefit to any employee of the Company.

Section 3.14 Labor Matters. Except as set forth in Schedule 3.14, none of the Company or any of its Subsidiaries is a party to, or bound by, any collective bargaining agreement, contract or other agreement or understanding with a labor union or labor union organization. Except for the matters set forth in Schedule 3.14 (none of which matters would, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect), there is no unfair labor practice or labor arbitration proceeding pending or, to the knowledge of the Company, threatened against the Company or any of its Subsidiaries. To the knowledge of the Company, there are no organizational efforts with respect to the formation of a collective bargaining unit presently being made or threatened involving employees of the Company or any of its Subsidiaries.

Section 3.15 Affiliate Transactions. Schedule 3.15 sets forth a complete and accurate list of all transactions, series of related transactions or currently proposed transactions or series of related transactions entered into by the Company or any of its Subsidiaries since January 1, 1996 which



are of the type required to be disclosed by the Company pursu-

ant to Item 404 of Regulation S-K of the Securities Laws. A true and complete copy of all agreements or contracts relating to any such transaction has been delivered or made available to Buyer prior to the date hereof.

Section 3.16 Insurance. The Company maintains insurance policies, including liability policies, covering the assets, business, equipment, properties, operations, employees, officers and directors of the Company and each of its Subsidiaries (collectively, the "Insurance Policies"), which are of a type and in amounts customarily carried by persons conducting businesses similar to those of the Company. There is no material claim by the Company or any of its Subsidiaries pending under any of the material Insurance Policies as to which coverage has been questioned, denied or disputed by the underwriters of such policies.

Section 3.17 Proxy Statement. The Proxy Statement and all of the information included or incorporated by reference therein (other than any information supplied or to be supplied by Buyer for inclusion or incorporation by reference therein) will not, as of the date such Proxy Statement is first mailed to the shareholders of the Company and as of the time of the meeting of the shareholders of the Company in connection with the transactions contemplated hereby, contain any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary in order to make the statements therein, in light of the circumstances under which they are made, not misleading. The Proxy Statement will comply as to form in all material respects with the provisions of the Exchange Act and the rules and regulations promulgated by the SEC thereunder.

Section 3.18 Florida Takeover Law. The terms of Sections 607.0901 and 607.0902 of the Florida 1989 Business Corporation Act will not apply to Buyer, any Stock Purchase or any other transaction contemplated hereby.

Section 3.19 Vote Required. The affirmative vote of the holders of a majority of the outstanding shares of Company Common Stock and Company Preferred Stock voting together as a single class and entitled to vote hereon and duly present in person or by proxy at a meeting duly called to vote hereon (and with each share of Company Common Stock entitled to one vote per share and each share of Company Preferred Stock being entitled to 50 votes per share) is the only vote of the holders of any class or series of Company Stock necessary to approve this Agreement, the Registration Rights Agreement, the Stockholders Agreement and the transactions contemplated hereby and



thereby, except that adoption of the Amended Company Charter requires only that the vote of the outstanding shares of the combined class of Company Common Stock and Company Preferred Stock entitled to vote thereon (and with each share of Company Common Stock entitled to one vote per share and each share of Company Preferred Stock being entitled to 50 votes per share) which vote for such adoption is greater than the number of such outstanding shares who vote against such adoption.

Section 3.20 Brokers or Finders. No agent, broker, investment banker or other firm or person, including any of the foregoing that is an Affiliate of the Company, is or will be entitled to any broker's or finder's fee or any other commission or similar fee from the Company in connection with this

Agreement or any of the transactions contemplated hereby for which Buyer or any of its Affiliates will be responsible.

Section 3.21 Stockholders Agreement. If the Stockholders Agreement were in effect as of the date hereof, the Company would be in compliance with each of the covenants set forth in Section 6.1 thereof (subject to the consummation of the reorganization described in Schedule 6.5(a)).

Section 3.22 Knowledge Defined. As used herein, the phrase "to the Company's knowledge" (or words of similar import) means the actual knowledge of any of Martin E. Stein, Jr., Bruce M. Johnson, Richard E. Cook, Robert C. Gillander, Jr., James D. Thompson, J. Christian Leavitt or Robert L. Miller, Jr. and includes any facts, matters or circumstances set forth in any written notice from any Government Authority or any other material written notice received by the Company or any of its Subsidiaries, and also including any matter of which Buyer informs the Company in writing.

## ARTICLE 4

## Representations and Warranties of Buyer and the Advancing Party

Buyer and the Advancing Party hereby jointly and severally represent and warrant to the Company as follows:

Section 4.1 Organization. (a) Buyer is a corporation duly incorporated, validly existing and in good standing under the laws of Luxembourg. Buyer has all requisite corporate power and authority to own, operate, lease and encumber its properties and to carry on its business as now conducted, and to enter into this Agreement, the Registration Rights Agreement and the Stockholders Agreement and to perform its obligations hereunder and thereunder.



(b) The Advancing Party is a corporation duly incorporated, validly existing and in good standing under the laws of Luxembourg. The Advancing Party has all requisite corporate power and authority to own, operate, lease and encumber its properties and to carry on its business as now conducted, and to enter into this Agreement, the Registration Rights Agreement and the Stockholders Agreement and to perform its obligations hereunder and thereunder.

Section 4.2 Due Authorization. The execution, delivery and performance of this Agreement, the Registration Rights Agreement, and the Stockholders Agreement have been duly and validly authorized by all necessary corporate action on the part of Buyer and the Advancing Party. This Agreement has been duly executed and delivered by each of Buyer and the Advancing Party for itself and constitutes the valid and legally binding obligations of Buyer and the Advancing Party, enforceable against Buyer or the Advancing Party, as the case may be, in accordance with its terms, subject to applicable bankruptcy, insolvency, moratorium or other similar laws relating to creditors' rights or general principles of equity.

Section 4.3 Conflicting Agreements and Other Matters. Neither the execution and delivery of this Agreement nor the performance by Buyer or the Advancing Party, as the case

may be, of its obligations hereunder will conflict with, result in a breach of the terms, conditions or provisions of, constitute a default under, result in the creation of any mortgage, security interest, encumbrance, lien or charge of any kind upon any of the properties or assets of Buyer or the Advancing Party, as the case may be, pursuant to, or require any consent, approval or other action by or any notice to or filing with any Government Authority pursuant to, the organizational documents or agreements of Buyer or the Advancing Party, as the case may be, or any agreement, instrument, order, judgment, decree, statute, law, rule or regulation by which Buyer or the Advancing Party, as the case may be, is bound, except for filings after any Closing under Section 13(d) or Section 16 of the Exchange Act.

Section 4.4 Acquisition for Investment; Sophistication; Source of Funds. (a) Buyer is acquiring the Company Common Stock being purchased by it for its own account for the purpose of investment and not with a view to or for sale in connection with any distribution thereof, and Buyer has no present intention or plan to effect any distribution of shares of Company Common Stock, provided that the disposition of Company Common Stock owned by Buyer shall at all times be and remain within its control, subject to the provisions of this Agreement and the Registration Rights Agreement. Buyer is able



to bear the economic risk of the acquisition of Company Common Stock pursuant hereto and can afford to sustain a total loss on such investment, and has such knowledge and experience in financial and business matters that it is capable of evaluating the merits and risks of the proposed investment, and therefore has the capacity to protect its own interests in connection with the acquisition of Company Common Stock pursuant hereto.

(b) At the Initial Closing and at each subsequent Closing, the Advancing Party shall have available and shall advance to Buyer all of the funds necessary to satisfy Buyer's obligations hereunder and to pay any related fees and expenses in connection with the foregoing. The Advancing Party has, and at each Closing will have either cash, written, enforceable subscriptions from its investors or line of credit commitments sufficient, in any such case, to advance the necessary funds to Buyer as will enable Buyer to purchase the requisite Purchased Shares at each Closing, in accordance with this Agreement. The Advancing Party has provided to the Company a true and correct copy of the form of the subscription agreement executed by the Advancing Party's investors.

(c) The Advancing Party has previously delivered to the Company (i) an audited balance sheet for the Advancing Party as of December 31, 1995, and (ii) an unaudited balance sheet for the Advancing Party as of April 30, 1996, each balance sheet which was certified by an officer of the Advancing Party and which fairly presented the financial position of the Advancing Party as of its date in accordance with GAAP. Each such balance sheet discloses either on its face or by footnote, all material liabilities of the Advancing Party required to be disclosed under GAAP.

Section 4.5 Proxy Statement. None of the information supplied or to be supplied by Buyer for inclusion or incorporation by reference in the Proxy Statement will, as of the date the Proxy Statement is first mailed to the shareholders of the Company and as of the time of the meeting of the sharehold-

ers of the Company in connection with the transactions contemplated hereby, contain any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary in order to make the statements therein, in light of the circumstances under which they are made, not misleading.

Section 4.6 Brokers or Finders. No agent, broker, investment banker or other firm or person, including any of the foregoing that is an Affiliate of Buyer or the Advancing Party, is or will be entitled to any broker's or finder's fee or any other commission or similar fee from Buyer or the Advancing



Party in connection with this Agreement or any of the transactions contemplated hereby for which the Company or any of its Affiliates will be responsible.

Section 4.7 REIT Qualification Matters. To Buyer's knowledge, no person which would be treated as an "individual" for purposes of Section 542(a)(2) of the Code (as modified by Section 856(h) of the Code) owns or would be considered to own (taking into account the ownership attribution rules under Section 544 of the Code, as modified by Section 856(h) of the Code) in excess of 9.8% of the value of the outstanding equity interest in Buyer or the Advancing Party.

Section 4.8 Investment Company Matters. Neither the Advancing Party nor Buyer is, and after giving effect to the purchase of Company Common Stock contemplated hereby neither will be, an "investment company" or an entity "controlled" by an "investment company", as such terms are defined in the Investment Company Act of 1940, as amended.

Section 4.9 Ownership of Tenants. Buyer does not own, directly or indirectly, an interest in a Tenant listed on Schedule 4.9, which interest is equal to or greater than (i) 10% of the combined voting power of all classes of stock of such Tenant, (ii) 10% of the total number of shares in all classes of stock of such Tenant, or (iii) if such Tenant is not a corporation, 10% of the assets or net profits of such Tenant. For purposes of this Section, the rules prescribed by Section 318(a) of the Code, for determining the ownership of stock, as modified by Section 856(d)(5) of the Code, shall apply in determining direct and indirect ownership of stock, assets, or net profits. Capitalized terms used but not defined in this Section 4.9 shall have the meaning assigned to them in the Company Charter. The Company shall advise Buyer within a reasonable period of time before the Closing of any material changes to Schedule 4.9.

## ARTICLE 5

## Covenants Relating to Closings

Section 5.1 Taking of Necessary Action. (a) Each party hereto agrees to use its commercially reasonable best efforts promptly to take or cause to be taken all action and promptly to do or cause to be done all things necessary, proper or advisable under applicable laws and regulations to consummate and make effective the transactions contemplated by this Agreement, the Registration Rights Agreement and the Stockholders Agreement, subject to the terms and conditions hereof and

thereof, including all actions and things necessary to cause all conditions precedent set forth in Article 7 to be satisfied.

(b) As promptly as practicable after the date hereof, the Company shall prepare and file with the SEC a preliminary proxy statement (the "Proxy Statement") by which the Company's shareholders will be asked to approve the Amended Company Charter and the issuance of shares of Company Common Stock contemplated hereby. The Proxy Statement as initially filed with the SEC, as it may be amended and refiled with the SEC and as it may be mailed to the Company's shareholders, shall be in form and substance reasonably satisfactory to Buyer. The Company shall use its reasonable efforts to respond to any comments of the SEC, and to cause the Proxy Statement to be mailed to the Company's shareholders at the earliest practicable time. As promptly as practicable after the date hereof, the Company shall prepare and file any other filings required of the Company or its Subsidiaries under the Exchange Act, the Securities Act or any other federal, state or local laws relating to this Agreement and the transactions contemplated hereby, including under the HSR Act and state takeover laws (the "Other Filings"), and Buyer shall prepare and file any filings required of Buyer by the HSR Act. The Company and Buyer will notify each other promptly of the receipt of any comments from the SEC or its staff and of any request by the SEC or its staff or any other government officials for amendments or supplements to the Proxy Statement or any Other Filing or for additional information and will supply each other with copies of all correspondence between each of them or any of their respective representatives, on the one hand, and the SEC, or its staff or any other government officials, on the other hand, with respect to the Proxy Statement or any Other Filing. The Proxy Statement and any Other Filing shall comply in all material respects with all applicable requirements of law. Buyer shall provide the Company all information about Buyer required to be included or incorporated by reference in the Proxy Statement or any Other Filing and shall otherwise cooperate with the Company in taking the actions described in this paragraph. Whenever any event occurs which is required to be set forth in an amendment or supplement to the Proxy Statement or any Other Filing, the Company or Buyer, as the case may be, shall promptly inform the other party of such occurrence and cooperate in filing with the SEC or its staff or any other government officials, and/or mailing to shareholders of the Company, such amendment or supplement. Subject to the provisions of Section 5.6, the Proxy Statement shall include the recommendation of the Board of Directors of the Company that the shareholders of the Company vote in favor of and approve the Amended Company Charter and



the issuance of Company Common Stock pursuant to this Agreement.

(c) The Company shall call a meeting of its shareholders to be held as promptly as practicable for the purpose of voting upon the transactions (including the issuance of Company Common Stock and the amendments to the Company Charter) contemplated hereby; provided that should a quorum not be obtained at such meeting of the shareholders, or if fewer shares of Company Common Stock than the number required therefor are voted in favor of approval and adoption of the transactions (including the issuance of Company Common Stock and the amendments to the Company Charter) contemplated hereby, the meeting of the shareholders shall be postponed or adjourned in order to permit additional time for soliciting and obtaining additional proxies or votes. In no event shall the record date for determining shareholders entitled to notice of and to vote at such shareholders' meeting to be held in accordance with the terms hereof be earlier than the date following the date of the Initial Closing.

(d) The Company shall use its commercially reasonable best efforts to obtain the consents set forth in each of Schedules 3.4(d)-A, 3.4(d)-B and 3.4(d)-C.

(e) From and after the date hereof, (i) no grant or award of options or other similar equity-related or incentive compensation shall be made pursuant to or by amendment to the agreements listed on Schedule 3.9(g), and (ii) any employment, stock option or other agreement entered into and which contains a change-of-control or similar provision shall contain only a change-of-control provision in the form included in the form of employment agreement attached hereto as Exhibit D.

Section 5.2 Registration Rights Agreement. At the Initial Closing, the Company, Buyer and the Advancing Party shall enter into the Registration Rights Agreement.

Section 5.3 Stockholders Agreement. At the Initial Closing, the Company, the Advancing Party and Buyer shall enter into the Stockholders Agreement.

Section 5.4 Public Announcements; Confidentiality. (a) Subject to each party's disclosure obligations imposed by law and any stock exchange or similar rules and the confidentiality provisions contained in Section 5.4(b), the Company and Buyer (or Buyer's U.S. representatives) will cooperate with each other in the development and distribution of all news releases and other public information disclosures with respect to



this Agreement, the Registration Rights Agreement the Stockholders Agreement and any of the transactions contemplated hereby or thereby.

(b) Buyer agrees that all information provided to Buyer or any of its representatives pursuant to this Agreement shall be kept confidential, and Buyer shall not (x) disclose such information to any persons other than the directors, officers, employees, financial advisors, legal advisors, accountants, consultants and affiliates of Buyer who reasonably need to have access to the confidential information and who are advised of the confidential nature of such information or (y) use such information in a manner which would be detrimental to the Company; provided, however, the foregoing obligation of Buyer shall not (i) relate to any information that (1) is or becomes generally available other than as a result of unauthorized disclosure by Buyer or by persons to whom Buyer has made

such information available, (2) is or becomes available to Buyer on a non-confidential basis from a third party that is not, to Buyer's knowledge, bound by any other confidentiality agreement with the Company, or (ii) prohibit disclosure of any information if required by law, rule, regulation, court order or other legal or governmental process.

Section 5.5 Conduct of the Business. Except for transactions contemplated hereby, during the period from the date hereof (and with respect to transactions or conduct relating to the number of shares of Company Stock outstanding, from May 31, 1996) to the sooner to occur of (A) the date on which the Remaining Equity Commitment shall be zero, and (B) if approval for the issuance of the Company Common Stock required to effect a Subsequent Purchase shall, in accordance with the terms hereof, have been sought from the shareholders of the Company but the requisite approval of the Company's shareholders shall not have been obtained, the date of the shareholder meeting at which such shareholder approval shall not have been obtained, the Company, except as otherwise consented to or approved by Buyer in writing or as permitted or required hereby (x) has conducted or will conduct the business of the Company and its Subsidiaries and has engaged or will engage in transactions only in the ordinary course, and (y) will not:

(i) change any provision of the Amended Company Charter or the By-laws of the Company in a manner that would be adverse to Buyer;

(ii) except for (A) issuances of shares of Company Common Stock in consideration for the acquisition of assets by the Company in bona fide arm's length transactions and subject to the limitations set forth in



the Company Charter (and which issuances in any event shall not exceed 10% of the shares of Company Common Stock outstanding, on a pro forma basis, assuming the consummation of each of the Subsequent Closings contemplated by this Agreement), (B) grants of options or the issuance of shares of Company Common Stock pursuant to the agreements listed and up to the amounts set forth in Schedule 3.3(a), change the number of shares of the authorized or issued capital stock of the Company or issue or grant any option, warrant, call, commitment, subscription, right to purchase or agreement of any character relating to the authorized or issued capital stock of the Company, or any securities convertible into shares of such stock (including Company Preferred Stock or Class B Common Stock), or split, combine or reclassify any shares of the capital stock of the Company or declare, set aside or pay any extraordinary dividend (except as may be required to comply with the requirements of Section 6.3), other distribution (whether in cash, stock or property or any combination thereof) in respect of the capital stock of the Company, or redeem or otherwise acquire any shares of such capital stock (provided, however, that in connection with any transaction described in clauses (A) and (B), Buyer shall be entitled, to the extent so provided in Section 4.2 of the Stockholders Agreement, to a participation right on the terms set forth in Section 4.2 of the Stockholders Agreement as if all of the Purchased Shares were issued and owned by Buyer at the time of such transaction, with any additional shares of capital stock (as such term is

used in Section 4.2 of the Stockholders Agreement) which Buyer shall have the right to purchase by virtue of such participation right to be issued and purchased only at the time of the Subsequent Closing, and subject to the satisfaction or waiver of the conditions applicable to the purchase of Purchased Shares thereat);

(iii) take any action or permit any of its Subsidiaries to take any action which would violate any of the Corporate Action Covenants under (and as defined in) the Stockholders Agreement if the Stockholders Agreement were then in effect;

(iv) purchase or enter into a binding agreement to purchase any real property without Investor's prior written consent, including the purchase of any of the properties which are the subject of the purchase agreements, letters of intent or other arrangements described in Schedule 3.11(g) or the other Schedules hereto; or



(v) enter into any employment agreement, or permit any of its Subsidiaries to enter into any employment agreement with any officer or other employee except for entry into the Employment Agreements pursuant to Section 3.7 of this Agreement.

Section 5.6 No Solicitation of Transactions. Unless and until this Agreement is terminated in accordance with its terms, none of the Company or its Subsidiaries shall, directly or indirectly, through any officer, director, agent or otherwise, initiate, solicit or knowingly encourage (including by way of furnishing non-public information or assistance), or take any other action to facilitate knowingly, any inquiries or the making of any proposal that constitutes, or may reasonably be expected to lead to, any Competing Transaction, or enter into or maintain or continue discussions or negotiate with any person or entity in furtherance of such inquiries or to obtain a Competing Transaction, or agree to or endorse any Competing Transaction, or authorize or knowingly permit any of the officers, directors or employees of such party or any of its subsidiaries or any investment banker, financial advisor, attorney, accountant or other representative retained by such party or any of such party's subsidiaries to take any such action, and the Company shall notify Buyer orally (within one Business Day) and in writing (as promptly as practicable) of all of the relevant details relating to all inquiries and proposals which it or any of its Subsidiaries or any such officer, director, employee, investment banker, financial advisor, attorney, accountant or other representative may receive relating to any of such matters and if such inquiry or proposal is in writing, the Company shall deliver to Buyer a copy of such inquiry or proposal; provided, however, that nothing contained in this Section shall prohibit the Board of Directors of the Company from complying with Rule 14e-2 promulgated under the Exchange Act with regard to a tender or exchange offer or prohibit the Board from taking such other actions as may be required to comply with the fiduciary obligations of the Board of Directors of the Company, as determined in good faith by the Board of Directors of the Company based on the written advice of outside counsel.

Section 5.7 Information and Access. From the date

hereof until the date on which the Remaining Equity Commitment shall be zero, (i) the Company and its Subsidiaries shall afford to Buyer and Buyer's accountants, counsel and other representatives full and reasonable access during normal business hours (and at such other times as the parties may mutually agree) to its properties, books, contracts, commitments, records and personnel and, during such period, shall furnish promptly to Buyer (1) a copy of each report, schedule and other document filed or received by it pursuant to the requirements



of the Securities Laws, and (2) all other information concerning their businesses, personnel and the Company Properties as Buyer may reasonably request, and (ii) without limiting the generality of the foregoing, Buyer shall have the right to conduct or cause to be conducted an environmental, physical, structural, electrical, mechanical and other inspection and review of any Company Properties or request that the Company update, at Buyer's expense, any existing reports, reviews or inspections thereof, in which case the Company shall promptly so update its reports, reviews and inspections and cause them to be certified to Buyer by the firm or person who prepared such report or conducted such review or inspection. Buyer and its accountants, counsel and other representatives shall, in the exercise of the rights described in this Section, not unduly interfere with the operation of the businesses of the Company or its Subsidiaries.

Section 5.8 Notification of Certain Matters. Each of Buyer and the Company shall use its good faith efforts to notify the other party in writing of its discovery of any matter that would render any of such party's or the other party's representations and warranties contained herein untrue or incorrect in any material respect, but the failure of either party to so notify the other party shall not be deemed a breach of this Agreement.

Section 5.9 Issuance Pursuant to Shelf Registration. The Company shall cause the Purchased Shares to be issued pursuant to and registered under the Company's shelf registration statement which is in effect as of the date hereof (or another shelf registration statement in effect as of the date of the relevant Closing) and, in connection with each such issuance and registration, will prepare and cause to be filed a prospectus supplement to such shelf registration statement.

## ARTICLE 6

## Certain Additional Covenants

Section 6.1 Resale. Buyer acknowledges and agrees that even though the Company Common Stock that Buyer will acquire in any Stock Purchase will be, as of the relevant Closing thereof, registered under the Securities Act, it may, to the extent Buyer is an affiliate of the Company for purposes of the Securities Act, only be sold or otherwise disposed of in one or more transactions registered under the Securities Act and, where applicable, relevant state securities laws or as to which an exemption from the registration requirements of the Securities Act and, where applicable, such state securities laws is

available, and Buyer agrees that the certificates representing such Common Stock may bear a legend as to its possible affiliate status to that effect.

Section 6.2 Use of Funds. The Company shall use the funds received from Stock Purchases for the repayment of debt of the Company and/or the acquisition or development of assets by the Company.

Section 6.3 REIT Status. From and after the date hereof and so long as Buyer owns 10% or more of the outstanding Company Common Stock, the Company will elect to be taxed as a REIT in its federal income tax returns, will comply with all applicable laws, rules and regulations of the Code relating to a REIT, and will not take any action or fail to take any action which would reasonably be expected to, alone or in conjunction with any other factors, result in the loss of its status as a REIT for federal income tax purposes.

Section 6.4 Guarantee. The Advancing Party hereby unconditionally and irrevocably guarantees and agrees to be responsible for the payment and performance of all of Buyer's obligations hereunder.

Section 6.5 Property Management Activities and Reorganizational Matters. (a) The Company will cause at or prior to the Second Closing, (i) the transfer of employees as set forth in Schedule 6.5(a), and (ii) the restructuring and consolidation of certain Subsidiaries, the terms and conditions of which are set forth in Schedule 6.5(a), and in form and substance reasonably satisfactory to the Company and Buyer.

(b) The Company shall request all consents listed in Schedule 3.4(d)-B which are required in connection with the matters contemplated in this Section 6.5(b) within one Business Day after the date hereof, and shall use its best efforts to obtain such consents prior to the Initial Closing.

(c) The Company will use all reasonable efforts to phase out and terminate the administrative services arrangement described in Paragraph D of Schedule 3.9(f) within one year of the date hereof or as soon as possible thereafter, and, prior to such termination, will not expand or increase, or permit to be expanded or increased, the scope, type or quantity of services provided or the amount of office space leased pursuant thereto or otherwise with the parties thereto.



## ARTICLE 7

## Conditions to Closings

Section 7.1 Conditions of Purchase at Initial Closing. The obligation of Buyer to purchase and pay for the Purchased Shares at the Initial Closing is subject to satisfaction

or waiver of each of the following conditions precedent:

(a) Representations and Warranties; Covenants. The representations and warranties of the Company contained herein shall have been true and correct in all respects on and as of the date hereof, and shall be true and correct in all respects on and as of the date of such Initial Closing, with the same effect as though such representations and warranties had been made on and as of the date of such Initial Closing (except for representations and warranties that speak as of a specific date or time other than the date of the Initial Closing (which need only be true and correct in all respects as of such date or time)), other than, in all such cases, such failures to be true and/or correct as would not in the aggregate reasonably be expected to have a Material Adverse Effect; provided, however, that if any of the representations and warranties is already qualified in any respect by materiality or as to Material Adverse Effect for purposes of this Section 7.1(a) such materiality or Material Adverse Effect qualification will be in all respects ignored (but subject to the overall standard as to Material Adverse Effect set forth immediately prior to this proviso). The covenants and agreements of the Company to be performed on or before the date of the Initial Closing in accordance with this Agreement shall have been duly performed in all respects, other than (except for the Company's obligation to deliver the relevant shares of Company Common Stock at the Initial Closing, and for the covenants set forth in Sections 5.1(e), 5.2 and 5.3, as to which the proviso set forth in this other-than clause shall not apply) for such failures to have been performed as would not in the aggregate reasonably be expected to have a Material Adverse Effect (provided, however, that if any such covenant or agreement is already qualified in any respect by materiality or as to Material Adverse Effect for purposes of determining whether this condition has been satisfied, such materiality or Material Adverse Effect qualification will be in all respects ignored and such covenant or agreement shall have been performed in all respects without regard to such qualification (but subject to the overall exception as to Material Adverse Effect set forth immediately prior to this proviso)). The Company shall have delivered to Buyer at the Initial Closing a certificate of an appropriate officer in form and substance reasonably satisfactory to Buyer dated the date of the Initial Closing to such effect.



For purposes of the foregoing condition, any Breaching Matters waived by Buyer or cured by the Company in accordance with the provisions of Section 2.8(b) shall not be taken into account.

In making any determination as to Material Adverse Effect under this Section 7.1(a) or under Section 7.2(a) or 7.3(a), the matters set forth in each such Section shall be aggregated and considered together.

(b) No Material Adverse Change. Since March 31, 1996 there shall not have been any change, circumstance or event which has had or would reasonably be expected to have a Material Adverse Effect.

(c) HSR Act. Any waiting period applicable to the consummation of the transactions contemplated hereby under the HSR Act shall have expired or been terminated, and no action

shall have been instituted by the United States Department of Justice or the United States Federal Trade Commission challenging or seeking to enjoin the consummation of the transactions contemplated hereby, which action shall not have been withdrawn or terminated, or the Company and Buyer shall have mutually concluded that no filing under the HSR Act is required with respect to the transactions contemplated hereby.

(d) Consents. The Company shall have obtained the consents set forth in Schedule 3.4(d)-A.

(e) Ownership Limit Waiver. Buyer's ownership of up to the Initial Number of Shares plus the 119,000 shares of Company Common Stock owned by Buyer or its Affiliates as of the date hereof shall have been irrevocably exempted from the ownership limit provisions of Article 5 of the Company Charter and the Board of Directors of the Company shall have taken such other action provided for under Article 5 of the Company Charter as Buyer shall have requested to irrevocably waive the application of said Article 5 to Buyer's acquisition and holding of up to the Initial Number of Shares and to establish an "Ownership Limit" as defined in said Article 5 in respect of Buyer which permits Buyer's ownership of the Initial Number of Shares plus the 119,000 shares of Company Common Stock owned by Buyer or its Affiliates as of the date hereof. For purposes of this paragraph (e), references to Buyer, shall also be deemed to be references to any Person who would be an Investor within the meaning of the Stockholders Agreement.

(f) Related Tenant Limit Waiver. The Board of Directors of the Company shall have granted a waiver of the Related Tenant Limit (as such term in defined in the Company



Charter) to Buyer (or other exemption with the same effect) in form and substance reasonably satisfactory to Buyer.

Section 7.2 Conditions to Purchase at Subsequent Closings. The obligations of Buyer to purchase and pay for the Purchased Shares at any Subsequent Closing are subject to satisfaction or waiver of each of the following conditions precedent:

(a) Representations and Warranties; Covenants. The representations and warranties of the Company contained herein shall have been true and correct in all respects on and as of the date hereof, and shall be true and correct in all respects on and as of the date of the Subsequent Closing, with the same effect as though such representations and warranties had been made on and as of the date of the Subsequent Closing (except for representations and warranties that speak as of a specific date or time other than the date of the Subsequent Closing (which need only be true and correct in all respects as of such date or time)), other than, in all such cases, such failures to be true and/or correct as would not in the aggregate reasonably be expected to have a Material Adverse Effect; provided, however, that if any of the representations and warranties is already qualified in any respect by materiality or as to Material Adverse Effect for purposes of this Section 7.2(a) such materiality or Material Adverse Effect qualification will be in all respects ignored (but subject to the overall standard as to Material Adverse Effect set forth immediately prior to this proviso). The covenants and agreements of the Company to be performed on or before the date of the Subsequent Closing in accordance with this Agreement shall have been duly performed

in all respects, other than (except for the Company's obligation to deliver the relevant shares of Company Common Stock at the Subsequent Closing, and, with respect to the Second Closing, for the covenants set forth in Section 6.5(a), as to which the proviso set forth in this other-than clause shall not apply) for such failures to have been performed as would not in the aggregate reasonably be expected to have a Material Adverse Effect (provided, however, that if any such covenant or agreement is already qualified in any respect by materiality or as to Material Adverse Effect for purposes of determining whether this condition has been satisfied, such materiality or Material Adverse Effect qualification will be in all respects ignored and such covenant or agreement shall have been performed in all respects without regard to such qualification (but subject to the overall exception as to Material Adverse Effect set forth immediately prior to this proviso)). The Company shall have delivered to Buyer at the Subsequent Closing a certificate of



an appropriate officer in form and substance reasonably satisfactory to Buyer dated the date of the Subsequent Closing to such effect.

(b) Shareholder Approval. The issuance of Company Common Stock pursuant to this Agreement shall have been approved by the requisite vote of the Company's shareholders.

(c) Amended Company Charter; Modification of Ownership Limit. With respect to the Second Closing, the amendment to the Company Charter in the form attached as Exhibit E (the "Amended Company Charter") shall have been approved by the requisite vote of holders of Company Common Stock, all as required by and in accordance with the Company Charter, and duly filed with the Secretary of State of Florida and shall be in full force and effect, and a resolution related to the Amended Company Charter, which shall have been approved by Buyer, shall have been adopted by the Board of Directors of the Company.

(d) Consents. The Company shall have obtained the consents set forth in Schedule 3.4(d)-B with respect to the Second Closing and in Schedule 3.4(d)-C with respect to each other Subsequent Closing.

(e) Certain Conditions Still True. The conditions precedent set forth in Sections 7.1(b), (c), (d) and (f) shall continue to be satisfied or waived in all respects on and as of the date of the Subsequent Closing.

Section 7.3 Conditions of Purchase at All Closings. The obligations of Buyer to purchase and pay for the Purchased Shares at each Closing (including the Initial Closing and any Subsequent Closing, except where otherwise indicated) are subject to satisfaction or waiver of each of the following conditions precedent:

(a) Representations and Warranties; Covenants. The representations and warranties of the Company contained in Sections 3.1(a), 3.1(b), 3.1(c), 3.1(d), 3.2, the second and third sentences of 3.3(a), 3.4, 3.5, 3.8(b), 3.8(e), 3.18, 3.19, and 3.20 shall have been true and correct in all respects on and as of the date hereof, and shall be true and correct in all respects on and as of the relevant Closing Date with the same effect as though such representations and warranties had been made on and as of the Closing Date (except for representations and warranties that speak as of a specific date or time other

than such Closing Date (which need only be true and correct in all respects as of such date or time)), other than, in all such cases, such failures to be true and/or correct as would not in the aggregate reasonably be expected to have a Material Adverse



Effect; provided, however, that if any of the representations and warranties is already qualified in any respect by materiality or as to Material Adverse Effect for purposes of this Section 7.3(a) such materiality or Material Adverse Effect qualification will be in all respects ignored (but subject to the overall standard as to Material Adverse Effect set forth immediately prior to this proviso). The covenants and agreements of the Company to be performed on or before the relevant Closing Date in accordance with this Agreement shall have been duly performed in all respects, other than (except for the Company's obligation to deliver the relevant shares of Company Common Stock at the relevant Closing, as to which the proviso set forth in this other-than clause shall not apply) for such failures to have been performed as would not in the aggregate reasonably be expected to have a Material Adverse Effect (provided, however, that if any such covenant or agreement is already qualified in any respect by materiality or as to Material Adverse Effect for purposes of determining whether this condition has been satisfied, such materiality or Material Adverse Effect or qualification will be in all respects ignored and such covenant or agreement shall have been performed in all respects without regard to such qualification (but subject to the overall exception as to Material Adverse Effect set forth immediately prior to this proviso)). As to each Closing other than the Initial Closing, no condition to the obligations of Buyer to purchase and pay for the Purchased Shares at the Initial Closing, and that was not duly waived by Buyer, shall have failed to be satisfied as of the Initial Closing. The Company shall have delivered to Buyer at the relevant Closing a certificate of an appropriate officer in form and substance reasonably satisfactory to Buyer dated the relevant Closing Date to such effect.

For purposes of the foregoing condition, any Breaching Matters waived in accordance with the provisions of Section 2.8(b) shall not be taken into account.

(b) No Injunction. There shall not be in effect any order, decree or injunction of a court or agency of competent jurisdiction which enjoins or prohibits consummation of the transactions contemplated hereby and there shall be no pending Actions which would reasonably be expected to have a material adverse effect on the ability of the Company to consummate the transactions contemplated hereby or to issue the Purchased Shares.

(c) Proceedings. All corporate and other proceedings to be taken by the Company in connection with the transactions contemplated hereby and all documents incident thereto shall be reasonably satisfactory in form and substance to Buyer

and Buyer shall have received all such counterpart originals or certified or other copies of such documents as they may reasonably request.

(d) REIT Status. The Company shall have elected to be taxed as a REIT in its most recent federal income tax return, and shall be in compliance with all applicable laws, rules and regulations, including the Code, necessary to permit it to be taxed as a REIT. The Company shall not have taken any action or have failed to take any action which would reasonably be expected to, alone or in conjunction with any other factors, result in the loss of its status as a REIT for federal income tax purposes.

(e) Opinion of Counsel. Buyer shall have received an opinion from Foley & Lardner in form and substance reasonably satisfactory to Buyer.

(f) Domestically-Controlled REIT. The Company is, and after giving effect to the relevant Closing will be, a "domestically-controlled" REIT within the meaning of Code Section 897(h)(4)(B).

Section 7.4 Conditions of Sale. The obligation of the Company to issue and sell any Purchased Shares at any Closing (including the Initial Closing and each Subsequent Closing, except where otherwise indicated below) is subject to satisfaction or waiver of each of the following conditions precedent:

(a) Representations and Warranties; Covenants. The representations and warranties of Buyer and the Advancing Party contained herein shall have been true and correct in all respects on and as of the date hereof, and shall be true and correct in all respects on and as of the relevant Closing Date with the same effect as though such representations and warranties had been made on and as of the relevant Closing Date (except for representations and warranties that speak as of a specific date or time other than such Closing Date (which need only be true and correct in all respects as of such date or time)), other than, in all such cases, such failures to be true and/or correct as would not in the aggregate reasonably be expected to have a Material Adverse Effect on the Company or Buyer's ability to consummate the transactions contemplated hereby; provided, however, that if any of the representations and warranties is already qualified in any respect by materiality or as to Material Adverse Effect for purposes of this Section 7.4(a) such materiality or Material Adverse Effect qualification will be in all respects ignored (but subject to the overall standard as to Material Adverse Effect set forth



immediately prior to this proviso). The covenants and agreements of Buyer to be performed on or before the relevant Closing Date in accordance with this Agreement shall have been duly performed in all respects, other than (except for Buyer's obligation to pay the relevant Purchase Price at the relevant Closing, and, as to the Initial Closing, except for Buyer's covenants set forth in Sections 5.2 and 5.3, as to which the proviso set forth in this other-than clause shall not apply) for such failures to have been performed as would not in the aggregate reasonably be expected to have a Material Adverse Effect on the Company or Buyer's ability to consummate the trans-

actions contemplated hereby (provided, however, that if any such covenant or agreement is already qualified in any respect by materiality or as to Material Adverse Effect for purposes of determining whether this condition has been satisfied, such materiality or Material Adverse Effect qualification will be in all respects ignored and such covenant or agreement shall have been performed in all respects without regard to such qualification (but subject to the overall exception as to Material Adverse Effect set forth immediately prior to this proviso)). Buyer shall have delivered to the Company at the relevant Closing a certificate of an appropriate officer in form and substance reasonably satisfactory to the Company dated the relevant Closing Date to such effect.

(b) HSR Act. Any waiting period applicable to the consummation of the transactions contemplated hereby under the HSR Act shall have expired or been terminated, and no action shall have been instituted by the United States Department of Justice or the United States Federal Trade Commission challenging or seeking to enjoin the consummation of the transactions contemplated hereby, which action shall not have been withdrawn or terminated, or the Company and Buyer shall have mutually concluded that no filing under the HSR Act is required with respect to the transactions contemplated hereby.

(c) Shareholder Approval. Except in the case of the Initial Closing, the issuance of the Company Common Stock pursuant to this Agreement shall have been approved by the requisite vote of the Company's shareholders.

(d) No Injunction. There shall not be in effect any order, decree or injunction of a court or agency of competent jurisdiction which enjoins or prohibits consummation of the transactions contemplated hereby and there shall be no pending Actions which would reasonably be expected to have a material adverse effect on the ability of Buyer to consummate the transactions contemplated hereby or to acquire the Purchased Shares.



(e) Consents. The Company shall have obtained the consents set forth in Schedule 3.4(d)-A in the case of the Initial Closing, in Schedule 3.4(d)-B in the case of the Second Closing, and in Schedule 3.4(d)-C in the case of each other Subsequent Closing.

(f) Proceedings. All corporate and other proceedings to be taken by Buyer in connection with the transactions contemplated hereby and all documents incident thereto shall be reasonably satisfactory in form and substance to the Company and the Company shall have received all such counterpart originals or certified or other copies of such documents as it may reasonably request.

(g) Opinion of Counsel. The Company shall have received an opinion from counsel to Buyer reasonably acceptable to the Company in form and substance reasonably satisfactory to the Company.

## ARTICLE 8

## Survival; Indemnification

Section 8.1 Survival. All representations, warranties and (except as provided by the last sentence of this Section 8.1) covenants and agreements of the parties contained herein, including indemnity or indemnification agreements contained herein, or in any Schedule or Exhibit hereto, or any certificate, document or other instrument delivered in connection herewith shall survive the Initial Closing and any Subsequent Closing until the first anniversary of the latest of the Initial Closing and any Subsequent Closing. No Action or proceeding may be brought with respect to any of the representations and warranties, or any of the covenants or agreements which survive until such first anniversary, unless written notice thereof, setting forth in reasonable detail the claimed misrepresentation or breach of warranty or breach of covenant or agreement, shall have been delivered to the party alleged to have breached such representation or warranty or such covenant or agreement prior to such first anniversary; provided, however, that, if Buyer shall have complied with this Section 8.1, the damages for breach by the Company of any of the representations and warranties, or any of the covenants or agreements which survive until such first anniversary, shall be measured with respect to all of Buyer's purchases of Company Common Stock hereunder and not with respect only to Buyer's purchases hereunder made prior to such first anniversary, but such measurement shall not in any event include any shares of Company



Stock that Buyer may have purchased other than from the Company. Those covenants or agreements that contemplate or may involve actions to be taken or obligations in effect after the Initial Closing shall survive in accordance with their terms.

Section 8.2 Indemnification by Buyer or the Company. (a) Subject to Section 8.1, from and after any Closing Date, Buyer shall indemnify and hold harmless the Company, its successors and assigns, from and against any and all damages, claims, losses, expenses, costs, obligations, and liabilities, including liabilities for all reasonable attorneys' fees and expenses (including attorney and expert fees and expenses incurred to enforce the terms of this Agreement) (collectively, "Loss and Expenses") suffered, directly or indirectly, by the Company by reason of, or arising out of, (i) any breach as of the date made or deemed made or required to be true of any representation or warranty made by Buyer in or pursuant to this Agreement, or (ii) any failure by Buyer or the Advancing Party to perform or fulfill any of its covenants or agreements set forth herein. Notwithstanding any other provision of this Agreement to the contrary, in no event shall Loss and Expenses include a party's incidental or consequential damages.

(b) Subject to Section 8.1, from and after any Closing Date, the Company shall indemnify and hold harmless Buyer, its successors and assigns, from and against any and all Loss and Expenses, suffered, directly or indirectly, by Buyer by reason of, or arising out of, (i) any breach as of the date made or deemed made or required to be true of any representation or warranty made by the Company in or pursuant to this Agreement and any statements made in any certificate delivered pursuant to this Agreement, or (ii) any failure by the Company to perform or fulfill any of its covenants or agreements set forth herein. Notwithstanding any other provision of this Agreement to the contrary, in no event shall Loss and Expenses include a party's incidental or consequential damages.

(c) Notwithstanding the foregoing, (i) neither Buyer

nor the Company shall be responsible for any Loss and Expenses as provided by paragraphs (a) and (b), respectively, of this Section 8.2, until the cumulative aggregate amount of such Loss and Expenses suffered by Buyer or the Company, as the case may be, exceeds $250,000, in which case Buyer or the Company, as the case may be, shall then be liable for all such Loss and Expenses, and (ii) the cumulative aggregate indemnity obligation of each of Buyer and the Company under this Section 8.2 shall in no event exceed the actual aggregate amount paid by Buyer for the shares of Company Common Stock purchased by it from the Company pursuant to this Agreement. Except with respect to third-party claims being defended in good faith or claims for



indemnification with respect to which there exists a good faith dispute, the indemnifying party shall satisfy its obligations hereunder within 30 days of receipt of a notice of claim under this Article 8.

Section 8.3 Third-Party Claims. If a claim by a third party is made against an Indemnified Party and if such Indemnified Party intends to seek indemnity with respect thereto under this Article, such Indemnified Party shall promptly notify the indemnifying party in writing of such claims setting forth such claims in reasonable detail; provided, however, the foregoing notwithstanding, the failure of any Indemnified Party to give any notice required to be given hereunder shall not affect such Indemnified Party's right to indemnification hereunder except to the extent the indemnifying party from whom such indemnity is sought shall have been prejudiced in its ability to defend the claim or action for which such indemnification is sought by reason of such failure. The indemnifying party shall have 20 days after receipt of such notice to undertake, through counsel of its own choosing and at its own expense, the settlement or defense thereof, and the Indemnified Party shall cooperate with it in connection therewith; provided, however, that the Indemnified Party may participate in such settlement or defense through counsel chosen by such Indemnified Party, provided that the fees and expenses of such counsel shall be borne by such Indemnified Party. The Indemnified Party shall not pay or settle any claim which the indemnifying party is contesting. Notwithstanding the foregoing, the Indemnified Party shall have the right to pay or settle any such claim, provided that in such event it shall waive any right to indemnity therefor by the indemnifying party. If the indemnifying party does not notify the Indemnified Party within 20 days after the receipt of the Indemnified Party's notice of a claim of indemnity hereunder that it elects to undertake the defense thereof, the Indemnified Party shall have the right to contest, settle or compromise the claim but shall not thereby waive any right to indemnity therefor pursuant to this Agreement.

## ARTICLE 9

## Termination

Section 9.1 Termination. This Agreement may be terminated at any time prior to the Initial Closing by:

(i) the mutual consent of the Company and Buyer;

(ii) Buyer (if it is not in breach of any of its material obligations hereunder) in the event of a breach or failure by the Company that is material in the context of the transactions contemplated hereby of any representation, warranty, covenant or agreement by the Company contained herein which has not been, or cannot be, cured within 30 Business Days after written notice of such breach is given to the Company;

(iii) the Company (if it is not in breach of any of its material obligations hereunder) in the event of a breach or failure by Buyer that is material in the context of the transactions contemplated hereby of any representation, warranty, covenant or agreement by Buyer contained herein which has not been, or cannot be, cured within 30 Business Days after written notice of such breach is given to Buyer; or

(iv) either the Company or Buyer, if the Initial Closing shall not have occurred on or prior to October 31, 1996, unless the failure of such occurrence shall be due to the failure of the party seeking to terminate this Agreement to perform or observe any material covenant or agreement set forth herein required to be performed or observed by such party on or before the date of the Initial Closing.

(b) This Agreement may be terminated at any time by:

(i) Buyer, in the event that the shareholders of the Company vote upon and fail to approve either (1) the issuance of Company Common Stock contemplated hereby, or (2) the Amended Company Charter (it being understood that the Initial Closing shall have occurred prior to the date of the meeting of holders of shares of Company Stock to so approve); or

(ii) Buyer, (1) if the Board of Directors of the Company shall have withdrawn, modified or failed to make or refrained from making its recommendation that the shareholders of the Company approve the issuance of Company Common Stock pursuant to this Agreement as provided for in Section 3.2(b) and Section 5.1(b), or (2) if the Board of Directors of the Company at any time refuses to reaffirm, at Buyer's request, such recommendation and its determination to make such recommendation to the shareholders of the Company, except, in each case, as permitted by Section 5.6, or (3) if no meeting at which the shareholders of the Company are asked to vote upon the transactions contemplated by this Agreement shall have duly occurred on or prior to the six-month anniversary of the date of the Stockholders Agreement.

Section 9.2 Procedure and Effect of Termination. In the event of termination of this Agreement by either or both of



the Company and Buyer pursuant to Section 9.1, written notice thereof shall forthwith be given by the terminating party to

the other party hereto, and this Agreement shall thereupon terminate and become void and have no effect, and the transactions contemplated hereby shall be abandoned without further action by the parties hereto, except that the provisions of Sections 5.4 (Public Announcements; Confidentiality), 9.3 (Expenses), 10.2 (Governing Law), and 10.4 (Notices), and, in the event of any termination following any Closing hereunder, the provisions of Article 8 (Survival; Indemnification), and any related definitional, interpretive or other provisions necessary for the logical interpretation of such provisions, shall survive the termination of this Agreement; provided, however, that such termination shall not relieve any party hereto of any liability for any breach of this Agreement.

Section 9.3 Expenses. (a) Except as set forth in this Agreement, whether or not any Stock Purchase is consummated, all legal and other costs and expenses incurred in connection with this Agreement and the transactions contemplated hereby shall be paid by the party incurring such costs and expenses (which in the case of the Company, shall include shareholder solicitation costs), except that Buyer and the Company shall share equally the filing fees for the filing under the HSR Act which is to be made in connection with the transactions contemplated hereby.

(b) In the event that the Company's shareholders shall have failed for any reason (other than as a result of Buyer's breach of any of its material obligations hereunder) to approve this Agreement and the transactions contemplated hereby by the requisite vote at the Company's shareholders' meeting held in accordance with the terms hereof, or the Company shall have failed to duly convene such shareholders' meeting on or prior to October 31, 1996 provided that Buyer is not in material default under this Agreement, that Buyer has not breached any of its representations and warranties in any material respect, and that Buyer has satisfied in all material respects its covenants relating to the Second Closing and contemplated by the terms hereof to be performed at or prior to the time of the Company's shareholders' meeting, the Company shall immediately make payment to Buyer (by wire transfer) of the amount of $1.0 million, as reimbursement and compensation for Buyer's costs and expenses (including opportunity costs) incurred in connection with this Agreement and the transactions contemplated hereby.

(c) In the event that (i) this Agreement and the transactions contemplated hereby shall have been submitted to a vote of the Company's shareholders (or in the event the Company



shall fail to submit such matters to a vote of its shareholders in violation of its obligations hereunder), (ii) a Competing Transaction shall have been proposed prior to such submission to a vote of the Company's shareholders (or such time as such submission would have occurred had the Company not so failed to so submit such matters), and (iii) the shareholders shall not, for any reason (other than as a result of Buyer's breach of any of its material obligations hereunder), have approved this Agreement and the transactions contemplated hereby by the requisite vote, then, provided that Buyer is not in material default under this Agreement, that Buyer has not breached any of its representations and warranties in any material respect, and that Buyer has satisfied in all material respects its covenants relating to the Initial Closing and contemplated by the terms hereof to be performed at or prior to the time of the Company's

shareholders' meeting, the Company shall immediately make payment to Buyer (by wire transfer) of a fee in the amount of $5.0 million (the "Breakup Fee"); provided, however, that if the Competing Transaction was not solicited, initiated or encouraged directly or indirectly by the Company or any of its Subsidiaries through any officer, director, agent or otherwise, the Company shall not be required to pay the Breakup Fee unless a Competing Transaction has been consummated or agreed to within six months after the occurrence of the events described in clauses (i), (ii) and (iii) above. Upon payment to the Buyer of the Breakup Fee, the Company shall have no further liability to Buyer arising out of any Competing Transaction.

## ARTICLE 10

## Miscellaneous

Section 10.1 Counterparts. This Agreement may be executed in one or more counterparts, all of which shall be considered one and the same agreement, and shall become effective when one or more counterparts have been signed by each party hereto and delivered to the other party. Copies of executed counterparts transmitted by telecopy, telefax or other electronic transmission service shall be considered original executed counterparts for purposes of this Section, provided receipt of copies of such counterparts is confirmed.

Section 10.2 Governing Law. THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF FLORIDA WITHOUT REFERENCE TO THE CHOICE OF LAW PRINCIPLES THEREOF.

Section 10.3 Entire Agreement. This Agreement (including agreements incorporated herein) and the Schedules and



Exhibits hereto contain the entire agreement between the parties with respect to the subject matter hereof and there are no agreements, understandings, representations or warranties between the parties other than those set forth or referred to herein. This Agreement is not intended to confer upon any person not a party hereto (and their successors and assigns) any rights or remedies hereunder.

Section 10.4 Notices. All notices and other communications hereunder shall be sufficiently given for all purposes hereunder if in writing and delivered personally, sent by documented overnight delivery service or, to the extent receipt is confirmed, telecopy, telefax or other electronic transmission service to the appropriate address or number as set forth below. Notices to the Company shall be addressed to:

Regency Realty Corporation
121 W. Forsyth Street, Suite 200
Jacksonville, Florida 32202
Attention: Martin E. Stein, Jr.
Telecopy Number: (904) 634-3428

with a copy to:

Foley & Lardner
Greenleaf Building
200 Laura Street
Jacksonville, Florida 32202

Attention: Charles E. Commander III, Esq.
Telecopy Number: (904) 359-8700

or at such other address and to the attention of such other person as the Company may designate by written notice to Buyer. Notices to Buyer shall be addressed to:

Security Capital Holdings S.A.
69, route d'Esch
L-2953 Luxembourg
Attention: Paul E. Szurek
Telecopy Number: (352) 4590-3331

with a copy to:

Wachtell, Lipton, Rosen & Katz
51 West 52nd Street
New York, New York 10019
Attention: Adam O. Emmerich, Esq.
Telecopy Number: (212) 403-2000



Section 10.5 Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors. Except as specifically provided hereby, Buyer shall not be permitted to assign any of its rights hereunder to any third party, other than to one or more Affiliates of Buyer or the Advancing Party of which Buyer and the Advancing Party collectively, directly or indirectly, Beneficially Own (as that term is defined in the Stockholders Agreement) 98% or more of the voting power and the economic interests, provided that such Affiliates agree to be bound hereby and by the Stockholders Agreement, and provided that Buyer and the Advancing Party shall remain liable hereunder, and provided that any bona fide financial institution to which any Buyer, the Advancing Party or any permitted transferee has Transferred (as that term is used in the Stockholders Agreement) (including upon foreclosure of a pledge) shares of Company Stock for the purpose of securing bona fide indebtedness of any Buyer and which has agreed to be bound by this Agreement and the Stockholders Agreement shall also be entitled to enforce the rights of Buyer and the Advancing Party hereunder.

Section 10.6 Headings. The Section, Article and other headings contained in this Agreement are inserted for convenience of reference only and will not affect the meaning or interpretation of this Agreement. All references to Sections or Articles contained herein mean Sections or Articles of this Agreement unless otherwise stated.

Section 10.7 Amendments and Waivers. This Agreement may not be modified or amended except by an instrument or instruments in writing signed by the party against whom enforcement of any such modification or amendment is sought. Either party hereto may, only by an instrument in writing, waive compliance by the other party hereto with any term or provision hereof on the part of such other party hereto to be performed or complied with. The waiver by any party hereto of a breach of any term or provision hereof shall not be construed as a waiver of any subsequent breach.

Section 10.8 Interpretation; Absence of Presumption. (a) For the purposes hereof, (i) words in the singular shall

be held to include the plural and vice versa and words of one gender shall be held to include the other gender as the context requires, (ii) the terms "hereof", "herein", and "herewith" and words of similar import shall, unless otherwise stated, be construed to refer to this Agreement as a whole (including all of the Schedules and Exhibits hereto) and not to any particular provision of this Agreement, and Article, Section, paragraph, Exhibit and Schedule references are to the Articles, Sections, paragraphs, Exhibits and Schedules to this Agreement unless



otherwise specified, (iii) the word "including" and words of similar import when used in this Agreement shall mean "including, without limitation," unless the context otherwise requires or unless otherwise specified, (iv) the word "or" shall not be exclusive, and (v) provisions shall apply, when appropriate, to successive events and transactions.

(b) This Agreement shall be construed without regard to any presumption or rule requiring construction or interpretation against the party drafting or causing any instrument to be drafted.

Section 10.9 Severability. Any provision hereof which is invalid or unenforceable shall be ineffective to the extent of such invalidity or unenforceability, without affecting in any way the remaining provisions hereof.

Section 10.10 Further Assurances. The Company and Buyer agree that, from time to time, whether before, at or after any Closing Date, each of them will execute and deliver such further instruments of conveyance and transfer and take such other action as may be necessary to carry out the purposes and intents hereof.

Section 10.11 Specific Performance. Buyer and the Company each acknowledge that, in view of the uniqueness of the parties hereto, the parties hereto would not have an adequate remedy at law for money damages in the event that this Agreement were not performed in accordance with its terms, and therefore agree that the parties hereto shall be entitled to specific enforcement of the terms hereof in addition to any other remedy to which the parties hereto may be entitled at law or in equity.

Section 10.12 Joint and Several Liability. The obligations and liabilities of Buyer and the Advancing Party under or in connection with this Agreement are joint and several.

Section 10.13 Interpretation of Schedules. Any matter set forth on any Schedule shall be deemed to be referred to on all other Schedules to which such matter logically relates and where such reference would be appropriate and can reasonably be inferred from the matters disclosed on the first Schedule as if set forth on such other Schedules.

IN WITNESS WHEREOF, this Agreement has been signed by or on behalf of each of the parties hereto as of the day first above written.

REGENCY REALTY CORPORATION

By: /s/ Martin E. Stein, Jr.
Name: Martin E. Stein, Jr.
Title: President

SECURITY CAPITAL HOLDINGS S.A.

By: /s/ Paul E. Szurek
Name: Paul E. Szurek
Title: Managing Director

SECURITY CAPITAL U.S. REALTY

By: /s/ Paul E. Szuek
Name: Paul E. Szurek
Title: Managing Director



EXHIBIT B

REGISTRATION RIGHTS AGREEMENT

by and among

REGENCY REALTY CORPORATION

SECURITY CAPITAL HOLDINGS S.A.

and

SECURITY CAPITAL U.S. REALTY

dated as of

_____ __, 1996

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REGISTRATION RIGHTS AGREEMENT (the "Agreement"), dated as of _____ __, 1996, by and among Regency Realty Corporation, a Florida corporation (the "Company"), Security Capital U.S. Realty, a Luxembourg corporation ("USREALTY"), and Security Capital Holdings S.A., a Luxembourg corporation ("Holdings") and a wholly owned subsidiary of USREALTY. Capitalized terms not otherwise defined herein have the meaning ascribed to them in the Stock Purchase Agreement (as hereinafter defined).

WHEREAS, the Company, Holdings and USREALTY have entered into a Stock Purchase Agreement, dated as of June 11, 1996 (the "Stock Purchase Agreement"), that provides for the purchase by Holdings and sale by the Company to Holdings of shares of Company Common Stock; and

WHEREAS, in order to induce Buyer to enter into the Stock Purchase Agreement, the Company has agreed to provide the registration rights set forth herein;

NOW, THEREFORE, in consideration of the premises and the covenants and agreements contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and intending to be legally bound hereby, the parties hereto hereby agree as follows:

Section 1. Definitions. As used herein, the following terms shall have the following meanings:

(a) "Agreement" shall have the meaning set forth in the first paragraph hereof.

(b) "Buyer" shall mean, collectively, as the context may require, USREALTY and Holdings, and shall also include any Affiliate of USREALTY or Holdings of which USREALTY and/or Holdings collectively, directly or indirectly, Beneficially Own 98% or more of the voting power and of the economic interests, or any bona fide financial institution to which any Buyer has Transferred (including upon foreclosure of a pledge) shares of Company Stock for the purpose of securing bona fide indebtedness of any Buyer. (Capitalized terms used in this definition and not defined herein shall have the meanings ascribed to them in the Stockholders Agreement.)

(c) "Commencement Date" shall mean the first anniversary of the date of this Agreement, except that, in the case of any Buyer which is a bona fide financial institution to which any other Buyer has Transferred (including upon foreclosure of a pledge) shares of Company Stock for the purpose of securing bona fide indebtedness, the Commencement Date shall be the date of this Agreement.

(d) "Company" shall have the meaning set forth in the first paragraph hereof.

(e) "Company Registration Expenses" shall mean the fees and disbursements of counsel and independent public accountants for the Company incurred in connection with the Company's performance of or compliance with this Agreement, including the expenses of any special audits or "cold comfort" letters required by or incident to such performance and compliance, and any premiums and other costs of policies of insurance obtained by the Company against liabilities arising out of the sale of any securities.

(f) "Commission" shall mean the Securities and Exchange Commission, and any successor thereto.

(g) "Exchange Act" shall mean the Securities Exchange Act of 1934, as amended, and any successor thereto, and the rules and regulations thereunder.

(h) "Exercise Notice" shall have the meaning set forth in Section 7(a).

(i) "Extraordinary Transaction" shall mean (i) any merger, consolidation, sale or acquisition of assets, recapitalization, other business combination, liquidation, or other action out of the ordinary course of business of the Company, or (ii) any sale, issuance or other disposition of capital stock of the Company representing, in the aggregate, at least 30% of the then outstanding capital stock of the Company.

(j) "Extraordinary Transaction Shares" shall have the meaning set forth in Section 7(a).

(k) "Holdings" shall have the meaning set forth in the first paragraph hereof.

(l) "NASD" shall mean the National Association of Securities Dealers, Inc.

(m) "Registrable Securities" shall mean (i) any and all shares of Company Stock acquired by Buyer pursuant to the Stock Purchase Agreement, (ii) any and all securities acquired by Buyer pursuant to Section 4.2 of the Stockholders Agreement, and (iii) any securities issued or issuable with



respect to any Company Stock or other securities referred to in clause (i) or (ii) by way of conversion, exchange, stock dividend or stock split or in connection with a combination of shares, recapitalization, merger, consolidation or other reorganization or otherwise. As to any particular Registrable Securities, once issued such securities shall cease to be Registrable Securities when (A) a registration statement with respect to the sale of such securities shall have become effective under the Securities Act and such securities shall have been disposed of in accordance with such registration statement, or (B) such securities shall have been sold in accordance with Rule 144 (or any successor provision) under the Securities Act.

(n) "Registration Expenses" shall mean all registration, filing and stock exchange or NASD fees, all fees and expenses of complying with securities or blue sky laws, all printing expenses, messenger and delivery expenses, any fees and disbursements of any separate counsel retained by Buyer, any fees and disbursements of underwriters customarily paid by sellers of securities who are not the issuers of such se-

curities and all underwriting discounts and commissions and transfer taxes, if any, and any premiums and other costs of policies of insurance obtained by Buyer against liabilities arising out of the public offering of securities.

(o) "Registration Suspension Period" shall have the meaning set forth in Section 2(b).

(p) "Securities Act" shall mean the Securities Act of 1933, as amended, and any successor thereto, and the rules and regulations thereunder.

(q) "Shelf Registration" shall have the meaning set forth in Section 2(a).

(r) "Stockholders Agreement" shall have the meaning set forth in Section 2(c).

(s) "Stock Purchase Agreement" shall have the meaning set forth in the second paragraph hereof.

(t) "Suspension Notice" shall have the meaning set forth in Section 2(b).

(u) "Tag-Along Notice" shall have the meaning set forth in Section 7(a).

(v) "Tag-Along Shares" shall have the meaning set forth in Section 7(a).



(w) "Third Party" shall have the meaning set forth in Section 7(a).

(x) "Underwritten/Placed Offering" shall mean a sale of securities of the Company to an underwriter or underwriters for reoffering to the public or on behalf of a person other than the Company through an agent for sale to the public.

(y) "USREALTY" shall have the meaning set forth in the first paragraph hereof.

Section 2. Shelf Registration. (a) Obligation to File and Maintain. At any time following the Commencement Date, promptly upon the written request of Buyer, the Company will use its reasonable best efforts to file with the Commission a registration statement under the Securities Act for the offering on a continuous or delayed basis in the future of all of the Registrable Securities (the "Shelf Registration"). The Shelf Registration shall be on an appropriate form and the Shelf Registration and any form of prospectus included therein or prospectus supplement relating thereto shall reflect such plan of distribution or method of sale as Buyer may from time to time notify the Company, including the sale of some or all of the Registrable Securities in a public offering or, if requested by Buyer, subject to receipt by the Company of such information (including information relating to purchasers) as the Company reasonably may require, (i) in a transaction constituting an offering outside the United States which is exempt from the registration requirements of the Securities Act in which the seller undertakes to effect registration after the completion of such offering in order to permit such shares to be freely tradeable in the United States, (ii) in a transaction constituting a private place-

ment under Section 4(2) of the Securities Act in connection with which the seller undertakes to effect a registration after the conclusion of such placement to permit such shares to be freely tradeable by the purchasers thereof, or (iii) in a transaction under Rule 144A of the Securities Act in connection with which the seller undertakes to effect a registration after the conclusion of such transaction to permit such shares to be freely tradeable by the purchasers thereof. The Company shall use its reasonable best efforts to keep the Shelf Registration continuously effective for the period beginning on the date on which the Shelf Registration is declared effective and ending on the first date that there are no Registrable Securities. During the period during which the Shelf Registration is effective, the Company shall supplement or make amendments to the Shelf Registration, if required by the Securities Act or if reasonably requested by



Buyer or an underwriter of Registrable Securities, including to reflect any specific plan of distribution or method of sale, and shall use its reasonable best efforts to have such supplements and amendments declared effective, if required, as soon as practicable after filing.

(b) Black-Out Periods of Buyer. Notwithstanding anything herein to the contrary, (i) the Company shall have the right from time to time to require Buyer not to sell under the Shelf Registration or to suspend the effectiveness thereof during the period starting with the date 30 days prior to the Company's good faith estimate, as certified in writing by an executive officer of the Company to Buyer, of the proposed date of filing of a registration statement or a preliminary prospectus supplement relating to an existing shelf registration statement, in either case, pertaining to an underwritten public offering of equity securities of the Company for the account of the Company, and ending on the date 90 days following the effective date of such registration statement or the date of filing of such prospectus supplement, and (ii) the Company shall be entitled to require Buyer not to sell under the Shelf Registration or to suspend the effectiveness thereof (but not for a period exceeding 90 days) if the Company determines, in its good faith judgment, that such offering or continued effectiveness would interfere with any material financing, acquisition, disposition, corporate reorganization or other material transaction involving the Company or any of its subsidiaries or public disclosure thereof would be required prior to the time such disclosure might otherwise be required, or when the Company is in possession of material information that it deems advisable not to disclose in a registration statement.

Once any registration statement filed pursuant to this Section 2 or in which Registrable Securities are included pursuant to Section 3 has been declared effective, any period during which the Company fails to keep such registration statement effective and usable for resale of Registrable Securities for the period required by Section 4(b) shall be referred to as a "Registration Suspension Period". A Registration Suspension Period shall commence on and include the date that the Company gives written notice to Buyer of its determination that such registration statement is no longer effective or usable for resale of Registrable Securities (the "Suspension Notice") to and including the date when the Company notifies Buyer that the use of the prospectus included in such registration statement may be resumed for the dispo-

sition of Registrable Securities.



(c) Black-Out Periods of the Company. Subject to the conditions of this Section 2(c), Buyer shall have the right, exercisable on not more than two occasions, to require the Company not to sell, and to use its good faith efforts to cause any other holder of common equity securities or securities convertible into common equity securities of the Company not to sell, any common equity securities of the Company or any securities convertible into common equity securities of the Company under any registration statement or prospectus supplement relating to an existing shelf registration statement (other than sales of shares of Common Stock upon the redemption of limited partnership units of any Subsidiary of the Company and sales of equity securities issued or granted pursuant to any employee benefit or similar plan or any dividend reinvestment plan), or to suspend the effectiveness thereof, during the period starting with the date 15 days prior to Buyer's good faith estimate, as certified in writing by an executive officer of Buyer to the Company, of the proposed date of filing of a preliminary prospectus supplement relating to a Shelf Registration filed pursuant to Section 2(a), pertaining to an underwritten public offering of Registrable Securities, and ending on the date 60 days following the date of filing of the final prospectus supplement, but in no event on a date later than 75 days following the date of filing of the preliminary prospectus supplement. The Company's obligations under this Section 2(c) are subject to the continuing satisfaction of the following conditions: (a) the Registrable Securities to be offered by Buyer in such underwritten public offering shall represent (i) in the case of Buyer's first exercise of its rights under this Section 2(c), the greater of (A) at least 20% of the then outstanding shares of Company Common Stock and (B) at least that number of shares of Registrable Securities having a market value, based on the most recent closing price, of $50 million, in each case determined at the time Buyer exercises its rights under this Section 2(c); and (ii) in the case of Buyer's second exercise of its rights under this Section 2(c), the greater of (A) at least 40% of the total number of shares of Registrable Securities then Beneficially Owned by Buyer and its Affiliates and (B) at least that number of shares of Registrable Securities having a market value, based on the most recent closing price, of $60 million, in each case determined at the time Buyer exercises its rights under this Section 2(c); (b) no black-out period pursuant to Section 2(b)(i) shall be in effect at the time of Buyer's exercise of its rights under this Section 2(c); (c) the Company shall not have suspended sales of Registrable Securities pursuant to Section 2(b)(ii); (d) the Company shall not have delivered to Buyer a written notice to the effect that the Board of Directors has determined in good faith that compliance with this

Section 2(c) would reasonably be expected to have a Material Adverse Effect on the Company; and (e) Buyer shall not be in default of any of its material obligations under the Stock Purchase Agreement, the Stockholders Agreement, dated as of the date hereof, by and among the Company, Holdings and USREALTY (the "Stockholders Agreement"), or this Agreement. In no event may the Company include in any preliminary prospectus supplement under which Buyer is offering Registrable Securities covered by this Section 2(c) any equity securities of the Company or any securities convertible into equity securities of the Company.

(d) Number of Shelf Registrations. The Company shall be obligated to effect, under this Section 2, a minimum of one Shelf Registration, plus an additional Shelf Registration for each $50,000,000 of shares of Company Stock purchased by Buyer from the Company subsequent to the Initial Closing. A Shelf Registration shall not be deemed to have been effected, nor shall it be sufficient to reduce the number of Shelf Registrations available to Buyer under this Section 2, unless such registration becomes effective pursuant to the Securities Act and is kept continuously effective for a period of at least two years (other than any periods during such period of effectiveness which are Registration Suspension Periods, and provided that no such Registration Suspension Periods shall count towards such two-year period); provided, however, that no Shelf Registration shall be deemed to have been effected, nor shall it reduce the number of Shelf Registrations available under this Section 2, if such registration cannot be used by Buyer for more than 60 days as a result of any stop order, injunction or other order of the Commission or other Government Authority for any reason other than an act or omission of Buyer.

(e) Size of Shelf Registration. The Company shall not be required to effect a Shelf Registration of fewer than 1,000,000 shares or other units of Registrable Securities (as adjusted for any stock splits, reverse stock splits or similar events which occur after the date hereof), except that if there are less than 1,000,000 (as adjusted for any stock splits, reverse stock splits or similar events which occur after the date hereof) shares of Registrable Securities outstanding, then the Company shall be required to effect a Shelf Registration of all of the remaining shares or other units of Registrable Securities outstanding.

(f) Notice. The Company shall give Buyer prompt notice in the event that the Company has suspended sales of Registrable Securities under Section 2(b).



(g) Expenses. All Registration Expenses incurred in connection with any Shelf Registration which may be requested under this Section 2 shall be borne by Buyer, and all Company Registration Expenses incurred in connection with any such Shelf Registration shall be borne by the Company; provided that Buyer shall reimburse the Company for the first $25,000 of fees and disbursements of counsel and independent public accountants for the Company included in Company Registration Expenses and relating to each such Shelf Registration.

(h) Selection of Underwriters. Any and all underwriters or other agents involved in any sale of Registrable Securities pursuant to a registration statement contemplated by this Section 2 shall include such underwriter(s) or other agent(s) as selected by Buyer and approved of by the Company, which approval shall not be unreasonably withheld; provided that Security Capital Markets Group Incorporated or any other Affiliate of Buyer shall in all events be approved by the Company.

Section 3. Incidental Registrations. (a) Notification and Inclusion. If the Company proposes to register for its own account any common equity securities of the Company or any securities convertible into common equity securities of the Company under the Securities Act (other than a registration relating solely to the sale of securities to participants in a dividend reinvestment plan, a registration on Form S-4 relating to a business combination or similar transaction permitted to be registered on such Form S-4, a registration on Form S-8 relating solely to the sale of securities to participants in a stock or employee benefit plan, a registration permitted under Rule 462 under the Securities Act registering additional securities of the same class as were included in an earlier registration statement for the same offering, and declared effective), the Company shall, at each such time after the Commencement Date, promptly give written notice of such registration to Buyer. Upon the written request of Buyer given within 10 days after receipt of such notice by Buyer, the Company shall seek to include in such proposed registration such Registrable Securities as Buyer shall request be so included and shall use its reasonable best efforts to cause a registration statement covering all of the Registrable Securities that Buyer has requested to be registered to become effective under the Securities Act. The Company shall be under no obligation to complete any offering of securities it proposes to make under this Section 3 and shall incur no liability to Buyer for its failure to do so. If, at any time after giving written notice of its intention to register any securities and prior to the effective



date of the registration statement filed in connection with such registration, the Company shall determine for any reason not to register or to delay registration of such securities, the Company may, at its election, give written notice of such determination to Buyer and, thereupon, (i) in the case of a determination not to register, the Company shall be relieved of its obligation to register any Registrable Securities in connection with such registration (but not from its obligation to pay the Registration Expenses incurred in connection therewith) and (ii) in the case of a determination to delay registering, the Company shall be permitted to delay registering any Registrable Securities for the same period as the delay in registering such other securities.

(b) Cut-back Provisions. If a registration pursuant to this Section 3 involves an Underwritten/Placed Offering of the securities so being registered, whether or not solely for sale for the account of the Company, which securities are to be distributed by or through one or more underwriters of recognized standing under underwriting terms customary for such transaction, and the underwriter or the managing underwriter, as the case may be, of such Underwritten/Placed Offering shall inform the Company of its belief that the amount of securities requested to be included in such

registration or offering exceeds the amount which can be sold in (or during the time of) such offering without delaying or jeopardizing the success of the offering (including the price per share of the securities to be sold), then the Company will include in such registration (i) first, all the securities of the Company which the Company proposes to sell for its own account or the account of others (other than Buyer) requesting inclusion in such registration pursuant to rights to registration on request, and (b) second, to the extent of the amount which the Company is so advised can be sold in (or during the time of) such offering, Registrable Securities and other securities requested to be included in such registration, pro rata among Buyer and others exercising incidental registration rights, on the basis of the shares of Company Stock requested to be included by all such persons.

(c) Expenses. The Company shall bear and pay all Company Registration Expenses incurred in connection with any registration of Registrable Securities pursuant to this Section 3 for Buyer, and all Registration Expenses incurred in connection with any registration of any other securities referred to in the first sentence of Section 3(a), and Buyer shall bear and pay all Registration Expenses incurred in connection with any registration of Registrable Securities pursuant to this Section 3 for Buyer.



(d) Duration of Effectiveness. At the request of Buyer, the Company shall, subject to Section 2(b), use its reasonable best efforts to keep any registration statement for which Registrable Securities are included under this Section 3 effective and usable for up to 90 days (subject to extension for the length of any Registration Suspension Period), unless the distribution of securities registered thereunder has been earlier completed; provided, however, that in no event will the Company be required to prepare or file audited financial statements with respect to any fiscal year by a date prior to the date on which the Company would be so required to prepare and file such audited financial statements if such registration statement were no longer effective and usable.

Section 4. Registration Procedures. In connection with the filing of any registration statement as provided in Section 2 or 3, the Company shall use its reasonable best efforts to, as expeditiously as reasonably practicable:

(a) prepare and file with the Commission the requisite registration statement (including a prospectus therein) to effect such registration and use its reasonable best efforts to cause such registration statement to become effective, provided that before filing such registration statement or any amendments or supplements thereto, the Company will furnish to the counsel selected by Buyer copies of all such documents proposed to be filed, which documents will be subject to the review of such counsel before any such filing is made, and the Company will comply with any reasonable request made by such counsel to make changes in any information contained in such documents relating to Buyer;

(b) prepare and file with the Commission such

amendments and supplements to such registration statement and the prospectus used in connection therewith as may be necessary to maintain the effectiveness of such registration and to comply with the provisions of the Securities Act with respect to the disposition of all securities covered by such registration statement until, in the case of Section 2, the termination of the period during which the Shelf Registration is required to be kept effective, or, in the case of Section 3, the earlier of such time as all of such securities have



been disposed of and the date which is 90 days after the date of initial effectiveness of such registration statement;

(c) furnish to Buyer such number of conformed copies of such registration statement and of each such amendment and supplement thereto (in each case including all exhibits), such number of copies of the prospectus contained in such registration statements (including each complete prospectus and any summary prospectus) and any other prospectus filed under Rule 424 under the Securities Act, in conformity with the requirements of the Securities Act, and such other documents, including documents incorporated by reference, as Buyer may reasonably request;

(d) register or qualify all Registrable Securities under such other securities or blue sky laws of such jurisdictions as Buyer shall reasonably request, to keep such registration or qualification in effect for so long as such registration statement remains in effect, and take any other action which may be reasonably necessary or advisable to enable Buyer to consummate the disposition in such jurisdictions of the securities owned by Buyer, except that the Company shall not for any such purpose be required to qualify generally to do business as a foreign corporation in any jurisdiction wherein it would not but for the requirements of this paragraph be obligated to be so qualified, or to consent to general service of process in any such jurisdiction, or to subject the Company to any material tax in any such jurisdiction where it is not then so subject;

(e) cause all Registrable Securities covered by such registration statement to be registered with or approved by such other Government Authority as may be reasonably necessary to enable Buyer to consummate the disposition of such Registrable Securities;

(f) furnish to Buyer a signed counterpart, addressed to Buyer (and the underwriters, if any), of

(i) an opinion of counsel for the Company, dated the effective date of such registration statement (and, if such registration

includes an underwritten public offering, dated the date of the closing under the underwriting agreement), reasonably satisfactory in form and substance to Buyer, and

(ii) to the extent permitted by then applicable rules of professional conduct, a "comfort" letter, dated the effective date of such registration statement (and, if such registration includes an underwritten public offering, dated the date of the closing under the underwriting agreement), signed by the independent public accountants who have certified the Company's financial statements included in such registration statement,

covering substantially the same matters with respect to such registration statement (and the prospectus included therein) and, in the case of the accountants' letter, with respect to events subsequent to the date of such financial statements, all as are customarily covered in opinions of issuer's counsel and in accountants' letters delivered to the underwriters in underwritten public offerings of securities;

(g) immediately notify Buyer at any time when the Company becomes aware that a prospectus relating thereto is required to be delivered under the Securities Act, of the happening of any event as a result of which the prospectus included in such registration statement, as then in effect, includes an untrue statement of a material fact or omits to state any material fact required to be stated therein or necessary to make the statements therein not misleading in the light of the circumstances under which they were made, and at the request of Buyer promptly prepare and furnish to Buyer a reasonable number of copies of a supplement to or an amendment of such prospectus as may be necessary so that, as thereafter delivered to the purchasers of such securities, such prospectus shall not include an untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein not misleading in the light of the circumstances under which they were made;



(h) comply or continue to comply in all mate-

rial respects with the Securities Act and the Exchange Act and with all applicable rules and regulations of the Commission, and make available to its security holders, as soon as reasonably practicable, an earnings statement covering the period of at least 12 months, but not more than 18 months, beginning with the first full calendar month after the effective date of such registration statement, which earnings statement shall satisfy the provisions of Section 11(a) of the Securities Act, and not file any amendment or supplement to such registration statement or prospectus to which Buyer shall have reasonably objected on the grounds that such amendment or supplement does not comply in all material respects with the requirements of the Securities Act, having been furnished with a copy thereof at least five Business Days prior to the filing thereof;

(i) provide a transfer agent and registrar for all Registrable Securities covered by such registration statement not later than the effective date of such registration statement; and

(j) list all Company Stock covered by such registration statement on any securities exchange on which any of the Company Stock is then listed.

Buyer shall furnish in writing to the Company such information regarding Buyer (and any of its affiliates), the Registrable Securities to be sold, the intended method of distribution of such Registrable Securities, and such other information requested by the Company as is necessary for inclusion in the registration statement relating to such offering pursuant to the Securities Act and the rules of the Commission thereunder. Such writing shall expressly state that it is being furnished to the Company for use in the preparation of a registration statement, preliminary prospectus, supplementary prospectus, final prospectus or amendment or supplement thereto, as the case may be.

Buyer agrees by acquisition of the Registrable Securities that upon receipt of any notice from the Company of the happening of any event of the kind described in paragraph (g) of this Section 4, Buyer will forthwith discontinue its disposition of Registrable Securities pursuant to the registration statement relating to such Registrable Securities until Buyer's receipt of the copies of the supplemented



or amended prospectus contemplated by paragraph (g) of this Section 4.

Section 5. Requested Underwritten Offerings. If requested by the underwriters for any underwritten offerings by Buyer, under a registration requested pursuant to Section 2(a), the Company will enter into a customary underwriting agreement with such underwriters for such offering, to contain such representations and warranties by the Company and such other terms as are customarily contained in agreements of this type, including indemnities to the effect and to the extent provided in Section 6. Buyer shall be a party to such underwriting agreement and may, at its option, require that any or all of the conditions precedent to the obligations of

such underwriters under such underwriting agreement be conditions precedent to the obligations of Buyer. Buyer shall not be required to make any representations or warranties to or agreement with the Company or the underwriters other than representations, warranties or agreements regarding Buyer and Buyer's intended method of distribution and any other representation or warranty required by law.

Section 6. Preparation; Reasonable Investigation. In connection with the preparation and filing of the registration statement under the Securities Act, the Company will give Buyer, its underwriters, if any, and their respective counsel, the opportunity to participate in the preparation of such registration statement, each prospectus included therein or filed with the Commission, and each amendment thereof or supplement thereto, and will give each of them such access to its books and records and such opportunities to discuss the business of the Company with its officers, its counsel and the independent public accountants who have certified its financial statements as shall be necessary, in the opinion of Buyer's and such underwriters' respective counsel, to conduct a reasonable investigation within the meaning of the Securities Act.

Section 7. Tag-Along Rights. From and after the date hereof until the earlier of (i) the date on which Buyer shall own shares of Company Common Stock representing less than 9.8% of the then outstanding shares of Company Common Stock on a fully diluted basis, or (ii) the date on which Buyer shall no longer be subject to the standstill restrictions set forth in Section 5.2(a) of the Stockholders Agreement (unless Buyer is not subject to such restrictions as a result of an Early Termination Event (as that term is defined in the Stockholders Agreement)), Buyer shall be entitled to the rights set forth in this Section 7.



(a) Rights and Notice. The Company shall not directly or indirectly sell or otherwise dispose of shares of Company Stock to any person (a "Third Party") in connection with an Extraordinary Transaction in which the consideration for some or all of the shares of Company Stock is cash or cash equivalents (as determined under GAAP), unless the terms and conditions of such sale or other disposition shall include an offer to Buyer to include, at the option of Buyer, in such sale or other disposition the Registrable Securities owned by Buyer at the time of such sale or other disposition determined in accordance with Section 7(b) (the "Tag-Along Shares"). The Company shall send a written notice (the "Tag-Along Notice") to Buyer setting forth the number of shares of Company Stock proposed to be sold or otherwise disposed of in the Extraordinary Transaction (the "Extraordinary Transaction Shares"), and the price at which such shares are proposed to be sold (or the method by which such price is proposed to be determined). At any time within 15 days after its receipt of the Tag-Along Notice, Buyer may exercise its option to sell the Tag-Along Shares by furnishing written notice of such exercise (the "Exercise Notice") to the Company.

(b) Number of Shares to be Included. If the proposed sale or other disposition by the Company in connection with an Extraordinary Transaction is consummated, Buyer shall have the right to sell to the Third Party as part of such proposed sale or other disposition such number of Registrable

Securities owned by Buyer equal to the product of (i) the ratio (which in no event shall exceed 20% for purposes of this Section 7) of the total number of Registrable Securities owned by Buyer at the time that Buyer receives the Tag-Along Notice to the total number of outstanding shares of Company Stock, on a fully diluted basis, at the time that Buyer receives the Tag-Along Notice, and (ii) the number of Extraordinary Transaction Shares; provided, however, that if the number of Tag-Along Shares is greater than the number of Registrable Securities owned by Buyer at the time that Buyer receives the Tag-Along Notice, then Buyer shall have the right to sell to the Third Party as part of the proposed sale or other disposition to the Third Party by the Company in connection with an Extraordinary Transaction the total number of Registrable Securities owned by Buyer at the time that Buyer receives the Tag-Along Notice. All calculations pursuant to this paragraph shall exclude and ignore any unissued shares of Company Stock issuable pursuant to stock options, warrants and other rights to acquire shares of Company Stock and pursuant to convertible or exchangeable securities.

(c) Abandonment of Sale. Each of the Company and the Third Party shall have the right, in its sole discretion,



at all times prior to consummation of the proposed sale or other disposition giving rise to the tag-along right granted by this Section 7 to abandon, rescind, annul, withdraw or otherwise terminate such sale or other disposition, whereupon all tag-along rights in respect of such sale or other disposition pursuant to this Section 7 shall become null and void, and neither the Company nor the Third Party shall have any liability or obligation to Buyer with respect thereto by virtue of such abandonment, rescission, annulment, withdrawal or termination.

(d) Terms of Sale. The purchase from Buyer pursuant to this Section 7 shall be on the same terms and conditions, including the per share price and the date of sale or other disposition, as are applicable to the Company, and which shall be consistent with the relevant Tag-Along Notice.

(e) Timing of Sale. If, with respect to any Tag-Along Notice, Buyer fails to deliver an Exercise Notice within the requisite time period, the Company shall have 120 days after the expiration of the time in which the Exercise Notice is required to be delivered in which to sell or otherwise dispose of not more than the number of shares of Company Stock described in the Tag-Along Notice on terms not more favorable to the Company than were set forth in the Tag-Along Notice. If, at the end of 120 days following the receipt of the Tag-Along Notice, the Company has not completed the sale or other disposition of Company Stock in accordance with the terms described in the Tag-Along Notice, the Company shall again be obligated to comply with the provisions of this Section 7 with respect to, and provide Buyer with the opportunity to participate in, any proposed sale or other disposition of shares of Company Stock in connection with an Extraordinary Transaction.

Section 8. Indemnification. (a) Indemnification by the Company. In the event of any registration of any Registrable Securities of the Company under the Securities Act, the Company will, and hereby does, indemnify and hold harmless Buyer, each other person who participates as an under-

writer in the offering or sale of such securities and each other person who controls any such underwriter within the meaning of the Securities Act, against any losses, claims, damages or liabilities, joint or several, to which Buyer or any such underwriter or controlling person may become subject under the Securities Act or otherwise, insofar as such losses, claims, damages or liabilities (or actions or proceedings, whether commenced or threatened, in respect thereof) arise out of or are based upon any untrue statement or alleged untrue statement of any material fact contained in the



registration statement under which such Registrable Securities were registered under the Securities Act, any preliminary prospectus, final prospectus or summary prospectus contained therein, or any amendment or supplement thereto, or any omission or alleged omission to state therein a material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances under which they were made, not misleading, and the Company will reimburse Buyer and each such underwriter and controlling person for any reasonable legal or any other expenses reasonably incurred by them in connection with investigating or defending any such loss, claim, liability, action or proceedings; provided, however, that the Company shall not be liable in any such case to the extent that any such loss, claim, damage, liability (or action or proceeding in respect thereof) or expense arises out of or is based upon an untrue statement or alleged untrue statement or omission or alleged omission made in such registration statement, any such preliminary prospectus, final prospectus, summary prospectus, amendment or supplement in reliance upon and in conformity with written information furnished to the Company by Buyer or any other person who participates as an underwriter in the offering or sale of such securities, in either case, specifically stating that it is for use in the preparation thereof, and provided, further, that the Company shall not be liable to any person who participates as an underwriter in the offering or sale of Registrable Securities or any other person, if any, who controls such underwriter within the meaning of the Securities Act in any such case to the extent that any such loss, claim, damage, liability (or action or proceeding in respect thereof) or expense arises out of such person's failure to send or give a copy of the final prospectus or supplement to the persons asserting an untrue statement or alleged untrue statement or omission or alleged omission at or prior to the written confirmation of the sale of Registrable Securities to such person if such statement or omission was corrected in such final prospectus or supplement. Such indemnity shall remain in full force and effect regardless of any investigation made by or on behalf of Buyer or any such underwriter or controlling person and shall survive the transfer of such securities by Buyer.

(b) Indemnification by Buyer. The Company may require, as a condition to including any Registrable Securities in any registration statement pursuant to Section 2 or Section 3, that the Company shall have received an undertaking satisfactory to it from Buyer to indemnify and hold harmless (in the same manner and to the same extent as set forth in paragraph (a) of this Section 8) the Company, each director of the Company, each officer of the Company and each other

person, if any, who controls the Company within the meaning of the Securities Act, and each other person who participates as an underwriter in the offering or sale of such securities and each other person who controls any such underwriter within the meaning of the Securities Act, with respect to any untrue statement or alleged untrue statement of a material fact in or omission or alleged omission to state a material fact from such registration statement, any preliminary prospectus, final prospectus or summary prospectus contained therein, or any amendment or supplement thereto, if such untrue statement or alleged untrue statement or omission or alleged omission was made in reliance upon and in conformity with written information furnished to the Company by Buyer specifically stating that it is for use in the preparation of such registration statement, preliminary prospectus, final prospectus, summary prospectus, amendment or supplement. Such indemnity shall remain in full force and effect regardless of any investigation made by or on behalf of the Company or any such director, officer, or controlling person and shall survive the transfer of such securities by Buyer.

(c) Notices of Claims, etc. Promptly after receipt by an indemnified party of notice of the commencement of any action or proceeding involving a claim referred to in the preceding paragraphs of this Section 8, such indemnified party will, if a claim in respect thereof is to be made against an indemnifying party, give written notice to the latter of the commencement of such action; provided, however, that the failure of any indemnified party to give notice as provided herein shall not relieve the indemnifying party of its obligations under the preceding paragraphs of this Section 8, except to the extent that the indemnifying party is actually prejudiced by such failure to give notice. In case any such action is brought against an indemnified party, unless in such indemnified party's reasonable judgment a conflict of interest between such indemnified and indemnifying parties may exist in respect of such claim, the indemnifying party shall be entitled to participate in and to assume the defense thereof, jointly with any other indemnifying party similarly notified to the extent that it may wish, with counsel reasonably satisfactory to such indemnified party, and after notice from the indemnifying party to such indemnified party of its election so to assume the defense thereof, the indemnifying party shall not be liable to the indemnified party for any legal or other expenses subsequently incurred by the latter in connection with the defense thereof other than reasonable costs of investigation.

(d) Other Indemnification. Indemnification similar to that specified in the preceding paragraphs of this



Section 8 (with appropriate modifications) shall be given by the Company and Buyer with respect to any required registration or other qualification of securities under any federal or state law or regulation of Governmental Authority other

than the Securities Act.

(e) Indemnification Payments. The indemnification required by this Section 8 shall be made by periodic payments of the amount thereof during the course of the investigation or defense, as and when bills are received or expense, loss, damage or liability is incurred.

(f) Contribution. If, for any reason, the foregoing indemnity is unavailable, or is insufficient to hold harmless an indemnified party, then the indemnifying party shall contribute to the amount paid or payable by the indemnified party as a result of the expense, loss, damage or liability, (i) in such proportion as is appropriate to reflect the relative fault of the indemnifying party on the one hand and the indemnified party on the other (determined by reference to, among other things, whether the untrue or alleged untrue statement of a material fact or omission relates to information supplied by the indemnifying party or the indemnified party and the parties' relative intent, knowledge, access to information and opportunity to correct or prevent such untrue statement or omission), or (ii) if the allocation provided by clause (i) above is not permitted by applicable law or provides a lesser sum to the indemnified party than the amount hereinafter calculated, in the proportion as is appropriate to reflect not only the relative fault of the indemnifying party and the indemnified party, but also the relative benefits received by the indemnifying party on the one hand and the indemnified party on the other, as well as any other relevant equitable considerations. No indemnified party guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the Securities Act) shall be entitled to contribution from any indemnifying party who was not guilty of such fraudulent misrepresentation.

Section 9. Covenants Relating to Rule 144. The Company will file in a timely manner (taking into account any extensions granted by the Commission), information, documents and reports in compliance with the Exchange Act and will, at its expense, forthwith upon the request of Buyer, deliver to Buyer a certificate, signed by the Company's principal financial officer, stating (a) the Company's name, address and telephone number (including area code), (b) the Company's Internal Revenue Service identification number, (c) the Company's Commission file number, (d) the number of shares of



Company Common Stock and the number of shares of Company Preferred Stock outstanding as shown by the most recent report or statement published by the Company, and (e) whether the Company has filed the reports required to be filed under the Exchange Act for a period of at least 90 days prior to the date of such certificate and in addition has filed the most recent annual report required to be filed thereunder. If at any time the Company is not required to file reports in compliance with either Section 13 or Section 15(d) of the Exchange Act, the Company will, at its expense, forthwith upon the written request of Buyer, make available adequate current public information with respect to the Company within the meaning of paragraph (c)(2) of Rule 144 of the General Rules and Regulations promulgated under the Securities Act.

Section 10. Miscellaneous. (a) Counterparts. This Agreement may be executed in one or more counterparts,

all of which shall be considered one and the same agreement, and shall become effective when one or more counterparts have been signed by each of the parties and delivered to the other party. Copies of executed counterparts transmitted by telecopy, telefax or other electronic transmission service shall be considered original executed counterparts for purposes of this Section 10, provided receipt of copies of such counterparts is confirmed.

(b) Governing Law. THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF FLORIDA WITHOUT REFERENCE TO THE CHOICE OF LAW PRINCIPLES THEREOF.

(c) Entire Agreement. This Agreement (including agreements incorporated herein) contains the entire agreement between the parties with respect to the subject matter hereof and there are no agreements or understandings between the parties other than those set forth or referred to herein. This Agreement is not intended to confer upon any person not a party hereto (and their successors and assigns) any rights or remedies hereunder.

(d) Notices. All notices and other communications hereunder shall be sufficiently given for all purposes hereunder if in writing and delivered personally, sent by documented overnight delivery service or, to the extent receipt is confirmed, telecopy, telefax or other electronic transmission service to the appropriate address or number as set forth below. Notices to the Company shall be addressed to:



Regency Realty Corporation
121 W. Forsyth Street, Suite 200
Jacksonville, Florida 32202
Attention: Martin E. Stein, Jr.
Telecopy Number: (904) 634-3428

with a copy to:

Foley & Lardner
Greenleaf Building
200 Laura Street
Jacksonville, Florida 32202
Attention: Charles E. Commander III, Esq.
Telecopy Number: (904) 359-8700

or at such other address and to the attention of such other person as the Company may designate by written notice to Buyer. Notices to Buyer shall be addressed to:

Security Capital Holdings S.A.
69, route d'Esch
L-2953 Luxembourg
Attention: Paul E. Szurek
Telecopy Number: (352) 4590-3331

with a copy to:

Wachtell, Lipton, Rosen & Katz
51 West 52nd Street
New York, New York 10019

Attention: Adam O. Emmerich, Esq.
Telecopy Number: (212) 403-2000

(e) Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors. Neither party shall be permitted to assign any of its rights hereunder to any third party, except that if (i) Buyer transfers or pledges any or all Registrable Securities to a bona fide financial institution as security for any bona fide indebtedness of any Buyer and such financial institution agrees to be bound by the Stockholders Agreement, the pledgee of the Registrable Securities shall be considered an intended beneficiary hereof and may exercise all rights of Buyer hereunder, and (ii) any person included within the definition of the term Buyer shall be permitted to assign its rights hereunder to any other person included within such definition.



(f) Headings. The Section and other headings contained in this Agreement are inserted for convenience of reference only and will not affect the meaning or interpretation of this Agreement. All references to Sections or other headings contained herein mean Sections or other headings of this Agreement unless otherwise stated.

(g) Amendments and Waivers. This Agreement may not be modified or amended except by an instrument or instruments in writing signed by the party against whom enforcement of any such modification or amendment is sought. Either party hereto may, only by an instrument in writing, waive compliance by the other party hereto with any term or provision hereof on the part of such other party hereto to be performed or complied with. The waiver by any party hereto of a breach of any term or provision hereof shall not be construed as a waiver of any subsequent breach.

(h) Interpretation; Absence of Presumption. For the purposes hereof, (i) words in the singular shall be held to include the plural and vice versa and words of one gender shall be held to include the other gender as the context requires, (ii) the terms "hereof", "herein", and "herewith" and words of similar import shall, unless otherwise stated, be construed to refer to this Agreement as a whole and not to any particular provision of this Agreement, and Section, paragraph or other references are to the Sections, paragraphs, or other references to this Agreement unless otherwise specified, (iii) the word "including" and words of similar import when used in this Agreement shall mean "including, without limitation," unless the context otherwise requires or unless otherwise specified, (iv) the word "or" shall not be exclusive, and (v) provisions shall apply, when appropriate, to successive events and transactions.

This Agreement shall be construed without regard to any presumption or rule requiring construction or interpretation against the party drafting or causing any instrument to be drafted.

(i) Severability. Any provision hereof which is invalid or unenforceable shall be ineffective to the extent of such invalidity or unenforceability, without affecting in

any way the remaining provisions hereof.



IN WITNESS WHEREOF, this Agreement has been signed by or on behalf of each of the parties hereto as of the day first above written.

REGENCY REALTY CORPORATION

By:
Name: Martin E. Stein, Jr.
Title: President

SECURITY CAPITAL U.S. REALTY

By:
Name: Paul E. Szurek
Title: Managing Director

SECURITY CAPITAL HOLDINGS S.A.

By:
Name: Paul E. Szurek
Title: Managing Director

EXHIBIT C

STOCKHOLDERS AGREEMENT

by and among

REGENCY REALTY CORPORATION

SECURITY CAPITAL HOLDINGS S.A.

SECURITY CAPITAL U.S. REALTY

and

THE REGENCY GROUP, INC.

dated as of

_____ __, 1996

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Limitations on Corporate Actions, Etc.



ARTICLE 7

Miscellaneous



THIS STOCKHOLDERS AGREEMENT (the "Agreement"), dated as of _____ __, 1996, is made by and among Regency Realty Corporation, a Florida corporation (the "Company"), Security Capital U.S. Realty, a Luxembourg corporation ("USREALTY"), Security Capital Holdings S.A., a Luxembourg corporation and a wholly owned subsidiary of USREALTY ("Buyer"), and The Regency Group, Inc., a Florida corporation ("TRG"). Capitalized terms not otherwise defined herein have the meaning ascribed to them in the Stock Purchase Agreement (as hereinafter defined).

RECITALS:

WHEREAS, the Company, USREALTY and Buyer have entered into a Stock Purchase Agreement, dated as of June 11, 1996 (the "Stock Purchase Agreement"), pursuant to which the Company is selling, conveying, assigning and transferring, and Buyer is purchasing, certain shares of the common stock, par value $.01 per share, of the Company (the "Company Common Stock") on the date hereof, and pursuant to which the Company has agreed to sell, and Buyer has agreed to purchase, certain additional shares of Company Common Stock, upon the terms and subject to the conditions set forth therein; and

WHEREAS, it is a condition to the transactions contemplated by the Stock Purchase Agreement and the parties believe it to be in their best interests that they enter into this Agreement and provide for certain rights and restrictions with respect to the investment by Investor (as hereinafter defined) in the Company and the corporate governance of the Company; and

WHEREAS, the Company and Buyer believe that the combination in a strategic partnership of the leadership, expertise and experience in the retail shopping center industry of the Company and the unique market knowledge, operating experience, research capabilities and access to capital of Buyer and its Affiliates will significantly enhance the Company's ability to pursue its growth and operating strategies;

NOW, THEREFORE, in consideration of the premises and the covenants and agreements contained herein and for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and intending to be legally bound hereby, the parties hereto hereby agree as follows:

## ARTICLE 1

## Definitions

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

Section 1.1 "Affiliate" shall have the meaning ascribed thereto in Rule 12b-2 promulgated under the 1934 Act, and as in effect on the date hereof.

Section 1.2 "Affiliate Arrangements" shall mean the agreements and arrangements described in Schedule 3.9(f) of the Stock Purchase Agreement or which are disclosed in public filings of the Company.

Section 1.3 "Agreement" shall have the meaning set forth in the first paragraph hereof.

Section 1.4 "Beneficially Own" shall mean, with respect to any security, having direct or indirect (including through any Subsidiary or Affiliate) "beneficial ownership" of such security, as determined pursuant to Rule 13d-3 under the 1934 Act, including pursuant to any agreement, arrangement or understanding, whether or not in writing.

Section 1.5 "Board" shall mean the board of directors of the Company.

Section 1.6 "Buyer" shall have the meaning set forth in the first paragraph hereof.

Section 1.7 "Code" shall mean the Internal Revenue Code of 1986, as amended, and any successor thereto, including all of the rules and regulations promulgated thereunder.

Section 1.8 "Company" shall have the meaning set forth in the first paragraph hereof.

Section 1.9 "Company Common Stock" shall have the meaning set forth in the second paragraph hereof.

Section 1.10 "Conflict of Interest Policies" shall have the meaning set forth in Section 6.3.

Section 1.11 "Corporate Action Covenants" shall have

the meaning set forth in Section 6.1.

Section 1.12 "Covered Transaction" shall have the meaning set forth in Section 5.1(a)(iv).

Section 1.13 "Director" shall mean a member of the Board.

Section 1.14 "Early Termination Event" shall have the meaning set forth in Section 5.1(a).

Section 1.15 "Excess Shares" shall have the meaning set forth in Section 5.1(a)(ii).

Section 1.16 "Exercise Notice" shall have the meaning set forth in Section 4.2(b).

Section 1.17 "Extraordinary Transaction" shall mean (a) any merger, consolidation, sale of a material portion of the Company's assets, recapitalization, other business combination, liquidation, or other similar action out of the ordinary course of business of the Company, or (b) any issuance of securities to any person or Group requiring shareholder approval in accordance with the guidelines of the New York Stock Exchange as to such matters, as in effect as of the date of the Stock Purchase Agreement.

Section 1.18 "15% Termination Date" shall mean the first date, if any, following the date on which the Remaining Equity Commitment shall have been reduced to zero on which Investor's ownership of Company Common Stock, on a fully diluted basis, shall have been below 15% of the outstanding shares of Company Common Stock for a continuous period of 180 days; provided, that, if Investor's ownership of Company Common Stock shall, following the date on which the Remaining Equity Commitment shall have been reduced to zero, have fallen below 15% by number of the outstanding shares of Company Stock, on a fully diluted basis, as a result of the redemption of limited partnership or other interests in partnerships or other entities for shares of Company Common Stock, then the 15% Termination Date shall mean the first date, if any, following the date on which Investor's ownership of Company Common Stock shall have been below 15% by number of the outstanding shares of Company Stock, on a fully diluted basis, for a continuous period of 450 days; provided, however, that if Investor's ownership of Company Common Stock shall, following the date on which the Remaining Equity Commitment shall have been reduced to zero, have fallen below 15% of the outstanding shares of Company Common Stock as a result of a Transfer by Investor of Company Common Stock or a failure of Investor to exercise its rights under Section 4.2 during the 60 days immediately prior to the expiration of such 180-day period, if any such rights are exercisable during such period, to the extent necessary to (and provided that it shall be possible by such exercise to) raise its ownership of the outstanding Company Common Stock above such 15%

threshold, then the 15% Termination Date shall occur immediately upon such Transfer or failure to exercise its rights under Section 4.2, as the case may be.

Section 1.19 "fully diluted" shall mean, with re-

spect to the Company Stock, the total number of outstanding shares of Company Stock (for such purposes, treating as Company Stock all shares of Company Preferred Stock and Class B Common Stock and all options or warrants to purchase and securities convertible into (or exchangeable or redeemable for) Company Common Stock, in each case outstanding as of the date of the Stock Purchase Agreement and that remain outstanding as of the relevant measurement date, assuming conversion of all such shares of Company Preferred Stock and Class B Common Stock and assuming exercise, conversion, exchange or redemption of such other securities).

Section 1.20 "Geographic Region" shall mean the states of Florida, Alabama, Mississippi, Georgia, North Carolina, South Carolina, Tennessee, Kentucky, Virginia, West Virginia, Maryland and the District of Columbia, and the southern regions of the states of Indiana and Ohio (including the cities of Indianapolis and Columbus, respectively).

Section 1.21 "Government Authority" shall mean any government or state (or any subdivision thereof) of or in the United States, or any agency, authority, bureau, commission, department or similar body or instrumentality thereof, or any governmental court or tribunal.

Section 1.22 "Group" shall mean a "group" as such term is used in Section 13(d)(3) of the 1934 Act.

Section 1.23 "Investor" shall mean, collectively, as the context may require, USREALTY and Buyer, and shall also include any Affiliate of USREALTY or Buyer of which USREALTY and/or Buyer collectively, directly or indirectly, Beneficially Own 98% or more of the voting power and economic interests, or, for purposes only of (i) Section 5.8 with regard to ownership of shares of Company Common Stock by such Person and (ii) the provisions of the Registration Rights Agreement, any bona fide financial institution to which any Investor has Transferred (including upon foreclosure of a pledge) shares of Company Stock for the purpose of securing bona fide indebtedness of any Investor and which has agreed to be bound by this Agreement.

Section 1.24 "Investor Nominees" shall have the meaning set forth in Section 2.1(a).

Section 1.25 "Investor Restricted Person" shall have the meaning set forth in Section 5.3(a).

Section 1.26 "Key Committees" shall have the meaning set forth in Section 2.2(a).

Section 1.27 "1933 Act" shall mean the Securities Act of 1933, as amended.

Section 1.28 "1934 Act" shall mean the Securities Exchange Act of 1934, as amended.

Section 1.29 "Participation Notice" shall have the meaning set forth in Section 4.2(b).

Section 1.30 "person" shall mean any individual, corporation, partnership, limited liability company, joint venture, trust, unincorporated organization, other form of business or legal entity or Government Authority.

Section 1.31 "SCGI" shall have the meaning set forth in Section 5.3(a).

Section 1.32 "SCGI Restricted Person" shall have

the meaning set forth in Section 5.3(a).

Section 1.33 "Securities Filings" shall have the meaning set forth in Section 3.1(b)(iii).

Section 1.34 "Shareholder Approval" shall have the meaning set forth in Section 5.3(d).

Section 1.35 "Shareholder Approval Date" shall mean the date on which a duly called and held meeting of shareholders of the Company is held at which meeting (i) a quorum is present and (ii) the transactions (including the issuance of the Company Common Stock and the amendments to the Company Charter) contemplated by the Stock Purchase Agreement are approved by the affirmative vote of the holders of the requisite number of shares of Company Stock.

Section 1.36 "Shopping Center Company" shall have the meaning set forth in Section 5.3(b).

Section 1.37 "Shopping Center Property" shall have the meaning set forth in Section 5.3(a).

Section 1.38 "Standstill Extension Term" shall have the meaning set forth in Section 5.1(b).

Section 1.39 "Standstill Period" shall have the meaning set forth in Section 5.1(a).

Section 1.40 "Stock Purchase Agreement" shall have the meaning set forth in the second paragraph hereof.

Section 1.41 "13D Group" shall mean any group of persons acquiring, holding, voting or disposing of Voting Securities which would be required under Section 13(d) of the 1934 Act and the rules and regulations thereunder (as in effect, and based on legal interpretations thereof existing, on the date hereof) to file a statement on Schedule 13D with the Securities and Exchange Commission as a "person" within the meaning of Section 13(d)(3) of the 1934 Act if such group beneficially owned Voting Securities representing more than 5% of any class of Voting Securities then outstanding.

Section 1.42 "Transfer" shall have the meaning set forth in Section 5.2(a)(ii).

Section 1.43 "TRG" shall have the meaning set forth in the first paragraph hereof.

Section 1.44 "TRG Restricted Person" shall have the meaning set forth in Section 6.6.

Section 1.45 "20% Termination Date" shall mean the first date, if any, following the date on which the Remaining Equity Commitment shall have been reduced to zero on which Investor's ownership of Company Common Stock, on a fully diluted basis, shall have been below 20% of the outstanding shares of Company Common Stock for a continuous period of 180 days; provided, that, if Investor's ownership of Company Common Stock shall, following the date on which the Remaining Equity Commitment shall have been reduced to zero, have fallen below 20% by number of the outstanding shares of Company Stock, on a fully diluted basis, as a result of the redemption of limited partnership or other interests in partnerships or other entities for shares of Company Common Stock, then the 20% Termination Date shall mean the first date, if any, following the date on which Investor's ownership of Company Common Stock shall have been below 20% by number of the outstanding shares of Company

Stock, on a fully diluted basis, for a continuous period of 450 days; provided, however, that if Investor's ownership of Company Common Stock shall, following the date on which the Remaining Equity Commitment shall have been reduced to zero, have fallen below 20% of the outstanding shares of Company Common Stock as a result of a Transfer by Investor of Company Common Stock or a failure of Investor to exercise its rights under Section 4.2 during the 60 days immediately prior to the expiration of such 180-day period, if any such rights are exercisable during such period, to the extent necessary to (and provided that it shall be possible by such exercise to) raise its ownership of the outstanding Company Common Stock above such 20% threshold, then the 20% Termination Date shall occur immediately upon such Transfer or failure to exercise its rights under Section 4.2, as the case may be.

Section 1.46 "USREALTY" shall have the meaning set forth in the first paragraph hereof.

Section 1.47 "Voting Securities" shall mean at any time shares of any class of capital stock of the Company which are then entitled to vote generally in the election of Directors.

## ARTICLE 2

## Board of Directors

Section 2.1 Investor Nominees. (a) From and after the Shareholder Approval Date, if any, and until the next annual or special meeting of shareholders of the Company at, or the next taking of action by written consent of shareholders of the Company with respect to, which any Directors are to be elected, the Investor shall have the right (but not the obligation) to have on the Board two Directors (such Directors, the "Investor Nominees"), and the Company shall cause such Investor Nominees to become members of the Board. If necessary to effectuate the placement of such Investor Nominees on the Board, the Company shall, at its sole option, (i) expand the size of the Board or (ii) solicit the resignations of the appropriate number of Directors, in either case, to the extent necessary to permit the Investor Nominees to serve. Thereafter and until the earlier of the 20% Termination Date, if any, and the expiration of the Standstill Period or any Standstill Extension Term (other, in either case, as a result of an Early Termination Event), at each annual or special meeting of shareholders of the Company at, or the taking of action by written consent of shareholders of the Company with respect to, which any Directors are to be elected, Investor shall have the right (but not the obligation) pursuant to this Agreement (i) to nominate for election to the Board that number of Directors which, when added to the number of Directors (such Directors also, "Investor Nominees") who are then Investor Nominees and who will continue to serve as Directors without regard to the outcome of the election at such meeting or by such consent, represent the greater of (x) two and (y) the same proportion of the total number of Directors as is represented by the number of shares of Company Common Stock which Investor then owns relative to

the outstanding Company Common Stock (but in no event more than 49% of the Board), and (ii) to be entitled to the benefits of the agreements of the Company contained in Subsection 2.1(c) with respect to the Investor Nominees described in clause (i) of this sentence. Following the expiration of the Standstill Period or any Standstill Extension Term (other, in either case, as a result of an Early Termination Event), if such expiration of the Standstill Period or any Standstill Extension Term shall be prior to the 20% Termination Date, and until the 20% Termination Date, at each annual or special meeting of shareholders of the Company at, or the taking of action by written consent of shareholders of the Company with respect to, which any Directors are to be elected, Investor shall have the right (but not the obligation) pursuant to this Agreement (i) to nominate for election to the Board that number of Directors which, when added to the number of Directors who are then Investor Nominees and who will continue to serve as Directors without regard to the outcome of the election at such meeting or by such consent, represent the lesser of (x) two and (y) the same proportion of the total number of Directors as is represented by the number of shares of Company Common Stock which Investor then owns relative to the outstanding Company Common Stock (such Directors also, "Investor Nominees") and (ii) to be entitled to the benefits of the agreements of the Company contained in Subsection 2.1(c) with respect to the Investor Nominees described in clause (i) of this sentence. In computing the number of Investor Nominees, any fraction is to be rounded down to the nearest whole number. At the time of the expiration of the Standstill Period or any Standstill Extension Term, if the Company shall so request, Investor shall use its reasonable efforts to cause one or more then-serving Investor Nominees to resign from the Board such that there shall be no more Investor Nominees on the Board than the lesser of (x) two and (y) the same proportion of the total number of Directors as is represented by the number of shares of Company Common Stock which Investor then owns relative to the outstanding Company Common Stock.

(b) Investor will not name any person as an Investor Nominee if (i) such person is not reasonably experienced in business, financial or real estate matters, (ii) such person has been convicted of, or has pled nolo contendere to, a felony, (iii) the election of such person would violate any law, or (iv) any event required to be disclosed pursuant to Item

401(f) of Regulation S-K of the 1934 Act has occurred with respect to such person. Investor shall use its reasonable efforts to afford the independent directors of the Company a reasonable opportunity to meet any individual that Investor is considering naming as an Investor Nominee.

(c) The Company will support the nomination of, and the Company's nominating committee (or any other committee exercising a similar function) shall recommend to the Board, the election of each Investor Nominee to the Board, and the Company will exercise all authority under applicable law to cause each Investor Nominee to be elected to the Board. Without limiting the generality of the foregoing, with respect to each meeting of shareholders of the Company at which Directors are to be elected, the Company shall use its reasonable efforts to solicit from the shareholders of the Company eligible to vote in the election of Directors proxies in favor of any Investor Nominees.

(d) From and after the Shareholder Approval Date, if any, until the earlier of the 20% Termination Date, if any, and the expiration of the Standstill Period or any Standstill Extension Term (other, in either case, as a result of an Early

Termination Event), the total number of members of the Board shall not be less than eleven without the prior written consent of Investor, in its sole discretion.

Section 2.2 Committee Representation; Subsidiary Boards. (a) During such time as Investor is entitled pursuant to Section 2.1(a) to have at least one Investor Nominee on the Board, unless Investor chooses not to exercise its rights under this Section 2.2(a), at least one Director who is an Investor Nominee shall serve on each of the audit committee, the nominating committee, the compensation committee, the executive committee, any special committee(s) of the Board, and any other committees which shall be charged with exercising substantial authority on behalf of the Board (the foregoing, the "Key Committees"). Notwithstanding the foregoing, if none of the Directors who are Investor Nominees would be considered "independent" of the Company or "disinterested" (i) for purposes of any applicable rule of the New York Stock Exchange or any other securities exchange or other self-regulating organization (such as the National Association of Securities Dealers) requiring that members of the audit committee of the Board be independent of the Company, (ii) for purposes of any law or regulation that requires, in order to obtain or maintain favorable tax, securities, corporate law or other material legal benefits with respect to any plan or arrangement for employee compensation or benefits, that the members of the committee of the Board charged with responsibility for such plan or arrangement be

"independent" of the Company or "disinterested", or (iii) for purposes of any special committee formed in connection with any transaction or potential transaction involving the Company and any of Investor, its Affiliates or any Group of which Investor is a member or such other transaction or potential transaction which would involve an actual or potential conflict of interest on the part of the Directors who are Investor Nominees, then a Director who is an Investor Nominee shall not be required to be appointed to any such committee; provided, however, that the committees of the Board shall be organized such that, to the extent practicable, the only items to be considered by a Key Committee on which no Director who is an Investor Nominee may serve will be those items which prevent the Director who is an Investor Nominee from serving on such Key Committee. Any members of any Key Committee who are Investor Nominees shall, in the event of any vacancy in such membership, be replaced by a Director who is an Investor Nominee elected by a majority of the Directors who are Investor Nominees.

(b) During such time as Investor is entitled pursuant to Section 2.1(a) to have at least one Investor Nominee on the Board, unless Investor chooses not to exercise its rights under this Section 2.2(b), one individual designated by Investor shall serve as a member of the board of directors or comparable governing body of each Subsidiary of the Company, if any, that is a corporation or other person with a board of directors or board of trustees.

Section 2.3 Vacancies. In the event that any Investor Nominee shall cease to serve as a Director for any reason other than the fact that Investor no longer has a right to nominate a Director, as provided in Section 2.1(a), the vacancy resulting thereby shall be filled by an Investor Nominee designated by Investor; provided, however, that any Investor Nominee so designated shall satisfy the qualification requirements set forth in Section 2.1(b).

ARTICLE 3

Information Rights

Section 3.1 Strategic Advice; Operating Statements; Public Company Status. (a) From and after the Shareholder Approval Date, if any, until the 20% Termination Date, Buyer will from time to time, as reasonably requested by the Company, use reasonable efforts to make reasonably available to the Company the benefit of Buyer's market expertise, operating experience and research capabilities and will from time to time, as

reasonably requested by the Company, consult with and advise the Company on matters concerning:

(i) business and operating strategy;

(ii) financing and capital formation (including advice regarding capital markets and structure, method and timing of capital-rasing efforts);

(iii) property acquisition strategy and acquisition opportunities with respect to Shopping Center Properties in the Geographic Region of which Buyer becomes aware; and

(iv) investor relations;

provided, however, that nothing herein shall require Buyer to provide the Company with any information that may be subject to any obligation of confidentiality on Buyer's part. Upon the reasonable request of the Company, Buyer further will provide to the Company any relevant market or economic research in its possession which is not readily available from third parties and which is not subject to any obligation of confidentiality on Buyer's part. Buyer will be entitled to receive customary fees and expense reimbursement for its undertaking of any actions contemplated by this Section 3.1(a), which fees and expenses will be agreed upon by Buyer and the Company in each instance.

(b) From and after the Shareholder Approval Date, if any, until the 20% Termination Date, if any, the Company will:

(i) deliver to Investor, as soon as practicable after the end of each month or other reporting period, any operating and financial statements and management reports (x) of the Company, and (y) of each Subsidiary not consolidated with the Company, which are regularly provided to the senior management of the Company, each as, at and for the end of such month or other reporting period, and such other statements or reports as are reasonably requested by Investor, all in such form as are prepared by the Company for internal use by management (including, as applicable, by e-mail);

(ii) deliver to Investor copies of all other information distributed by the Company to the Board;

(iii) deliver to Investor, as promptly as practicable following filing, a copy of each report, sched-

ule or other document filed by the Company pursuant to the requirements of any federal or state securities laws (collectively, the "Securities Filings"); and

(iv) continue to comply in all material respects with the reporting requirements of Section 13 or 15(d) of the 1934 Act.

(c) The Company and Investor will afford one another a reasonable opportunity to review any Securities Filing, any other filing with a Government Authority and any press release or similar public announcement which refers to, describes or mentions such other party or any Affiliate of such other party prior to the time that such filing is filed with or sent to the applicable Government Authority or such announcement is disseminated.

Section 3.2 Advice of Actions. From and after the Shareholder Approval Date, if any, until the 20% Termination Date, if any, without first having consulted with the representative of Investor designated by Investor pursuant to this Section 3.2, the Company will not seek approval by the Board of any proposal, or enter into any definitive agreement, relating to:

(a) the acquisition in a single transaction or group of related transactions, whether by merger, consolidation, purchase of stock or assets or other business combination, of any business or assets having a value in excess of $10,000,000;

(b) the sale or disposal in a single transaction or group of related transactions of any assets, whether by merger, consolidation, sale of stock or assets or other business combination having a value in excess of $20,000,000;

(c) the incurrence or issuance of indebtedness in a single transaction or group of related transactions, the entering into a guaranty, or the engagement in any other financing arrangement in excess of $20,000,000;

(d) the annual operating budget for the Company;

(e) a material change in the executive management of the Company;

(f) any new material agreements or arrangements with any members of the executive management of the Company; or

(g) the issuance by the Company of capital stock of the Company or of options, rights or warrants or other commitments to purchase or securities convertible into (or exchangeable or redeemable for) shares of capital stock of the Company, or the issuance by a Subsidiary of any equity interests, other than, (i) to the Company or a wholly owned Subsidiary thereof, and (ii) to directors or employees of the Company or a Subsidiary in connection with any employee benefit plan approved by the shareholders of the Company.

Notwithstanding the foregoing, the Company shall have no obligation to accept or comply with any advice offered by Investor or its designated representative in any consultation referred to in this Section 3.2. The designated representative of Investor, for purposes of this Section 3.2, initially shall be Paul E. Szurek. Investor shall provide the company with ten

days prior written notice of any replacement of the designated representative.

## ARTICLE 4

## Voting and Participation Rights

Section 4.1 Voting Rights. Subject to the provisions of this Section 4.1, Investor may vote the shares of Company Stock which it owns in its sole and absolute discretion. During the Standstill Period, if any, and any Standstill Extension Term, Investor will vote all shares of Company Common Stock which it owns in one of the following two manners, at its option: (a) in accordance with the recommendation of the Board or (b) proportionally, in accordance with the votes of the other holders of Company Common Stock; provided, however, that Investor may vote all of the shares of Company Common Stock that it owns, in its sole and absolute discretion, with regard to (x) the election of the Investor Nominee(s) to the Board, (y) any amendment to the Company Charter or the By-laws of the Company which would reasonably be expected to materially adversely affect Investor, and (z) any Extraordinary Transaction submitted to a vote of the shareholders of the Company. With regard to (i) any amendment to the Company Charter or the By-laws of the Company which would reasonably be expected to materially adversely affect Investor, and (ii) any Extraordinary Transaction submitted to a vote of the stockholders of the Company, Investor will vote all shares of Company Common Stock owned by it that represent ownership of in excess of 40% of the outstanding shares of Company Common Stock, in one of the following two manners, at its option: (x) in accordance with the recommendation of the Board, or (y) proportionally in accordance with the votes of the other holders of Company Common Stock. With regard to any Extraordinary Transaction submitted to a vote of the stockholders of the Company which requires the affirmative vote of holders of two-thirds of the shares of Company Common Stock, Investor will vote all shares of Company Common Stock owned by it that represent ownership of in excess of 28% of the outstanding shares of Company Common Stock, in one of the following two manners, at its option: (x) in accordance with the recommendation of the Board, or (y) proportionally in accordance with the votes of the other holders of Company Common Stock.

Section 4.2 Participation Rights. (a) Right to Participate. From and after the date hereof until the 15% Termination Date, if any, Investor shall be entitled to a participation right to purchase or subscribe for up to that number of additional shares of capital stock (including as "capital stock" for purposes of this Section 4.2, any security, option, warrant, call, commitment, subscription, right to purchase or other agreement of any character that is convertible into or exchangeable or redeemable for shares of capital stock of the Company or any Subsidiary (and all references in this Section 4.2 to capital stock shall, as appropriate, be deemed to be references to any such securities), and also including additional shares of capital stock to be issued pursuant to the conversion, exchange or redemption of any security, option, warrant, call, commitment, subscription, right to purchase or other agreement of any character that is convertible into or exchangeable or redeemable for shares of capital stock, as if the price at which such additional shares of capital stock is issued pursuant to any such conversion, exchange or redemption were the market price on the date of such issuance) to be issued or sold by the Company which represents the same proportion of the total number of shares of capital stock to be is-

sued or sold by the Company (including the shares of capital stock to be issued to Investor upon exercise of its participation rights hereunder; it being understood and agreed that the Company will accordingly be required to either increase the number of shares of capital stock to be issued or sold so that Investor may purchase additional shares to maintain its proportionate interest, or to reduce the number of shares of capital stock to be issued or sold to Persons other than Investor) as is represented by the number of shares of Company Common Stock owned by Investor prior to such sale or issuance (and including for this purpose any shares of Company Common Stock to be acquired pursuant to the Stock Purchase Agreement, but not yet issued) relative to the number of shares of Company Common

Stock outstanding prior to such sale or issuance (and including for this purpose any shares of Company Common Stock to be acquired pursuant to the Stock Purchase Agreement, but not yet issued) (but in no event, (i) more than 42.5% of the total number of shares of capital stock to be issued or sold by the Company at the first offering of shares of capital stock by the Company following the date on which the Remaining Equity Commitment (as such term is defined in the Stock Purchase Agreement) shall be zero, or, (ii) more than 37.5% of the total number of shares of capital stock to be issued or sold by the Company at all subsequent offerings); provided, however, that the provisions of this Section 4.2 shall not apply to (i) the issuance or sale by the Company of any of its capital stock issued to the Company or any of its Subsidiaries or pursuant to options, rights or warrants or other commitments or securities in effect or outstanding on the date of the Stock Purchase Agreement, or (ii) the issuance of capital stock pursuant to the conversion, exchange or redemption of any other capital stock, and with respect to the original issuance of which other capital stock Investor had and fully exercised participation rights pursuant to this Section 4.2, but shall, without limitation, apply to the issuance by the Company of any of its capital stock pursuant to benefit, option, stock purchase, or other similar plans or arrangements, including pursuant to or upon the exercise of options, rights, warrants, or other securities or agreements (including those issued pursuant to the Company's benefit plans), as if the price at which such capital stock is issued were the market price on the date of such issuance.

(b) Notice. In the event the Company proposes to issue or sell any shares of capital stock in a transaction giving rise to the participation rights provided for in this Section, the Company shall send a written notice (the "Participation Notice") to Investor setting forth the number of shares of such capital stock of the Company that the Company proposes to sell or issue, the price (before any commission or discount) at which such shares are proposed to be issued (or, in the case of an underwritten or privately placed offering in which the price is not known at the time the Participation Notice is given, the method of determining such price and an estimate thereof), and all other relevant information as to such proposed transaction as may be necessary for Investor to determine whether or not to exercise the rights granted in this Section. At any time within 20 days after its receipt of the Participation Notice, Investor may exercise its participation rights to purchase or subscribe for shares of such shares of capital stock, as provided for in this Section, by so informing the Company in writing (an "Exercise Notice"). Each Exercise Notice shall state

the percentage of the proposed sale or issuance that the Investor elects to purchase. Each Exercise Notice shall be irrevocable, subject to the conditions to the closing of the transaction giving rise to the participation right provided for in this Section.

(c) Abandonment of Sale or Issuance. The Company shall have the right, in its sole discretion, at all times prior to consummation of any proposed sale or issuance giving rise to the participation right granted by this Section, to abandon, rescind, annul, withdraw or otherwise terminate such sale or issuance, whereupon all participation rights in respect of such proposed sale or issuance pursuant to this Section shall become null and void, and the Company shall have no liability or obligation to Investor or any Affiliate thereof who has acquired shares of Company Stock pursuant to the Stock Purchase Agreement or from Investor with respect thereto by virtue of such abandonment, rescission, annulment, withdrawal or termination.

(d) Terms of Sale. The purchase or subscription by Investor or an Affiliate thereof, as the case may be, pursuant to this Section shall be on the same price and other terms and conditions, including the date of sale or issuance, as are applicable to the purchasers or subscribers of the additional shares of capital stock of the Company whose purchases or subscriptions give rise to the participation rights, which price and other terms and conditions shall be substantially as stated in the relevant Participation Notice (which standard shall be satisfied if the price, in the case of a negotiated transaction, is not greater than 110% of the estimated price set forth in the relevant Participation Notice or, in the case of an underwritten or privately placed offering, is not greater than the greater of (i) 110% of the estimated price set forth in the relevant Participation Notice, and (ii) the most recent closing price on or prior to the date of the pricing of the offering); provided, however, that in the event the consideration to be received by the Company in connection with the issuance of shares of capital stock giving rise to participation rights hereunder is other than cash or cash equivalents, the price per share at which the participation rights may be exercised shall be the price per share set forth in the Participation Notice or determined in the manner set forth in the Participation Notice (which shall in either event be the price as set forth in the agreement pursuant to which such shares are to be issued, provided that the consideration to be received therefor is valued based upon the fair market value thereof, as determined in good faith by the Company's independent directors, after consultation with appropriate financial and legal advisors, or the

price determined in accordance with paragraph (a) of this Section 4.2); provided, further, however, that in the event the consideration to be received by the Company in connection with the issuance of shares of capital stock giving rise to participation rights hereunder is other than cash or cash equivalents, and the fair market value of the consideration to be received is not determinable, the price per share at which the participation rights may be exercised shall, (i) in the event that shares of capital stock with an established trading market are being issued or sold, be the average ten-day trailing market price of such shares as of the date of receipt of the Participation Notice, and (ii) in the event any other shares of capital stock are being issued or sold, be determined by reference to the amount set forth above, adjusted as may be appropriate to reflect the relationship between those shares of capital stock with an established trading market and those shares of

capital stock to be issued in the relevant transaction; provided, however, that if the consideration otherwise covered by the second proviso of this Section 4.2(d) is received in connection with a merger or consolidation by the Company, the price per share at which the participation rights may be exercised shall be the market value per share of Company Common Stock issued in respect of such merger or consolidation as of the date of the merger or consolidation agreement; and provided, finally, that in the event the purchases or subscriptions giving rise to the participation rights are effected by an offering of securities registered under the 1933 Act and in which offering it is not legally permissible for the securities to be purchased by Investor to be included, such securities to be purchased by Investor will be purchased in a concurrent private placement.

(e) Timing of Sale. If, with respect to any Participation Notice, Investor fails to deliver an Exercise Notice within the requisite time period, the Company shall have 120 days after the expiration of the time in which the Exercise Notice is required to be delivered in which to sell not more than 110% of the number of shares of capital stock of the Company described in the Participation Notice (plus, in the event such shares are to be sold in an underwritten public offering, an additional number of shares of capital stock of the Company, not in excess of 15% of 110% of the number of shares of capital stock of the Company described in the Participation Notice, in respect of any underwriters overallotment option) and not less than 90% of the number of shares of capital stock of the Company described in the Participation Notice on terms not more favorable to the purchaser than were set forth in the Participation Notice. If, at the end of 120 days following the expiration of the time in which the Exercise Notice is required to be delivered, the Company has not completed the sale or issuance of capital stock of the Company in accordance with the terms described in the Participation Notice (or at a price which is at least 90% of the estimated price set forth in the Participation Notice), or in the event of any contemplated sale or issuance within such 120-day period but outside such price parameters, the Company shall again be obligated to comply with the provisions of this Section with respect to, and provide the opportunity to participate in, any proposed sale or issuance of shares of capital stock of the Company; provided, however, that notwithstanding the foregoing, if the price at which such capital stock is to be sold in an underwritten offering (or a privately placed offering in which the price is not less than 97% of the most recent closing price at the time of the pricing of the offering) is not at least 90% of the estimated price set forth in the Participation Notice, the Company may inform Investor of such fact and Investor shall be entitled to elect, by written notice delivered within two Business Days following such notice from the Company, to participate in such offering in accordance with the provisions of this Section 4.2.

## ARTICLE 5

## Standstill Provisions

Section 5.1 Standstill Periods. (a) Subject to the provisions of the following sentence, the "Standstill Period" shall be the period commencing on the Shareholder Approval Date, if any, and ending on the earlier of (x) the fifth anniversary of the date thereof, and (y) the earliest of:

(i) the occurrence of any event of default on the part of the Company or any Subsidiary under any debt

agreements, instruments, or arrangements which event of default would reasonably be expected to result in a Material Adverse Effect and, in the case of a non-monetary event of default, which event of default cannot be, or is not, cured by the Company within the applicable cure period under such debt agreement, instrument or arrangement;

(ii) the acquisition by any person or Group other than Investor or any Affiliate thereof or any person or Group acting in concert with or at the direction or request of the Investor or any Affiliate thereof of Beneficial Ownership of more than 9.8% of the voting power of the outstanding shares of Voting Securities (any such shares acquired in excess of such 9.8%, the "Excess Shares"), unless (x) the Excess Shares are at or immediately following their acquisition deprived of all voting rights pursuant to limitations on ownership of shares contained in the Company Charter, as in effect at the relevant time, or in any other legal, valid and enforceable agreement, plan or other right in effect as such time, or (y) provided the Excess Shares represent no more than 5.2% of the voting power of the outstanding Voting Securities, the Company, no later than the earlier of (aa) sixty days after the date of such acquisition, and (bb) the record date for the first meeting of shareholders after such record date, has caused such person or Group to cease, or such person or Group otherwise ceases, having Beneficial Ownership of the Excess Shares;

(iii) any person or Group having a number of Directors on the Board, or having the right or power to elect a number of Directors on the Board, equal to or greater than the number of Directors to which Investor is entitled;

(iv) the authorization by the Company or the Board or any committee thereof (with all Investor Nominees abstaining or voting against) of the solicitation of offers or proposals or indications of interest with respect to any merger, consolidation, other business combination, liquidation, sale of the Company or all or substantially all of the assets of the Company or any other change of control of the Company or similar extraordinary transaction, but excluding any merger, consolidation or other business combination in which the Company is the surviving and acquiring corporation and in which the businesses or assets so acquired do not, or would not reasonably be expected to, have a value greater than 50% of the assets of the Company prior to such merger, consolidation or other business combination (any of the foregoing, a "Covered Transaction");

(v) the written submission by any person or Group other than Investor or any Affiliate thereof of a proposal to the Company (including to the Board or any agent, representative or Affiliate of the Company) with respect to, or otherwise expressing an interest in pursuing, a Covered Transaction; provided, however, that the Standstill Period shall not terminate pursuant to this Section 5.1(a)(v) if, as soon as practicable after receipt of any such proposal, the Board determines that such proposal is not in the best interest of the Company and its shareholders and for so long as the Board continues to reject such proposal as a result of such determination;

(vi) in connection with any actual or proposed Covered Transaction, the removal of any rights plan, provisions of the Company Charter relating to staggered terms of office for directors, provisions of the Company Charter or the By-laws of the Company relating to supermajority voting of the Company's shareholders, "excess share" provisions of the Company Charter or the By-laws of the Company, or any other similar arrangements, agreements, commitments or provisions in the Company Charter or the By-laws of the Company which would reasonably be expected to impede the consummation of such actual or proposed Covered Transaction by action of any Government Authority, the Board, the shareholders of the Company or otherwise, or, whether or not in connection with any actual or proposed Covered Transaction, any modification, amendment, waiver or repeal of the ownership restrictions in Article 5 of the Company Charter (except as may be necessary to allow any acquisition of Company Stock that would not constitute an Early Termination Event under Section 5.1(a)(ii));

(vii) any breach by the Company of the Stock Purchase Agreement which is neither cured nor desisted from within 30 days of receipt of written notice of such breach and which would reasonably be expected to materially adversely affect Investor or cause a Material Adverse Effect;

(viii) any breach of this Agreement by the Company which is neither cured nor desisted from within 30 days of receipt of written notice of such breach and which would reasonably be expected to materially adversely affect Investor or cause a Material Adverse Effect;

(ix) any violation of any Corporate Action Covenant; or

(x) any exercise of a conversion right with respect to shares of Class B Common Stock effected at a time or in circumstances in which the Percentage Limit (as such term is defined in the Articles of Amendment to Articles of Incorporation of the Company, filed on December 20, 1995) is for any reason not applicable, ineffective or waived.

Any event set forth in subsection (i), (ii), (iii), (iv), (v), (vi), (vii), (viii), (ix) or (x) of this Section 5.1(a) shall be an "Early Termination Event."

(b) If the Standstill Period shall not have been terminated prior to the fifth anniversary of the date hereof, the Standstill Period and any Standstill Extension Term shall automatically be extended for successive one-year periods (each such period, a "Standstill Extension Term"), unless, in the case of each Standstill Extension Term, Investor provides to the Company written notice at least 270 days prior to the commencement of such Standstill Extension Term, that such Standstill Extension Term and all further Standstill Extension Terms are cancelled. Any Standstill Extension Term will be terminated upon the earlier of (i) the first anniversary thereof, and (ii) the occurrence of an Early Termination Event.

Section 5.2 Restrictions During Standstill Period and Standstill Extension Term. (a) During the Standstill Period, if any, and any Standstill Extension Term (and, with respect only to the provisions of subsection (ii) hereof, also at any other time when Investor owns more than 15% of the then

outstanding shares of Company Common Stock, on a fully diluted basis), Investor will not, will cause each of its controlled Affiliates not to, and will use its reasonable best efforts to cause each of its other Affiliates not to, directly or indirectly:

(i) act in concert with any other person or Group by becoming a member of a 13D Group, other than any 13D Group comprised exclusively of Investor and one or more of its Affiliates;

(ii) sell, transfer, pledge or otherwise dispose of (collectively, "Transfer") any shares of Company Common Stock except for: (v) Transfers made in compliance with the requirements of Rule 144 of the 1933 Act, (w) Transfers pursuant to negotiated transactions with third parties, provided, however, that no such Transfer which would result in the applicable transferee having beneficial ownership of more than 9.8% of the Company Stock shall occur unless (A) the Company, in its sole discretion, approves such Transfer, and (B) the transferee acknowledges that it is subject to the provisions of Article 5 of this Agreement to which Investor is subject, (x) Transfers pursuant to or in accordance with the Registration Rights Agreement or otherwise in a public offering, (y) Transfers to one or more Affiliates of Investor who agree to be bound by the terms and conditions of this Agreement and who satisfy the ownership criteria in the definition of "Investor", and (z) Transfers to a bona fide financial institution for the purpose of securing bona fide indebtedness of any Investor; provided, that no such Transfer shall result in the bona fide financial institution having beneficial ownership of more than 9.8% of the Company Stock unless such bona fide financial institution acknowledges that it is subject to the provisions of Article 5 of this Agreement to which Investor is subject;

(iii) purchase or otherwise acquire shares of Company Common Stock (or options, rights or warrants or other commitments to purchase and securities convertible into (or exchangeable or redeemable for) shares of Company Common Stock) as a result of which, after giving effect to such purchase or acquisition, Investor and its Affiliates will Beneficially Own more than 45% of the outstanding shares of Company Common Stock, on a fully diluted basis;

(iv) solicit, encourage or propose to effect or negotiate any Covered Transaction other than pursuant to the Stock Purchase Agreement;

(v) solicit, initiate, encourage or participate in any "solicitation" of "proxies" or become a "participant" in any "election contest" (as such terms are defined or used in Regulation 14A under the 1934 Act, disregarding clause (iv) of Rule 14a-1(l)(2) and including an exempt solicitation pursuant to Rule 14a-2(b)(1)); call, or in any way encourage or participate in a call for, any special meeting of shareholders of the Company (or take any action with respect to acting by written consent of the shareholders of the Company); request, or take any action to obtain or retain any list of holders of any securities of the Company; or initiate or propose any shareholder proposal or participate in or encourage the making of, or solicit shareholders of the Company for the approval of, one or more shareholder proposals; provided, however, that Investor shall not be prohibited from communicating with a securityholder who is engaged in any "solicitation" of "proxies" or who is a "participant" in any "election con-

test";

(vi) seek representation on the Board or a change in the composition or size of the Board other than as permitted by Article 2;

(vii) Transfer any capital stock of Buyer or any capital stock of any Affiliate of Buyer that owns Company Common Stock, or cause Buyer or any such Affiliate thereof to Transfer any options, warrants, convertible securities or other similar rights to acquire any capital stock of Buyer or any such Affiliate thereof; provided, however, that no such Transfer shall be prohibited if after giving effect thereto the Beneficial Owner of such shares of Company Common Stock satisfies the ownership criteria in the definition of "Investor"; and provided, further, that no Transfers to a bona fide financial institution for the purpose of securing bona fide indebtedness of any Investor shall be prohibited hereby;

(viii) request the Company or any of its directors, officers, employees or agents to amend or waive any provisions of this Section 5.2 or Section 5.2 of the Company Charter or seek to challenge the legality or effect thereof; or

(ix) assist, advise, encourage or act in concert with any person with respect to, or seek to do, any of the foregoing.

(b) At such time as the restrictions on the activities of Investor contained in Section 5.2(a), 5.2(b) or 5.4 take effect, such restrictions shall supercede any restrictions on the activities of Investor contained in the Confidentiality Agreement, dated May 10, 1995, by and between Investor and the Company whereupon all such restrictions set forth in said Confidentiality Agreement shall cease to apply.

Section 5.3 Investments in Shopping Center Properties and Purchases of Interests in Shopping Center Companies. (a) Subject to the provisions of the following sentence, and excluding transactions which are the subject of paragraph (b) of this Section, from and after the date hereof until the earlier of (i) the date, if any, on which shareholders of the Company vote upon and fail to approve the transactions contemplated by the Stock Purchase Agreement, (ii) the six-month anniversary of the date hereof if a meeting at which the shareholders of the Company are asked to vote upon the transactions contemplated by the Stock Purchase Agreement shall not have occurred on or prior to such six-month anniversary date, and (iii) the 20% Termination Date, if any, Investor and any other person of which Investor is the direct or indirect general partner or as to which Investor has the direct or indirect right or power to elect a majority of the board of directors or other governing body or otherwise controls (but subject, in the case of any person other than Investor, to the fiduciary duties of such person or its general partner, board of directors or other governing body) (any such person, an "Investor Restricted Person") shall not, and Investor shall use its reasonable best efforts to cause Security Capital Group Incorporated ("SCGI") and any person of which SCGI is the direct or indirect general partner or as to which SCGI has the direct or indirect right or power to elect a majority of the board of directors or other governing body or otherwise controls (but subject, in the case of any person other than Investor, to the fiduciary duties of such person or its general partner, board of directors or other governing body) (SCGI and any such person, an "SCGI Restricted Person") not to, directly or indirectly, own, purchase, develop

or otherwise acquire, directly or indirectly, any grocery-store, drugstore, or general merchandise discount-store (such as Wal-Mart, K-Mart, Target, TJ Maxx, Steinmart or similar store) anchored shopping center under 250,000 square feet of leasable area located in the Geographic Region (a "Shopping Center Property", and not including within the meaning of such defined term any enclosed regional or urban mall or other similar shopping facility). Notwithstanding the foregoing, Investor, any Investor Restricted Person or any SCGI Restricted Person may own, purchase, or otherwise acquire, directly or indirectly, any Shopping Center Properties if the investment in the Shopping Center Properties is incidental to an investment made by Investor, such Investor Restricted Person or such SCGI Restricted Person which investment is not primarily related to Shopping Center Properties; it being understood and agreed that any acquisition of real estate properties in which Shopping Center Properties constitute 30% or less of the purchase price of all of the real estate properties acquired shall be considered an investment in which the Shopping Center Properties acquired are incidental to an investment which is not primarily related to Shopping Center Properties; provided, however, that if Investor, any Investor Restricted Person or any SCGI Restricted Person determines to make such a permitted investment, Investor, such Investor Restricted Person or such SCGI Restricted Person shall afford the Company a period of 20 day after receipt of written notice from Investor describing the material terms of the proposed investment, in which to provide Investor, such Investor Restricted Person or such SCGI Restricted Person, as applicable, written notice that it elects to purchase the Shopping Center Properties constituting a part of such investment (subject to customary due diligence and other closing conditions); in the event Investor, such Investor Restricted Person or such SCGI Restricted Person thereafter makes such investment and the price and other terms are not less favorable to the Company than those set forth in the notice of material terms delivered to the Company, the Company shall promptly acquire the Shopping Center Properties included therein, at the price allocated to such Shopping Center Properties in the purchase agreement entered into by Investor, the Investor Restricted Person or the SCGI Restricted Person, as the case may be, in respect of such acquisition and otherwise on terms substantially similar to the terms of Investor's, the Investor Restricted Person's or SCGI Restricted Person's acquisition of such properties; provided, further, that if Investor, an Investor Restricted Person or an SCGI Restricted Person shall have made such a purchase, including the Shopping Center Properties therein, and if Investor, an Investor Restricted or an SCGI Restricted Person should thereafter, but prior to the 20% Termination Date, determine to sell any Shopping Center Properties so purchased, Investor, such Investor Restricted Person or such SCGI Restricted Person shall inform the Company of such fact, and the Company shall have 20 days in which to give Investor, such Investor Restricted Person or such SCGI Restricted Person written notice that it desires to purchase such Shopping Center Properties; such notice shall set forth the terms on which the Company is prepared to effect such purchase; Investor, such Investor Restricted Person or such SCGI Restricted Person shall be free to accept such offer, or to otherwise dispose of such Shopping Center Properties, but shall in

no event dispose of such Shopping Center Properties on terms materially less favorable to Investor, such Investor Restricted Person or such SCGI Restricted Person without first again affording the Company the opportunity to purchase such Shopping Center Properties.

(b) From and after the date hereof until the earlier of (i) the date, if any, on which shareholders of the Company vote upon and fail to approve the transactions contemplated by the Stock Purchase Agreement, (ii) the six-month anniversary of the date hereof if a meeting at which the shareholders of the Company are asked to vote upon the transactions contemplated by the Stock Purchase Agreement shall not have occurred on or prior to such six-month anniversary date, and (iii) the 20% Termination Date, if any, Investor and any Investor Restricted Person shall not, and Investor shall use its reasonable best efforts to cause all SCGI Restricted Persons not to, purchase or otherwise acquire equity securities, or options, warrants, calls, purchase rights, subscription rights, conversion rights, exchange rights or similar rights to purchase or otherwise acquire equity securities, representing 9% or more of the equity interest of any person, other than the Company, if (i) such person's principal business activity is the acquisition, development or ownership for rental purposes of Shopping Center Properties, (ii) more than 25% of such person's assets are Shopping Center Properties (but not including as Shopping Center Property assets for such purpose any indebtedness secured directly or indirectly by Shopping Center Properties), or (iii) more than 25% of such person's revenues are derived from the purchase, development or ownership of Shopping Center Properties (any such person, a "Shopping Center Company"); provided, however, that Investor, any Investor Restricted Person or any SCGI Restricted Person shall be entitled to purchase or otherwise acquire less than 9% of the equity interest of a Shopping Center Company only if no Investor, Investor Restricted Person or SCGI Restricted Person shall be represented on (or have the right to nominate representatives to) the board of directors or similar governing body or shall participate in the management, of such Shopping Center Company.

(c) The provisions of this Section 5.3 shall not restrict Investor, any Investor Restricted Person or any SCGI Restricted Person from, directly or indirectly, (w) providing debt financing for Shopping Center Properties or investing in, owning or acquiring a mortgage REIT or other person substantially all of whose business consists of making mortgage loans on Shopping Center Properties and other real estate assets, (x) in connection with the activities described in clause (w), acquiring or owning any Shopping Center Properties through foreclosure on mortgages or similar instruments or other realization on security, or (y) the ownership of any REIT convertible debt which is passively held and unaccompanied by representation on the board of directors or participation in management and which is held by a person of which none of Investor, any Investor Restricted Person or any SCGI Restricted Person directly or indirectly Beneficially Owns 20% or more of the outstanding economic or voting interest.

(d) Notwithstanding any contrary provision herein, the provisions of this Section 5.3 shall not go into effect unless and until the transactions contemplated by the Stock Purchase Agreement shall have been approved by the holders of the requisite number of shares of Company Stock at a duly called and held meeting of shareholders of the Company at which meeting a quorum is present (such approval, the "Shareholder Approval").

Section 5.4 Notice to Company. From and after the Shareholder Approval Date, if any, until the expiration of the Standstill Period or any Standstill Extension Period, if Investor wishes to sell pursuant to subsection 5.2(a)(ii)(v), (w) or (x) any shares of Company Common Stock, Investor shall give the Company 15 days' prior written notice of such proposed sale, setting forth the number of shares of Company Common Stock that Investor proposes to sell, the expected timing of the proposed sale, and the expected selling price of such sale, in order to enable the Company to make an offer to purchase such shares. During the period described in the preceding sentence, Investor shall also notify the Company if Investor reaches a formal board-level decision to sell shares of Company Common Stock representing more than 2% of the then outstanding shares of Company Common Stock.

Section 5.5 Compliance with Insider Trading Policy. For as long as Investor Beneficially Owns any shares of Company Common Stock, Investor will, and will use its commercially reasonable efforts to cause its directors, officers, employees, agents, and representatives to, comply with the written policy of the Company reasonably designed to prevent violations of insider trading and similar laws. It is understood and agreed that no such policy existed as of the date of the Stock Purchase Agreement, and that prior to the adoption or amendment of any such policy to which Investor will be subject (including

any such policy proposed to be adopted following the date of the Stock Purchase Agreement and prior to the date hereof, and to which Investor would become subject by virtue hereof), the Company will consult with Investor, and will not adopt or amend any such policy, nor will Investor be subject to any such policy, without the written consent of Investor, which consent will not be unreasonably withheld.

Section 5.6 Compliance with Section 5.2 of the Company Charter. For as long as Investor Beneficially Owns any shares of Company Common Stock (unless the Standstill Period or any Standstill Extension Term is terminated by any of the actions set forth in Section 5.1(a)(iv), (v) or (vi) (or unless any such action occurs following the termination of the Standstill Period or any Standstill Extension Term) or by any other willful action by the Company which constitutes an Early Termination Event (or would constitute an Early Termination Event during the Standstill Period or any Standstill Extension Term)), Investor and each Investor Restricted Person will, and Investor will use its reasonable best efforts to cause the SCGI Restricted Persons to, comply with Section 5.2 of the Company Charter and will not seek to challenge the legality or effect thereof.

Section 5.7 Investment Company Matters. From and after the Shareholder Approval Date, if any, until the 20% Termination Date, if any, Investor shall use its reasonable best efforts to not be or become an "investment company" or an entity "controlled" by an "investment company", as such terms are defined in the Investment Company Act of 1940, as amended.

Section 5.8 Waiver of Restrictions and Limits. Provided that Shareholder Approval is obtained, subject to the provisions of the third sentence of this Section 5.8, the Company shall take all actions, including by providing any necessary exemptions from or amendments to (A) any restrictions or limits contained in Article 5 of the Company Charter or (B) any agreement or instrument which governs ownership of shares of Company Stock by any person, necessary to permit Investor to Beneficially Own up to and including the greater of (i) 45% of

the outstanding shares of Company Common Stock and (ii) the percentage which represents the number of shares of Company Common Stock purchased pursuant to the Stock Purchase Agreement relative to the outstanding shares of Company Common Stock. If any third party shall be given the right to Beneficially Own more than 45% of the outstanding shares of Company Common Stock, the Company shall take all actions (including by providing the foregoing exemptions and amendments) to waive any and all restrictions or limits on Investor provided that such waiver does not result in the disqualification of the Company as a REIT. From and after the 15% Termination Date, if any, the Company shall take all actions, including by providing any necessary exemptions from or amendments to (A) any restrictions or limits contained in Article 5 of the Company Charter or (B) any agreement or instrument which governs ownership of shares of Company Stock by any person, necessary to permit Investor to Beneficially Own up to and including 15% of the outstanding shares of Company Common Stock, but shall not be required to take any action to permit Investor to Beneficially Own more than 15% of the outstanding shares of Company Common Stock. From and after the first date on which Investor does not own at least 9.8% of the outstanding shares of Company Common Stock, if any, the Company shall take all actions, including by providing any necessary exemptions from or amendments to (A) the ownership limits contained in Article 5 of the Company Charter or (B) any agreement or instrument which governs ownership of shares of Company Stock by any person, necessary to permit Investor to Beneficially Own up to and including 9.8% of the outstanding shares of Company Common Stock, but shall not be required to take any action to permit Investor to Beneficially Own more than 9.8% of the outstanding shares of Company Common Stock. Notwithstanding the foregoing, Investor or the Company may at any time acquire Beneficial Ownership of the securities of such other party or its Affiliates to the extent permitted by applicable law and the provisions of the organizational documents of such party or its Affiliates, as applicable, and other agreements from time to time governing the ownership of such securities.

Section 5.9 REIT Qualification. From and after the Shareholder Approval Date until the 15% Termination Date, Investor shall annually inform the Company whether Investor believes, and shall otherwise from time to time, as reasonably requested by the Company, reasonably cooperate (including by providing such information and documentation as may be reasonably requested by the Company) with the Company to enable the Company to determine whether, any person which would be treated as an "individual" for purposes of Section 542(a)(2) of the Code (as modified by Section 856(h) of the Code) owns or would be considered to own (taking into account the ownership attribution rules under Section 544 of the Code, as modified by Section 856(h) of the Code) in excess of 9.8% of the value of the outstanding equity interest in Investor.

## ARTICLE 6

## Limitations on Corporate Actions, Etc.

Section 6.1 Limitations on Corporate Actions. (a) The Company agrees that from and after the Shareholder Approval

Date, until the earlier of (i) the termination of the Standstill Period or any Standstill Extension Term or (ii) the 20% Termination Date, if any, it will not, and will not permit any of its Subsidiaries to:

(A) incur total consolidated indebtedness for money borrowed (including for this purpose any indebtedness evidenced by notes, debentures, bonds or other similar instruments, or secured by any lien on any property or asset, all obligations issued or assumed as the deferred purchase price of property, conditional sale obligations, obligations under any title retention agreement (but excluding trade accounts payable and other accrued current liabilities arising in the ordinary course of business), obligations under letters of credit, or similar credit transactions, and obligations which are required to be accounted for as capital leases) in an amount in excess of 60% of the gross book value of the consolidated book assets of the Company (excluding any minority interests not convertible into interests in the Company) before depreciation and amortization, unless the violation of such ratio is cured within 30 days of its occurrence;

(B) cause or permit the sum of (w) stocks, securities, partnership interests or any similar investments or instruments of or in any other Person, (x) assets held other than directly by the Company, (y) loans made by the Company to a Subsidiary, or loans made by a Subsidiary to the Company, and (z) assets managed by Persons other than employees of the Company (excluding retention of a third party manager that is desisted prior to the fifth day immediately preceding the end of the calendar quarter in which it arises and provided that any asset managed by a third party shall be considered a passive asset to be included in the calculations pursuant to Section 6.1(b)), to, at any time constitute more than 30%, at cost, of the consolidated assets owned by the Company;

(C) have at any time prior to June 1, 1997, more than 15%, and at all other times, more than 10%, at cost, of its consolidated assets in property types other than Shopping Center Properties or land suitable and intended for development of Shopping Center Properties; provided, however, that for purposes of this subsection (C) of Section 6.1(a), Shopping Center Properties shall include any grocery-, drug- or general merchandise discount-store anchored shopping center under 350,000 square feet of leasable area located in the Geographic Region;

(D) in the case of the Company, (1) terminate its eligibility for treatment as a real estate investment trust, as defined in the Code, or (2) take any action or fail to take any action which would reasonably be expected to, alone or in conjunction with any other factors, result in the loss of such eligibility, unless in the case of a failure to take action, such action is taken within thirty days; or

(E) except as permitted or required by any agreements or commitments existing as of the date of the Stock Purchase Agreement and disclosed to Investor pursuant thereto, own any interest in any partnership unless the Company is the sole managing general partner of such partnership.

(b) from and after Shareholder Approval Date, until the first date, if any, following the date on which the Remaining Equity Commitment shall have been reduced to zero on which Investor's ownership of Company Common Stock shall have been below 20% by value of the actually outstanding shares of Company Common Stock for a continuous period of 180 days (or if Investor's ownership of Company Common Stock shall, following the date on which the Remaining Equity Commitment shall have been reduced to zero, have fallen below 20% by value of the actually outstanding shares of Company Common Stock as a result of a Transfer by Investor of Company Common Stock or a failure of Investor to exercise its rights under Section 4.2 during the 60 days immediately prior to the expiration of such 180-day period, if any such rights are exercisable during such period, to the extent necessary to (and provided that it shall be possible by such exercise to) raise its ownership of the actually outstanding Company Common Stock above such 20% threshold, then until such Transfer or failure to exercise its rights under Section 4.2, as the case may be), the Company

(i) will not, without the prior written consent of Investor, either take any action that would cause, or fail to take any action which failure would cause, (A) the percentage of the Company's consolidated gross income that is considered "passive income" (within the meaning of Section 1296(a)(1) of the Code, and computed using the assumptions and conventions set forth in Schedule 6.1(c) hereto, together with such modifications thereto as Investor shall advise the Company in writing are necessary as a result of the promulgation of regulations, rulings, or other formal or informal administrative guidance clarifying existing law or a change in existing law or interpretations thereof) to exceed 30%, or (B) the average percentage of the Company's assets (by value, computed as of the end of every calendar quarter) held during any taxable year which produce passive income or which are held for the production of passive income (as such terms are used in Section 1296(a)(2) of the Code and computed using the assumptions and conventions set forth in Schedule 6.1(c) hereto, together with such modifications thereto as Investor shall advise the Company in writing are necessary as a result of the promulgation of regulations, rulings, or other formal or informal administrative guidance clarifying existing law or a change in existing law or interpretations thereof) to exceed 30%; and

(ii) will otherwise consider in good faith suggestions made by Investor as to the structure of the operations of the Company and its Subsidiaries in order to permit Investor or any shareholder of Investor to avoid being classified as a "passive foreign investment company" under the Code.

The agreements of the Company set forth in subsections (a) and (b) of this Section 6.1, and Sections 6.3, 6.4 and 6.6 shall be the "Corporate Action Covenants."

Section 6.2 Provision of Information. For as long as Investor Beneficially Owns any shares of Company Stock, the Company will provide to Investor all information and documenta-

tion requested by Investor, and will cooperate with Investor as requested, as may be necessary for Investor to perform the calculations to be made in connection with and to meet the documentation requirements pursuant to Sections 1291 through 1297 of the Code, as may be amended from time to time, and any successor provisions thereto, and as may otherwise be reasonably necessary in connection with any other record keeping or reporting laws, rules or regulations (including all such information, documentation and cooperation as is necessary to enable Investor to (1) file any Tax Returns it is required to file and

(2) to determine and document its status, income, asset mix and other relevant items with respect to the Passive Foreign Investment Company provisions of the Code).

Section 6.3 Compliance with Conflicts of Interest Policy. Promptly following the date hereof, the Company shall, subject to the reasonable consent and approval of Investor, adopt policies typical of publicly traded companies relating to transactions with affiliates and potential conflicts of interest (such policies, together with the Affiliate Arrangements, as modified or amended from time to time with the consent of Investor, collectively, the "Conflict of Interest Policies"). From and after the date of adoption of such Conflict of Interest Policies until the 20% Termination Date, (x) the Company will, and will cause its Subsidiaries to, comply with and enforce such Conflict of Interest Policies, and (y) Investor will comply with the Conflict of Interest Policies; provided, however, that the provisions of this Agreement, the Stock Purchase Agreement and the Registration Rights Agreement and the transactions contemplated hereby and thereby shall not be limited, amended or modified in any way by, and shall govern in the event of a conflict with, the Conflict of Interest Policies; provided further that no Conflict of Interest Policy shall in any way discriminate or differentiate among any Affiliates of the Company.

Section 6.4 Maintenance of Affiliate and Joint Venture Arrangements. From and after the date hereof until the 20% Termination Date, if any, (x) the Company will, and will cause its Subsidiaries to, comply with, enforce and keep in effect each of the Affiliate Arrangements, and (y) the Company will not, and will cause its Subsidiaries not to, (A) modify, amend or waive any provision contained in any Affiliate Arrangement without the prior written consent of Investor, in its sole discretion, or (B) materially expand or increase, or permit to be materially expanded or increased, the scope, type or quantity of activities performed, or transactions entered into, by Village Common Shopping Center, a Florida limited partnership, Regency Ocean East Partnership, Ltd., a Florida limited partnership, or RRC Operating Partnership of Georgia, L.P., a Georgia limited partnership, or (C) enter into new joint venture, partnership or similar arrangements with third parties, or (D) directly or indirectly, own, purchase, develop, or otherwise acquire or finance any Shopping Center Property in conjunction with any Affiliate which is not a wholly owned Subsidiary of the Company or otherwise in a joint venture with any such party, in each case, without the prior written consent of Investor, in its sole discretion, provided that in the case of the proposed joint venture arrangement with WLD Enterprises,

Ltd. regarding the Deerfield Beach shopping center, Investor shall not unreasonably withhold its consent.

Section 6.5 Sales of Assets. From and after the date hereof until the 15% Termination Date, if any, the Company will, and will cause its Subsidiaries to, use its reasonable efforts, consistent with prudent management of the Company's properties and assets in the interest of the Company's shareholders, to dispose of properties or assets through tax deferred exchanges which exchanges will defer any capital gains distributions to shareholders of the Company. In the event it is expected that any capital gains distributions are to be made, the Company will endeavor to provide Investor with such advance notice thereof as may be practicable.

Section 6.6 Investments in Shopping Center Properties and Purchases of Interests in Shopping Center Companies. (a) Subject to the provisions of the following sentence, and excluding transactions which are the subject of paragraph (b) of this Section, from and after the date hereof until the earlier of (i) the date, if any, on which shareholders of the Company vote upon and fail to approve the transactions contemplated by the Stock Purchase Agreement, and (ii) the 20% Termination Date, if any, TRG and any other person of which TRG is the direct or indirect general partner or as to which TRG has the direct or indirect right or power to elect a majority of the board of directors or other governing body or otherwise controls (any such person, a "TRG Restricted Person") shall not, directly or indirectly, own, purchase, develop or otherwise acquire, directly or indirectly, any Shopping Center Property. Notwithstanding the foregoing, TRG or any TRG Restricted Person may own, purchase, or otherwise acquire, directly or indirectly, any Shopping Center Properties if the investment in the Shopping Center Properties is incidental to an investment made by TRG or such TRG Restricted Person which investment is not primarily related to Shopping Center Properties; it being understood and agreed that any acquisition of real estate properties in which Shopping Center Properties constitute 30% or less of the purchase price of all of the real estate properties acquired shall be considered an investment in which the Shopping Center Properties acquired are incidental to an investment which is not primarily related to Shopping Center Properties; provided, however, that if TRG or any TRG Restricted Person determines to make such a permitted investment, TRG or such TRG Restricted Person shall afford the Company a period of 20 day after receipt of written notice from TRG describing the material terms of the proposed investment, in which to provide TRG or such TRG Restricted Person, as applicable, written notice that it elects to purchase the Shopping

Center Properties constituting a part of such investment (subject to customary due diligence and other closing conditions); in the event TRG or such TRG Restricted Person thereafter makes such investment and the price and other terms are not less favorable to the Company than those set forth in the notice of material terms delivered to the Company, the Company shall promptly acquire the Shopping Center Properties included therein, at the price allocated to such Shopping Center Properties in the purchase agreement entered into by TRG or the TRG Restricted Person, as the case may be, in respect of such acquisition and otherwise on terms substantially similar to the terms of TRG's or the TRG Restricted Person's acquisition of such properties; provided, further, that if TRG or a TRG Restricted Person shall have made such a purchase, including the Shopping Center Properties therein, and if TRG or a TRG Restricted Person should thereafter, but prior to the 20% Termination Date, determine to sell any Shopping Center Properties so purchased, TRG or such TRG Restricted Person shall inform

the Company of such fact, and the Company shall have 20 days in which to give TRG or such TRG Restricted Person written notice that it desires to purchase such Shopping Center Properties; such notice shall set forth the terms on which the Company is prepared to effect such purchase; TRG or such TRG Restricted Person shall be free to accept such offer, or to otherwise dispose of such Shopping Center Properties, but shall in no event dispose of such Shopping Center Properties on terms materially less favorable to TRG or such TRG Restricted Person without first again affording the Company the opportunity to purchase such Shopping Center Properties.

(b) From and after the date hereof until the earlier of (i) the date, if any, on which shareholders of the Company vote upon and fail to approve the transactions contemplated by the Stock Purchase Agreement, and (ii) the 20% Termination Date, if any, TRG and any TRG Restricted Person shall not purchase or otherwise acquire equity securities, or options, warrants, calls, purchase rights, subscription rights, conversion rights, exchange rights or similar rights to purchase or otherwise acquire equity securities, representing 9% or more of the equity interest of any person, other than the Company, if such person is a Shopping Center Company; provided, however, that TRG or any TRG Restricted Person shall be entitled to purchase or otherwise acquire less than 9% of the equity interest of a Shopping Center Company only if no TRG or TRG Restricted Person shall be represented on (or have the right to nominate representatives to) the board of directors or similar governing body or shall participate in the management, of such Shopping Center Company.

(c) The provisions of this Section 6.6 shall not restrict TRG or any TRG Restricted Person from, directly or indirectly, (w) providing debt financing for Shopping Center Properties or investing in, owning or acquiring a mortgage REIT or other person substantially all of whose business consists of making mortgage loans on Shopping Center Properties and other real estate assets, (x) in connection with the activities described in clause (w), acquiring or owning any Shopping Center Properties through foreclosure on mortgages or similar instruments or other realization on security, or (y) the ownership of any REIT convertible debt which is passively held and unaccompanied by representation on the board of directors or participation in management and which is held by a person of which none of TRG or any TRG Restricted Person directly or indirectly Beneficially Owns 20% or more of the outstanding economic or voting interest.

(d) Each of the Company and Investor shall be entitled to the benefits of the provisions contained in this Section 6.6.

## ARTICLE 7

## Miscellaneous

Section 7.1 Counterparts. This Agreement may be executed in one or more counterparts, all of which shall be considered one and the same agreement, and shall become effective when one or more counterparts have been signed by each of the parties and delivered to the other party. Copies of executed counterparts transmitted by telecopy, telefax or other electronic transmission service shall be considered original executed counterparts for purposes of this Section, provided receipt of copies of such counterparts is confirmed.

Section 7.2 Governing Law. THIS AGREEMENT SHALL

BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF FLORIDA WITHOUT REFERENCE TO THE CHOICE OF LAW PRINCIPLES THEREOF.

Section 7.3 Entire Agreement. This Agreement (including agreements incorporated herein) and the Schedules and Exhibits hereto contain the entire agreement between the parties with respect to the subject matter hereof and there are no agreements, understandings, representations or warranties between the parties other than those set forth or referred to herein. This Agreement is not intended to confer upon any person not a party hereto (and their successors and assigns) any rights or remedies hereunder.

Section 7.4 Expenses. Except as set forth in the Stock Purchase Agreement, all legal and other costs and expenses incurred in connection with this Agreement and the transactions contemplated hereby shall be paid by the party incurring such costs and expenses. Without limiting the foregoing, the Company shall pay all costs and expenses incurred in connection with the solicitation of votes of shareholders of the Company to approve the transactions contemplated by the Stock Purchase Agreement.

Section 7.5 Notices. All notices and other communications hereunder shall be sufficiently given for all purposes hereunder if in writing and delivered personally, sent by documented overnight delivery service or, to the extent receipt is confirmed, telecopy, telefax or other electronic transmission service to the appropriate address or number as set forth below. Notices to the Company shall be addressed to:

Regency Realty Corporation
121 West Forsyth Street, Suite 200
Jacksonville, Florida 32202
Attention: Martin E. Stein, Jr.
Telecopy Number: (904) 634-3428

with a copy to:

Foley & Lardner
Greenleaf Building
200 Laura Street
Jacksonville, Florida 32202
Attention: Charles E. Commander III, Esq.
Telecopy Number: (904) 359-8700

or at such other address and to the attention of such other person as the Company may designate by written notice to Investor. Notices to Investor shall be addressed to:

Security Capital Holdings S.A.
69, route d'Esch
L-2953 Luxembourg
Attention: Paul E. Szurek
Telecopy Number: (352) 4590-3331

with a copy to:

Wachtell, Lipton, Rosen & Katz
51 West 52nd Street

New York, New York 10019
Attention: Adam O. Emmerich, Esq.
Telecopy Number: (212) 403-2000

Section 7.6 Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors. Neither party shall be permitted to assign any of its rights hereunder to any third party, except that any Investor shall be permitted to assign its rights hereunder to any other person who would satisfy the criteria in the definition of "Investor" which agrees to be bound by this Agreement.

Section 7.7 Headings. The Section, Article and other headings contained in this Agreement are inserted for convenience of reference only and will not affect the meaning or interpretation of this Agreement. All references to Sections or Articles contained herein mean Sections or Articles of this Agreement unless otherwise stated.

Section 7.8 Amendments and Waivers. This Agreement may not be modified or amended except by an instrument or instruments in writing signed by the party against whom enforcement of any such modification or amendment is sought. Any party hereto may, only by an instrument in writing, waive compliance by another party hereto with any term or provision hereof on the part of such other party hereto to be performed or complied with. The waiver by any party hereto of a breach of any term or provision hereof shall not be construed as a waiver of any subsequent breach.

Section 7.9 Interpretation; Absence of Presumption. (a) For the purposes hereof, (i) words in the singular shall be held to include the plural and vice versa and words of one gender shall be held to include the other gender as the context requires, (ii) the terms "hereof", "herein", and "herewith" and words of similar import shall, unless otherwise stated, be construed to refer to this Agreement as a whole (including all of the Schedules and Exhibits hereto) and not to any particular provision of this Agreement, and Article, Section, paragraph, Schedule and Exhibit references are to the Articles, Sections, paragraphs, Schedules and Exhibits to this Agreement unless otherwise specified, (iii) the word "including" and words of similar import when used in this Agreement shall mean "including, without limitation," unless the context otherwise requires or unless otherwise specified, (iv) the word "or" shall not be

exclusive, and (v) provisions shall apply, when appropriate, to successive events and transactions.

(b) This Agreement shall be construed without regard to any presumption or rule requiring construction or interpretation against the party drafting or causing any instrument to be drafted.

Section 7.10 Severability. Any provision hereof which is invalid or unenforceable shall be ineffective to the extent of such invalidity or unenforceability, without affecting in any way the remaining provisions hereof.

Section 7.11 Further Assurances. The Company and Investor agree that, from time to time, each of them will, and will cause their respective Affiliates to, execute and deliver such further instruments and take such other action as may be necessary to carry out the purposes and intents hereof.

Section 7.12 Specific Performance. The Company and

Investor each acknowledge that, in view of the uniqueness of arrangements contemplated by this Agreement, the parties hereto would not have an adequate remedy at law for money damages in the event that this Agreement were not performed in accordance with its terms, and therefore agree that the parties hereto shall be entitled to specific enforcement of the terms hereof in addition to any other remedy to which the parties hereto may be entitled at law or in equity.

Section 7.13 Investor Breach. In the event Investor shall have breached (i) its obligation to effect a purchase of Company Common Stock pursuant to the Stock Purchase Agreement which breach is neither cured nor desisted from within 30 days of receipt of written notice of such breach, or (ii) any of its obligations under this Agreement which breach is neither cured nor desisted from within 30 days of receipt of written notice of such breach and which would reasonably be expected to materially adversely affect the Company, the Company shall no longer be required to perform any of its obligations hereunder.

Section 7.14 Confidentiality. Investor agrees that all information provided to Investor or any of its representatives pursuant to this Agreement shall be kept confidential, and Investor shall not (x) disclose such information to any persons other than the directors, officers, employees, financial advisors, legal advisors, accountants, consultants and affiliates of Investor who reasonably need to have access to the confidential information and who are advised of the confidential nature of such information or (y) use such information in a manner which would be detrimental to the Company; provided, however, the foregoing obligation of Investor shall not (a) relate to any information that (i) is or becomes generally available other than as a result of unauthorized disclosure by Investor or by persons to whom Investor has made such information available, (ii) is or becomes available to Investor on a non-confidential basis from a third party that is not, to Investor's knowledge, bound by any other confidentiality agreement with the Company, or (b) prohibit disclosure of any information if required by law, rule, regulation, court order or other legal or governmental process.

Section 7.15 Public Releases and Announcements. The Company agrees that until the 20% Termination Date, it shall endeavor to provide to Investor advance copies of, or, in the case of oral announcements, advance notice of, any public release or announcement concerning the Company to be issued, released or made by the Company or any of its Affiliates, in each case, if possible, at least one Business Day prior to such release or announcement.

IN WITNESS WHEREOF, this Agreement has been signed by or on behalf of each of the parties hereto as of the day first above written.

REGENCY REALTY CORPORATION

By:
Name: Martin E. Stein, Jr.
Title: President

SECURITY CAPITAL HOLDINGS S.A.

By:
Name: Paul E. Szurek
Title: Managing Director

SECURITY CAPITAL U.S. REALTY

By:
Name: Paul E. Szurek
Title: Managing Director

THE REGENCY GROUP, INC.

By:
Name: Martin E. Stein, Jr.
Title:

EXHIBIT E

PROPOSED AMENDMENT TO COMPANY CHARTER

The Amended and Restated Articles of Incorporation of the Company are hereby amended by deleting Article 5 thereof in its entirety, and inserting in lieu thereof the following:

"ARTICLE 5

REIT PROVISIONS

Section 5.1 Definitions. For the purposes of this Article 5, the following terms shall have the following meanings:

(a) "Acquire" shall mean the acquisition of Beneficial Ownership of shares of Capital Stock by any means including, without limitation, acquisition pursuant to the exercise of any option, warrant, pledge or other security interest or similar right to acquire shares, but shall not include the acquisition of any such rights, unless, as a result, the acquirer would be considered a Beneficial Owner as defined below. The term "Acquisition" shall have the correlative meaning.

(b) "Actual Owner" shall mean, with respect to any Capital Stock, that Person who is required to include in its gross income any dividends paid with respect to such Capital Stock.

(c) "Beneficial Ownership" shall mean ownership of Capital Stock by a Person who would be treated as an owner of such shares of Capital Stock, either directly or indirectly, under Section 542(a)(2) of the Code, taking into account for this purpose (i) constructive ownership determined under Section 544 of the Code, as modified by Section 856(h)(1)(B) of the Code (except where expressly provided otherwise); and (ii) any future amendment to the Code which has the effect of modifying the ownership rules under Section 542(a)(2) of the Code. The terms "Benefi-

cial Owner," "Beneficially Owns" and "Beneficially Owned" shall have the correlative meanings.

(d) "Code" shall mean the Internal Revenue Code of 1986, as amended. In the event of any future amendments to the Code involving the renumbering of Code sections, the Board of Directors may, in its sole discretion, determine that any reference to a Code section herein shall mean the successor Code section pursuant to such amendment.

(e) "Constructive Ownership" shall mean ownership of Capital Stock by a Person who would be treated as an owner of such Capital Stock, either directly or constructively, through the application of Section 318 of the Code, as modified by Section 856(d)(5) of the Code. The terms "Constructive Owner', "Constructively Owns" and "Constructively Owned" shall have the correlative meanings.

(f) "Existing Holder" shall mean any of The Regency Group, Inc., MEP, Ltd., and The Regency Group II, Ltd. (and any Person who is a Beneficial Owner of Capital Stock as a result of attribution of the Beneficial Ownership from any of the Persons previously identified) who at the opening of business on the date after the Initial Public Offering was the Beneficial Owner of Capital Stock in excess of the Ownership Limit; and any Person who Acquires Beneficial Ownership from another Existing Holder, except by Acquisition on the open market, so long as, but only so long as, such Person Beneficially Owns Capital Stock in excess of the Ownership Limit.

(g) "Existing Holder Limit" for an Existing Holder shall mean, initially, the percentage by value of the outstanding Capital Stock Beneficially Owned by such Existing Holder at the opening of business on the date after the Initial Public Offering, and after any adjustment pursuant to Section 5.8 hereof, shall mean such percentage of the outstanding Capital Stock as so adjusted; provided, however, that the Existing Holder Limit shall not be a percentage which is less than the Ownership Limit or in excess of 9.8%. Beginning with the date after the Initial Public Offering, the Secretary of the Corporation shall maintain and, upon request, make available to each Existing Holder, a schedule which sets forth the then current Existing Holder Limits for each Existing Holder.

(h) "Initial Public Offering" means the closing of the sale of shares of Common Stock pursuant to the Corporation's first effective registration statement for such Common Stock filed under the Securities Act of 1933, as amended.

(i) "Non-U.S. Person" shall mean any Person who is not (i) a citizen or resident of the United States, (ii) a partnership created or organized in the United States or under the laws of the United States or any state therein (including the District of Columbia), (iii) a corporation created or organized in the United States or under the laws of the United States or any state therein (including the District of Columbia), or (iv) any estate or trust

(other than a foreign estate or foreign trust, within the meaning of Section 7701(a)(31) of the Code).

(j) "Ownership Limit" shall initially mean 7% by value of the outstanding Capital Stock of the Corporation, and after any adjustment as set forth in Section 5.9, shall mean such greater percentage (but not greater than 9.8%) by value of the outstanding Capital Stock as so adjusted.

(k) "Person" shall mean an individual, corporation, partnership, estate, trust (including a trust qualified under Section 401(a) or 501(c)(17) of the Code), a portion of a trust permanently set aside for or to be used exclusively for the purposes described in Section 642(c) of the Code, association, private foundation within the meaning of Section 509(a) of the Code, joint stock company or other entity, and also includes a group as that term is used for purposes of Section 13(d)(3) of the Securities Exchange Act of 1934, as amended; but does not include an underwriter retained by the Company which participates in a public offering of the Capital Stock for a period of 90 days following the purchase by such underwriter of the Capital Stock, provided that ownership of Capital Stock by such underwriter would not result in the Corporation being "closely held" within the meaning of Section 856(h) of the Code and would not otherwise result in the Corporation failing to quality as a REIT.

(l) "REIT" shall mean a real estate investment trust under Section 856 of the Code.

(m) "Redemption Price" shall mean the lower of (i) the price paid by the transferee from whom shares are being redeemed and (ii) the average of the last reported sales price, regular way, on the New York Stock Exchange of the relevant class of Capital Stock on the ten trading days immediately preceding the date fixed for redemption by the Board of Directors, or if the relevant class of Capital Stock is not then traded on the New York Stock Exchange, the average of the last reported sales prices, regular way, of such class of Capital Stock (or, if sales prices, regular way, are not reported, the average of the closing bid and asked prices) on the ten trading days immediately preceding the relevant date as reported on any exchange or quotation system over which the Capital Stock may be traded, or if such class of Capital Stock is not then traded over any exchange or quotation system, then the price determined in good faith by the Board of Directors of the Corporation as the fair market value of such class of Capital Stock on the relevant date.

(n) "Related Tenant Owner" shall mean any Constructive Owner who also owns, directly or indirectly, an interest in a Tenant, which interest is equal to or greater than (i) 10% of the combined voting power of all classes of stock of such Tenant, (ii) 10% of the total number of shares of all classes of stock of such Tenant, or (iii) if such Tenant is not a corporation, 10% of the assets or net profits of such Tenant.

(o) "Related Tenant Limit" shall mean 9.8% by value of the outstanding Capital Stock of the Corporation.

(p) "Restriction Termination Date" shall mean the first day after the date of the Initial Public Offering on

which the Corporation determines pursuant to Section 5.13 that it is no longer in the best interest of the Corporation to attempt to, or continue to, qualify as a REIT.

(q) "Special Shareholder" shall mean any of (i) Security Capital U.S. Realty, Security Capital Holdings S.A. and any Affiliate (as such term is defined in the Stockholders Agreement) of Security Capital U.S. Realty or Security Capital Holdings S.A., (ii) any Investor (as such term is defined in Section 5.2 of the Stockholders Agreement), (iii) any bona fide financial institution to whom Capital Stock is Transferred in connection with any bona fide indebtedness of any Investor or any Person previously identified, (iv) any Person who is considered a Beneficial Owner of Capital Stock as a result of the attribution of Beneficial Ownership from any of the Persons previously identified and (v) any one or more Persons who Acquire Beneficial Ownership from a Special Shareholder, except by Acquisition on the open market.

(r) "Special Shareholder Limit" for a Special Shareholder shall mean, initially, 45% in the aggregate by value of the outstanding shares of Capital Stock of the Corporation and after any adjustment pursuant to Section 5.8 shall mean the percentage of the outstanding Capital Stock as so adjusted; provided, however, that if any Person and its Affiliates (taken as a whole), other than the Special Shareholder, shall directly or indirectly own in the aggregate more than 45% by value of the outstanding shares of Capital Stock of the Corporation, the definition of "Special Shareholder Limit" shall be revised in accordance with Section 5.8 of the Stockholders Agreement.

Notwithstanding the foregoing provisions of this definition, if, as the result of any Special Shareholder's ownership (taking into account for this purpose constructive ownership under Section 544 of the Code, as modified by Section 856(h)(1)(B) of the Code) of shares of Capital Stock, any Person who is an individual within the meaning of Section 542(a)(2) of the Code (taking into account the ownership attribution rules under Section 544 of the Code, as modified by Section 856(h) of the Code) and who is the Beneficial Owner of any interest in a Special Shareholder would be considered to Beneficially Own more than 9.8% of the outstanding shares of Capital Stock, then unless such individual reduces his or her interest in the Special Shareholder so that such Person no longer Beneficially Owns more than 9.8% of the outstanding shares of Capital Stock, the Special Shareholder Limit shall be reduced to such percentage as would result in such Person not being considered to Beneficially Own more than 9.8% of the outstanding Shares of Capital Stock. Notwithstanding anything contained herein to the contrary, in no event shall the Special Shareholder Limit be reduced below the Ownership Limit. At the request of the Special Shareholders, the Secretary of the Corporation shall maintain and, upon request, make available to each Special Shareholder a schedule which sets forth the then current Special Shareholder Limits for each Special Shareholder.

(s) "Stock Purchase Agreement" shall mean that Stock Purchase Agreement dated as of June __, 1996, by and among the Corporation, Security Capital Holdings S.A., and Security Capital U.S. Realty, as the same may be amended from time to time.

(t) "Stockholders Agreement" shall mean that Stockholders Agreement dated as of , 1996, by and

among the Corporation, Security Capital Holdings S.A., and Security Capital U.S. Realty, as the same may be amended from time to time.

(u) "Tenant" shall mean any tenant of (i) the Corporation, (ii) a subsidiary of the Corporation which is deemed to be a "qualified REIT subsidiary" under Section 856(i)(2) of the Code, or (iii) a partnership in which the Corporation or one or more of its qualified REIT subsidiaries is a partner.

(v) "Transfer" shall mean any sale, transfer, gift, assignment, devise, or other disposition of Capital Stock or the right to vote or receive dividends on Capital Stock (including (i) the granting of any option or entering into any agreement for the sale, transfer or other disposition of Capital Stock or the right to vote or receive dividends on the Capital Stock or (ii) the sale, transfer, assignment or other disposition or grant of any securities or rights convertible or exchangeable for Capital Stock), whether voluntarily or involuntarily, whether of record or Beneficially, and whether by operation of law or otherwise; provided, however, that any bona fide pledge of Capital Stock shall not be deemed a Transfer until such time as the pledgee effects an actual change in ownership of the pledged shares of Capital Stock.

Section 5.2. Restrictions on Transfer. Except as provided in Section 5.11 and Section 5.16, during the period commencing at the Initial Public Offering:

(a) No Person (other than an Existing Holder or a Special Shareholder) shall Beneficially Own Capital Stock in excess of the Ownership Limit, no Existing Holder shall Beneficially Own Capital Stock in excess of the Existing Holder Limit for such Existing Holder and no Special Shareholder shall Beneficially Own Capital Stock in excess of the Special Shareholder Limit.

(b) No Person shall Constructively Own Capital Stock in excess of the Related Tenant Limit for more than thirty (30) days following the date such Person becomes a Related Tenant Owner.

(c) Any Transfer that, if effective, would result in any Person (other than an Existing Holder or a Special Shareholder) Beneficially Owning Capital Stock in excess of the Ownership Limit shall be void ab initio as to the Transfer of such Capital Stock which would be otherwise Beneficially Owned by such Person in excess of the Ownership Limit, and the intended transferee shall Acquire no rights in such Capital Stock.

(d) Any Transfer that, if effective, would result in any Existing Holder Beneficially Owning Capital Stock in excess of the applicable Existing Holder Limit shall be void ab initio as to the Transfer of such Capital Stock which would be otherwise Beneficially Owned by such Existing Holder in excess of the applicable Existing Holder Limit, and such Existing Holder shall Acquire no rights in such Capital Stock.

(e) Any Transfer that, if effective, would result in any Special Shareholder Beneficially Owning Capital Stock in excess of the applicable Special Shareholder Limit

shall be void ab initio as to the Transfer of such Capital Stock which would be otherwise Beneficially Owned by such Special Shareholder in excess of the applicable Special Shareholder Limit, and such Special Shareholder shall Acquire no rights in such Capital Stock.

(f) Any Transfer that, if effective, would result in any Related Tenant Owner Constructively Owning Capital Stock in excess of the Related Tenant Limit shall be void ab initio as to the Transfer of such Capital Stock which would be otherwise Constructively Owned by such Related Tenant Owner in excess of the Related Tenant Limit, and the intended transferee shall Acquire no rights in such Capital Stock.

(g) Any Transfer that, if effective, would result in the Capital Stock being beneficially owned by less than 100 Persons (within the meaning of Section 856(a)(5) of the Code) shall be void ab initio as to the Transfer of such Capital Stock which would be otherwise beneficially owned by the transferee, and the intended transferee shall Acquire no rights in such Capital Stock.

(h) Any Transfer that, if effective, would result in the Corporation being "closely held" within the meaning of Section 856(h) of the Code shall be void ab initio as to the portion of any Transfer of the Capital Stock which would cause the Corporation to be "closely held" within the meaning of Section 856(h) of the Code, and the intended transferee shall Acquire no rights in such Capital Stock.

(i) Any other Transfer that, if effective, would result in the disqualification of the Corporation as a REIT by virtue of actual, Beneficial or Constructive Ownership of Capital Stock shall be void ab initio as to such portion of the Transfer resulting in the disqualification, and the intended transferee shall Acquire no rights in such Capital Stock.

Section 5.3. Remedies for Breach.

(a) If the Board of Directors or a committee thereof shall at any time determine in good faith that a Transfer has taken place that falls within the scope of Section 5.2 or that a Person intends to Acquire Beneficial Ownership of any shares of the Corporation that would result in a violation of Section 5.2 (whether or not such violation is intended), the Board of Directors or a committee thereof shall take such action as it

or they deem advisable to refuse to give effect to or to prevent such Transfer, including, but not limited to, refusing to give effect to such Transfer on the books of the Corporation or instituting proceedings to enjoin such Transfer, subject, however, in all cases to the provisions of Section 5.16.

(b) Without limitation to Sections 5.2 and 5.3(a), any purported transferee of shares Acquired in violation of Section 5.2 and any Person retaining shares in violation of Section 5.2(b) shall be deemed to have acted as agent on behalf of the Corporation in holding those shares Acquired or retained in violation of Section 5.2 and shall be deemed to hold such

shares in trust on behalf of and for the benefit of the Corporation. Such shares shall be deemed a separate class of stock until such time as the shares are sold or redeemed as provided in Section 5.3(c). The holder shall have no right to receive dividends or other distributions with respect to such shares, and shall have no right to vote such shares. Such holder shall have no claim, cause of action or any other recourse whatsoever against any transferor of shares Acquired in violation of Section 5.2. The holder's sole right with respect to such shares shall be to receive, at the Corporation's sole and absolute discretion, either (i) consideration for such shares upon the resale of the shares as directed by the Corporation pursuant to Section 5.3(c) or (ii) the Redemption Price pursuant to Section 5.3(c). Any distribution by the Corporation in respect of such shares Acquired or retained in violation of Section 5.2 shall be repaid to the Corporation upon demand.

(c) The Board of Directors shall, within six months after receiving notice of a Transfer or Acquisition that violates Section 5.2 or a retention of shares in violation of Section 5.2(b), either (in its sole and absolute discretion, subject to the requirements of Florida law applicable to redemption) (i) direct the holder of such shares to sell all shares held in trust for the Corporation pursuant to Section 5.3(b) for cash in such manner as the Board of Directors directs or (ii) redeem such shares for the Redemption Price in cash on such date within such six month period as the Board of Directors may determine. If the Board of Directors directs the holder to sell the shares, the holder shall receive such proceeds as the trustee for the Corporation and pay the Corporation out of the proceeds of such sale (i) all expenses incurred by the Corporation in connection with such sale, plus (ii) any remaining amount of such proceeds that exceeds the amount paid by the holder for the shares, and the holder shall be entitled to retain only the amount of such proceeds in excess of the amount required to be paid to the Corporation.

Section 5.4. Notice of Restricted Transfer. Any Person who Acquires, attempts or intends to Acquire, or retains shares in violation of Section 5.2 shall immediately give written notice to the Corporation of such event and shall provide to the Corporation such other information as the Corporation may request in order to determine the effect, if any, of such Transfer, attempted or intended Transfer, or retention, on the Corporation's status as a REIT.

Section 5.5. Owners Required to Provide Information. From the date of the Initial Public Offering and prior to the Restriction Termination Date:

(a) Every shareholder of record of more than 5% by value (or such lower percentage as required by the Code or the regulations promulgated thereunder) of the outstanding Capital Stock of the Corporation shall, within 30 days after December 31 of each year, give written notice to the Corporation stating the name and address of such record shareholder, the number and class of shares of Capital Stock Beneficially Owned by it, and a description of how such shares are held; provided that a shareholder of record who holds outstanding Capital Stock of the Corporation as nominee for another Person, which Person is required to include in its gross income the dividends received on such Capital Stock (an "Actual Owner"), shall give written notice to the Corporation stating the name and address of such Actual Owner and the number and class of shares of such Actual Owner with respect to which the shareholder of record is nominee. Each such shareholder of record shall provide to the Corporation such additional

information as the Corporation may request in order to determine the effect, if any, of such Beneficial Ownership on the Corporation's status as a REIT.

(b) Every Actual Owner of more than 5% by value (or such lower percentage as required by the Code or Regulations promulgated thereunder) of the outstanding Capital Stock of the Corporation who is not a shareholder of record of the Corporation, shall within 30 days after December 31 of each year, give written notice to the Corporation stating the name and address of such Actual Owner, the number and class of shares Beneficially Owned, and a description of how such shares are held.

(c) Each Person who is a Beneficial Owner of Capital Stock and each Person (including the shareholder of record) who is holding Capital Stock for a Beneficial Owner shall provide to the Corporation such information as the Corporation may request, in good faith, in order to determine the Corporation's status as a REIT.

(d) Nothing in this Section 5.5 or any request pursuant hereto shall be deemed to waive any limitation in Section 5.2.

Section 5.6. Remedies Not Limited. Except as provided in Section 5.15, nothing contained in this Article shall limit the authority of the Board of Directors to take such other action as it deems necessary or advisable to protect the Corporation and the interests of its shareholders in preserving the Corporation's status as a REIT.

Section 5.7. Ambiguity. In the case of an ambiguity in the application of any of the provisions of this Article 5, including without limitation any definition contained in Section 5.1 and any determination of Beneficial Ownership, the Board of Directors in its sole discretion shall have the power to determine the application of the provisions of this Article 5 with respect to any situation based on the facts known to it.

Section 5.8. Modification of Existing Holder Limits and Special Shareholder Limits. Subject to the provisions of Section 5.10, the Existing Holder Limits may or shall, as provided below, be modified as follows:

(a) Any Existing Holder or Special Shareholder may Transfer Capital Stock to another Person, and, so long as such Transfer is not on the open market, any such Transfer will decrease the Existing Holder Limit or Special Shareholder Limit, as applicable, for such transferor (but not below the Ownership Limit) and increase the Existing Holder Limit or Special Shareholder Limit, as applicable, for such transferee by the percentage of the outstanding Capital Stock so transferred. The transferor Existing Holder or Special Shareholder, as applicable, shall give the Board of Directors of the Corporation prompt written notice of any such transfer. Any Transfer by an Existing Holder or Special Shareholder on the open market shall neither reduce its Existing Holder Limit or Special Shareholder Limit, as applicable, nor increase the Ownership Limit, Existing Holder Limit or Special Shareholder Limit of the transferee.

(b) Any grant of Capital Stock or a stock option pursuant to any benefit plan for directors or employees shall increase the Existing Holder Limit or Special

Shareholder Limit for the affected Existing Holder or Special Shareholder, as the case may be, to the maximum extent possible under Section 5.10 to permit the Beneficial Ownership of the Capital Stock granted or issuable under such employee benefit plan.

(c) The Board of Directors may reduce the Existing Holder Limit of any Existing Holder, with the written consent of such Existing Holder, after any Transfer permitted in this Article 5 by such Existing Holder on the open market.

(d) Any Capital Stock issued to an Existing Holder or Special Shareholder pursuant to a dividend reinvestment plan adopted by the Corporation shall increase the Existing Holder Limit or Special Shareholder Limit, as the case may be, for the Existing Holder or Special Shareholder to the maximum extent possible under Section 5.10 to permit the Beneficial Ownership of such Capital Stock.

(e) Any Capital Stock issued to an Existing Holder or Special Shareholder in exchange for the contribution or sale to the Corporation of real property, including Capital Stock issued pursuant to an "earn-out" provision in connection with any such sale, shall increase the Existing Holder Limit or Special Shareholder Limit, as the case may be, for the Existing Holder or Special Shareholder to the maximum extent possible under Section 5.10 to permit the Beneficial Ownership of such Capital Stock.

(f) The Special Shareholder Limit shall be increased, from time to time, whenever there is an increase in Special Shareholders' percentage ownership (taking into account for this purpose constructive ownership under Section 544 of the Code, as modified by Section 856(h)(1)(B) of the Code) of the Capital Stock (or any other capital stock) of the Corporation due to any event other than the purchase of Capital Stock (or any other capital stock) of the Corporation by a Special Shareholder, by an amount equal to such percentage increase multiplied by the Special Shareholder Limit.

(g) The Board of Directors may reduce the Special Shareholder Limit for any Special Shareholder and the Existing Holder Limit for any Existing Holder, as applicable, after the lapse (without exercise) of an option described in Clause (b) of this Section 5.8 by the percentage of Capital Stock that the option, if exercised, would have represented, but in either case no Existing

Holder Limit or Special Shareholder Limit shall be reduced to a percentage which is less than the Ownership Limit.

Section 5.9. Modification of Ownership Limit. Subject to the limitations provided in Section 5.10, the Board of Directors may from time to time increase or decrease the Ownership Limit; provided, however, that any decrease may only be made prospectively as to subsequent holders (other than a decrease as a result of a retroactive change in existing law that would require a decrease to retain REIT status, in which case such decrease shall be effective immediately).

Section 5.10. Limitations on Modifications. Notwithstanding any other provision of this Article 5:

(a) Neither the Ownership Limit, the Special Shareholder Limit nor any Existing Holder Limit may be increased if, after giving effect to such increase, five Persons who are considered individuals pursuant to Section 542(a)(2) of the Code (taking into account all of the then Existing Holders and Special Shareholders) could Beneficially Own, in the aggregate, more than 49.5% by value of the outstanding Capital Stock.

(b) Prior to the modification of any Existing Holder Limit or Ownership Limit pursuant to Section 5.8 or 5.9, the Board of Directors of the Corporation may require such opinions of counsel, affidavits, undertakings or agreements as it may deem necessary or advisable in order to determine or insure the Corporation's status as a REIT.

(c) No Existing Holder Limit or Special Shareholder Limit may be a percentage which is less than the Ownership Limit.

(d) The Ownership Limit may not be increased to a percentage which is greater than 9.8%.

Section 5.11. Exceptions. The Board of Directors may, upon receipt of either a certified copy of a ruling of the Internal Revenue Service, an opinion of counsel satisfactory to the Board of Directors or such other evidence as the Board of Directors deems appropriate, but shall in no case be required to, exempt a Person (the "Exempted Holder") from the Ownership Limit, the Special Shareholder Limit, the Existing Holder Limit or the Related Tenant Limit, as the case may be, if the ruling or opinion concludes or the other evidence shows (A) that no Person who is an individual as defined in Section 542(a)(2) of the Code will, as the result of the ownership of the shares by the Exempted Holder, be considered to have Beneficial Ownership of an amount of Capital Stock that will violate the Ownership Limit, the Special Shareholder Limit or the applicable Existing Holder Limit, as the case may be, or (B) in the case of an exception of a Person from the Related Tenant Limit that the exemption from the Related Tenant Limit would not cause the Corporation to fail to qualify as a REIT. The Board of Directors may condition its granting of a waiver on the Exempted Holder's agreeing to such terms and conditions as the Board of Directors determines to be appropriate in the circumstances.

Section 5.12. Legend. All certificates representing shares of Capital Stock of the Corporation shall bear a legend referencing the restrictions on ownership and transfer as set forth in these Articles. The form and content of such legend shall be determined by the Board of Directors.

Section 5.13. Termination of REIT Status. The Board of Directors may revoke the Corporation's election of REIT status as provided in Section 856(g)(2) of the Code if, in its discretion, the qualification of the Corporation as a REIT is no longer in the best interests of the Corporation. Notwithstanding any such revocation or other termination of REIT status, the provisions of this Article 5 shall remain in effect unless amended pursuant to the provisions of Article 10.

Section 5.14. Certain Transfers to Non-U.S. Persons Void. Any Transfer of shares of Capital Stock of the Corporation to

any Person (other than a Special Shareholder) that results in the fair market value of the shares of Capital Stock of the Corporation owned directly and indirectly by Non-U.S. Persons to comprise 50% or more of the fair market value of the issued and outstanding shares of Capital Stock of the Corporation (determined, until the 15% Termination Date (as defined in the Stockholders Agreement), if any, by assuming that the Special Shareholders are Non-U.S. Persons, and own a percentage of the outstanding shares of Capital Stock of the Corporation (by value) equal to 45%), shall be void ab initio to the fullest extent permitted under applicable law and the intended transferee shall be deemed never to have had an interest therein. If the foregoing provision is determined to be void or invalid by virtue of any legal decision, statute, rule or regulation, then the shares held or purported to be held by the transferee shall, automatically and without the necessity of any action by the Board of Directors or otherwise, (i) be prohibited from being voted at any time such securities result in the fair market value of the shares of Capital Stock of the Corporation owned directly and indirectly by Non-U.S. Persons to comprise 50% or more of the fair market value of the issued and

outstanding shares of Capital Stock of the Corporation (determined, until the 15% Termination Date, if any, assuming that the Special Shareholders are Non-U.S. Persons, and own a percentage of the outstanding shares of capital stock of the Corporation (by value) equal to 45%), (ii) not be entitled to dividends with respect thereto, (iii) be considered held in trust by the transferee for the benefit of the Corporation and shall be subject to the provisions of Section 5.3(c) as if such shares of Capital Stock were the subject of a Transfer that violates Section 5.2, and (iv) not be considered outstanding for the purpose of determining a quorum at any meeting of shareholders.

Section 5.15. Severability. If any provision of this Article or any application of any such provision is determined to be invalid by any federal or state court having jurisdiction over the issues, the validity of the remaining provisions shall not be affected and the application of such provisions shall be affected only to the extent necessary to comply with the determination of such court.

Section 5.16. New York Stock Exchange Transactions. Nothing in this Article 5 shall preclude the settlement of any transaction entered into through the facilities of the New York Stock Exchange."

EXHIBIT 3

JOINT FILING AGREEMENT

In accordance with Rule 13d-1(f) of Regulation 13D-G of the Securities Exchange Act of 1934, the persons or entities below agree to the joint filing on behalf of each of them of this Statement on Schedule 13D (including any and all amendments thereto) with respect to the Common Stock of Regency Realty Corporation, and further agree that this Joint Filing Agreement be included as an Exhibit to such joint filings. In evidence thereof the undersigned, being duly authorized, hereby execute this Agreement this 21st day of June, 1996.

SECURITY CAPITAL U.S. REALTY

By: /s/ Paul E. Szurek
Name: Paul E. Szurek
Title: Managing Director

SECURITY CAPITAL HOLDINGS S.A.

By: /s/ Paul E. Szurek
Name: Paul E. Szurek
Title: Managing Director

EXHIBIT 4

# FACILITY AGREEMENT

DATED JUNE 12, 1996

U.S.$ 200,000,000

REVOLVING CREDIT FACILITY

FOR

SECURITY CAPITAL HOLDINGS S.A.
AS BORROWER

AND

SECURITY CAPITAL U.S. REALTY
AS GUARANTOR

AND

COMMERZBANK AKTIENGESELLSCHAFT
AS ARRANGER

AND

COMMERZBANK INTERNATIONAL S.A.
AS ADMINISTRATIVE AGENT

AND

COMMERZBANK AKTIENGESELLSCHAFT
AS COLLATERAL AGENT

ALLEN & OVERY

NEW YORK

This FACILITY AGREEMENT is dated June 12, 1996 and made BETWEEN:

(1) SECURITY CAPITAL HOLDINGS S.A., a company incorporated in Luxembourg with a registered office located at 69, route d' Esch, L-1470 Luxembourg (the "BORROWER");

(2) SECURITY CAPITAL U.S. REALTY, a company incorporated in Luxembourg with a registered office located at 69, route d' Esch, L-1470 Luxembourg (the "GUARANTOR");

(3) COMMERZBANK AKTIENGESELLSCHAFT New York branch, as arranger (in this capacity the "ARRANGER");

(4) THE FINANCIAL INSTITUTIONS listed in Schedule 1 (the "LENDERS");

(5) COMMERZBANK INTERNATIONAL S.A. as administrative agent (in this capacity the "ADMINISTRATIVE AGENT"); and

(6) COMMERZBANK AKTIENGESELLSCHAFT New York branch, as collateral agent (in this capacity the "COLLATERAL AGENT").

1. INTERPRETATION

1.1 TERMS DEFINED

In this Agreement:

"ADVANCE"

means an advance made or to be made by a Lender under the Facility and includes the Term Advances.

"AFFILIATE"

in relation to a person, means any Subsidiary or holding company of that person, and any other Subsidiary of that holding company.

"AFFILIATED LENDER"

in relation to a Lender, means any other Lender which is an Affiliate of the Lender.

"AGENT"

means the Administrative Agent or the Collateral Agent.

"ANNIVERSARY"

means, in any year, the anniversary of the Signing Date being June .



"APPROVED JURISDICTION"

means any State of the United States and such other jurisdictions as the Borrower and the Administrative Agent may agree in writing.

"BASE RATE"

means, as of any date, the rate determined by the Administrative Agent to be the higher of (a) the Prime Rate and (b) the aggregate of the Federal Funds Rate on that date plus 0.50 per cent. per annum.

"BASE RATE ADVANCE"

means an Advance in respect of which the Borrower has elected interest be calculated by reference to the Base Rate.

"BORROWING BASE"

means, at any time, the amount determined by the Administrative Agent on the basis of the most recent Compliance Certificate and/or the most recent Borrowing Base Certificate to be 35 per cent. of the aggregate of the Market Value of all Qualifying Collateral which is included in the Collateral at that time and which has been provided as Collateral in accordance with Section 4 of the Master Collateral Agreement and in respect of which the relevant Collateral Perfection Procedures have been completed PROVIDED THAT Qualifying Collateral comprising SCG Securities and any other Qualifying Security issued by any company in which SCG is directly or indirectly the principal shareholder shall be deemed not to exceed 10 per cent. of such aggregate Market Value and the Borrowing Base shall be computed accordingly.

"BORROWING BASE CERTIFICATE"

means a certificate substantially in the form set out in Schedule 2 duly executed by a Managing Director or Financial Director of each of the Borrower and the Guarantor.

"BORROWER SUBORDINATION AGREEMENT"

means an agreement between the Borrower and the Guarantor substantially in the form of Exhibit D to the Master Collateral Agreement.

"BUSINESS DAY"

means a day (other than a Saturday or a Sunday) on which banks are open for business in each of London and New York City and Luxembourg.



"CASH EQUIVALENT INVESTMENT"

means at any time cash and any evidence of indebtedness issued or guaranteed by the Government of the United States of America.

"CODE"

means the Internal Revenue Code of 1986, as amended, and any successor statute of similar import, together with the regulations thereunder, in each case as in effect from time to time. Reference to sections of the Code shall be construed to also refer to any successor sections.

"COLLATERAL"

has the meaning given to it in the Master Collateral Agreement.

"COLLATERAL PERFECTION PROCEDURES"

means the procedures set out in Section 4 of the Master Collateral Agreement and includes:

(a) in relation to any item of Collateral, all other actions and things as are necessary or desirable in the reasonable opinion of the Collateral Agent as the Collateral Agent from time to time notifies to the Borrower to ensure that the Security Interests contemplated by the Finance Documents have been created and perfected in relation to that Collateral; and

(b) such amended or additional procedures as the Collateral Agent and the Borrower may from time to time agree in writing in relation to any Security Document or which, in the reasonable opinion of the Collateral Agent, are necessary to create, perfect and maintain the Security Interests intended to be created under that Security Document in respect of any Collateral to be provided by the Borrower or which otherwise becomes, or is intended to become, Collateral thereafter and which are notified to the Borrower by the Collateral Agent in writing.

"COLLATERAL SHORTFALL"

has the meaning ascribed to it in Clause 8.3.

"COMMITMENT"

in relation to a Lender, means

(a) in the case of a Lender which is a Lender on the date of this Agreement, the amount in Dollars set opposite its name in Schedule 1, to the extent not cancelled or

reduced under this Agreement; and



(b) in the case of a Lender which becomes a Lender after the date of this Agreement, the amount of any other Lender's Commitment acquired by it under Clause 24 (Alterations to the Contracting Parties) to the extent not cancelled or reduced under this Agreement.

"COMMITMENT PERIOD"

means, subject to Clause 2.4 (Extension of Final Maturity Date), the period commencing on the Signing Date and expiring on the Final Maturity Date.

"COMPLIANCE CERTIFICATE"

means a compliance certificate, including all Attachments annexed thereto, substantially in the form of Schedule 3 duly executed by a Managing Director or Financial Director of each of the Borrower and the Guarantor together with such changes therein as the Administrative Agent may from time to time reasonably request.

"CONFIDENTIAL INFORMATION MEMORANDUM"

means the confidential information memorandum dated April 1996 prepared or to be prepared in connection with the Syndication.

"CONTRACTING PARTY"

means any of the Financial Institutions, the Borrower and the Guarantor.

"DEBT"

of any Person means all indebtedness of such Person (excluding, for the avoidance of doubt, obligations for the purchase price of stock under stock purchase agreements) for or in respect of (i) borrowed money; (ii) acceptances under any acceptance credit facility; (iii) amounts raised under any note purchase facility or the issue of bonds, notes, debentures or similar instruments; (iv) amounts raised pursuant to any issue of shares which are expressed to be redeemable at the option of the holder; (v) the amount of any liability in respect of leases which would be treated in the audited financial statements of such Person as finance leases; (vi) the amount of any liability in respect of any purchase price for assets or service the payment of which is deferred for a period in excess of one hundred and eighty days; (vii) the amount of any liability in respect of currency or interest rate swap, cap or collar arrangements or any similar derivative instrument Provided that if such currency, interest rate swap, cap or collar arrangement or any similar derivative instrument has been entered into in order

to hedge the currency or interest rate exposure of such Person in respect of Debt, the amount of any liability in respect of such arrangement or instrument shall not be taken into account; (viii) amounts raised under any other transaction (including, without limitation, any forward sale or purchase agreement) having the commercial effect of a borrowing; and (ix) any guarantee or other assumption of liability for the obligations of any third party in respect of any of the foregoing.

"DEBT SERVICE COVERAGE RATIO"

means, with respect to any Person, the ratio of Operating Income to Principal and Interest Expense.

"DEBT TO NET WORTH RATIO"

means, with respect to any Person, the ratio of Debt to Net Worth calculated in accordance with generally accepted accounting principles.

"DEFAULT"

means any Event of Default and any event or condition which, with the giving of notice to the Borrower, lapse of time or fulfillment of any other applicable condition (or any combination of the foregoing), would constitute an Event of Default.

"DOLLARS" or "$"

means the lawful currency for the time being of the USA.

"EBITDA"

means, in relation to any Person at any time, net income before any adjustments for or on account of interest, taxes, depreciation, amortization and minority interests, calculated in accordance with generally accepted accounting principles.

"ERISA"

means the Employee Retirement Income Security Act of 1974, as amended, and any successor statute of similar import, together with the regulations thereunder, in each case as in effect from time to time.

"ERISA AFFILIATE"

means any corporation, trade or business that is a member of a controlled group of corporations or a controlled group of trades or businesses, as described in sections 414(b) and 414(c), respectively, of the Code or section 4001 of ERISA.

"EVENT OF DEFAULT"

means any of the events specified in Clause 16.1 (Events of Default).

"FACILITY"

means the facilities referred to in Clause 2.1 (Facilities).



"FACILITY OFFICE"

in relation to a Lender, means:

(a) the office(s) of the Lender notified to the Administrative Agent prior to the Signing Date; or

(b) in the case of a Lender which becomes a Contracting Party after the Signing Date, the office(s) of the Lender notified by the Lender to the Administrative

Agent before or upon becoming a Lender; or

(c) any other office(s) notified by the Lender to the Administrative Agent in accordance with Clause 24.7 (Change of Facility Office),

in each case as the office(s) through which the Lender will perform all or any of its obligations under the Finance Documents.

"FEDERAL FUNDS RATE"

means, on any day, the rate per annum (rounded upward if necessary to the nearest one/one-hundredth of one per cent.) equal to the weighted average of the rate on overnight Federal funds transactions with members of the Federal Reserve System arranged by the Federal funds brokers on such day, as published by the Federal Reserve Bank of New York on the Business Day next succeeding such day Provided that (a) if such day is not a Business Day, the Federal Funds Rate for such day shall be such rate on such transactions on the next preceding Business Day as so published on the next succeeding Business Day, and (b) if no such rate is published on such next succeeding Business Day, the Federal Funds Rate for such day shall be the average rate quoted to the Administrative Agent on such day on such transactions as reasonably determined by the Administrative Agent. Each change in the interest rate on a Base Rate Advance which results from a change in the Federal Funds Rate shall become effective on the day on which the change in the Federal Funds Rate becomes effective.

"FEE LETTER"

means the letter dated February 21, 1996 from the Arranger to the Borrower detailing certain fees to be paid by the Borrower in connection with the Facility.

"FINAL MATURITY DATE"

means, subject to Clause 2.4, June 12, 1999.

"FINAL REPAYMENT DATE"

means, subject to Clause 2.5 (Term-out Option), the date falling two years after the Final Maturity Date.



"FINANCE DOCUMENT"

means any of this Agreement, the Security Documents, the Fee Letter, the Substitution Certificates, the Syndication Agreement and any other document designated as such by the Administrative Agent and the Borrower.

"FINANCIAL INSTITUTION"

means the Arranger, either Agent or a Lender.

"FISCAL YEAR"

means a fiscal year of the Borrower and the Guarantor.

"GROUP"

means the Guarantor and its Subsidiaries for the time being and from time to time.

"GUARANTEE" OR" GUARANTEE"

of any person means any agreement or undertaking pursuant to which such person guarantees, assumes or otherwise becomes secondarily, contingently or otherwise liable for any obligation of any other person (other than by virtue of endorsement of instruments in the ordinary course of deposit or collection and obligations of such person to purchase stock under stock purchase agreements).

"GUARANTOR SUBORDINATION AGREEMENT"

means an agreement between the Guarantor and the relevant creditors substantially in the form of Exhibit E to the Master Collateral Agreement.

"INTEREST COVERAGE RATIO"

means the ratio of Operating Income to Interest Expense.

"INTEREST EXPENSE"

means, in respect of any Person, the aggregate of its paid or accrued interest expense on such Person's Debt excluding interest properly capitalized under generally accepted accounting principles being interest attributable to construction projects.

"INTEREST PERIOD"

means, in respect of a Term Advance which is a LIBOR advance, each period of interest selected by the Borrower in accordance with Clause 7.6 (Interest Periods for Term Advance).



"INTERNAL REVENUE CODE"

means the Internal Revenue Code of 1986 of the USA.

"INVESTMENT ADVISER"

means Security Capital (EU) Management S.A. or such other entity providing investment advice to the Group as may be approved by the Administrative Agent (such approval not to be unreasonably withheld and such decision not to be unreasonably delayed).

"LENDER"

means a bank or financial institution whose name appears in Schedule 1 in its capacity as a participant in the Facility.

"LIEN"

means any mortgage, pledge, hypothecation, assignment, deposit arrangement, encumbrance, lien (statutory or other) or preference, priority or other security agreement or preferential arrangement of any kind or nature whatsoever (including, without limitation, any conditional sale or other title retention agreement, any financing lease having substantially the same economic effect as any of the foregoing, and the filing of any financing statement under the Uniform Commercial Code or comparable law of any jurisdiction) having the effect of security.

"LIBOR"

means in relation to a LIBOR Advance:

(a) the rate per annum appearing on the Telerate page 3750 (the "TELERATE SCREEN") at or about 11.00 a.m. on the applicable Rate Fixing Day for the offering of deposits in Dollars for a period comparable to its Term; or

(b) if:

(i) no relevant rate appears on the Telerate Screen for the purposes of paragraph (a) above; or

(ii) the Administrative Agent determines that no rate for a period of comparable duration to that Term appears on the Telerate Screen at the relevant time:

the arithmetic mean (rounded upwards, if necessary, to two decimal places) of the respective rates, as supplied to the Administrative Agent at its request, quoted by the Reference Lenders to leading banks in the London Interbank Market at or about 11.00 a.m. on the Rate Fixing Day for the offering of deposits in

Dollars in an amount comparable to its Term. If any of the Reference Lenders is unable or otherwise fails to supply an offered rate by 11.30 a.m. on the Rate Fixing Day, LIBOR shall, subject to



Clause 9(a)(i) (Market Disruption), be determined on the basis of the quotations of the remaining Reference Lenders.

"LIBOR ADVANCE"

means an Advance in respect of which the Borrower has requested interest be calculated by reference to LIBOR.

"LIBOR MARGIN"

means, subject to Clause 7.5 (Reduction in Margin), 1.75 per cent. per annum.

"MAJORITY LENDERS"

means, at any time, Lenders whose Commitments:

(a) then aggregate more than 66 2/3 per cent. of the Total Commitments; or

(b) if the Total Commitments have been reduced to zero, aggregated more than 66 2/3 per cent. of the Total Commitments immediately before the reduction.

"MARGIN STOCK"

has the meaning ascribed to such term in Regulation U of the Board of Governors of the Federal Reserve System or any regulations substituted therefor, as from time to time in effect.

"MARKET VALUE"

has the meaning set out in Schedule 4

"MASTER COLLATERAL AGREEMENT"

means the Master Collateral Agreement to be entered into between (1) the Borrower, (2) the Guarantor, (3) the Administrative Agent and (4) the Collateral Agent substantially to the effect set out in Exhibit A.

"MATURITY DATE"

means, in relation to a LIBOR Advance, the last day of its Term and in relation to a Base Rate Advance the Final Maturity Date.

"NET WORTH"

means, with respect to any person at any time:



(a) (in relation to a company whose equity securities are quoted by the Pricing Service at that time) the number of securities issued (together with the number of shares into which all partnership units held or issued by such company may be converted) multiplied by the closing sale price quoted (or in the absence of a sale, the closing bid price) by the Pricing Service in respect of all such equity securities for the previous Business Day plus the book value of all non-public equity securities;

(b) (in relation to a company whose equity securities are not quoted by the Pricing Service at that time or if no closing sale or bid price is available) the value of its assets calculated in accordance with paragraph b(ii) of the definition of Market Value as set forth in Schedule 4 minus its total liabilities; and

(c) in relation to the Guarantor if its equity securities are not quoted by a Pricing Service, total consolidated net assets (shareholders' equity) based on fair value as set out in the consolidated financial statements of the Guarantor or the statement of net assets of the Guarantor.

"NON-RECOURSE DEBT"

means Debt of any Person in respect of which the creditor thereof has rights of recourse solely to specific assets of such Person and no other right of recourse against such Person.

"OPERATING INCOME"

means net operating income of a Person being the difference between the revenues of such Person and its expenses excluding income derived from extraordinary activities and before deduction of interest expense, taxes, charges to contingency reserves, depreciation, amortisation, extraordinary items, minority interests and other material and non-recurrent items and shall otherwise be computed in accordance with generally accepted accounting principles and in relation to the Borrower shall be deemed to include dividends received, accrued interest receivable and realized gains from sales of special opportunity investments.

"PRICING SERVICE"

means Dow-Jones & Company Inc. and in the case of the definition of "Net Worth" of the Guarantor, Reuters.

"PRIME RATE"

means, on any day, the rate of interest from time to time

publicly announced by the Administrative Agent as its

"base" or "prime" rate for loans denominated in Dollars made in New York, which rate may not be the lowest rate charged to its borrowers. Each change in the interest rate on an Advance which results from a change in the Prime Rate shall become effective on the day on which the change in the Prime Rate becomes effective.



"PRINCIPAL AND INTEREST EXPENSE"

means in respect of any Person, the aggregate of (a) all amounts of regularly scheduled principal paid in respect of Debt of such person (including, without limitation convertible debt) but excluding bullet repayments on maturity of a loan, principal paid in respect of revolving credits and principal paid in respect of revolving credits that convert into term loans and (b) Interest Expense provided that for the purposes of the calculation of the Guarantor's Debt Service Coverage Ratio in Clause 15.11(c)(iii)(C) (Financial Condition), Principal and Interest Expense shall exclude all repayments of principal under the Finance Documents (including payments of principal on any Repayment Instalment).

"QUALIFYING COLLATERAL"

means each of the following, for so long as the Lenders have a fully perfected first priority security interest over the same under the Master Collateral Agreement:

(i) cash,

(ii) any SCG Security providing (a) no Event of Default specified in Clause 16.6 (Insolvency), 16.7 (Insolvency Proceedings) or 16.8 (Appointment of receivers and managers) shall have occurred in relation to SCG, such Events of Default to be construed as if references in such Clauses to the Borrower and the Guarantor were references to SCG; and (b) there is no event of default (howsoever described) or event which with the sending of notice, passage of time (other than any applicable grace period granted for curable defaults) or fulfillment of any other condition could become an event of default under any agreement constituting or evidencing Debt (not being Non-Recourse Debt) of SCG in an aggregate amount in excess of US$10,000,000 or its equivalent in any other currencies; and

(iii) any Qualifying Security which the Borrower has designated as Collateral under Section 1(b) of the Master Collateral Agreement PROVIDED HOWEVER that a Qualifying Security shall not be included as Qualifying Collateral if any one or more of the following shall apply:

(a) there are any restrictions on the payment of dividends on such Qualifying Security (other than any such restrictions which are, in the reasonable opinion of the Administrative Agent

(after consultation with the Borrower), custom-

ary for REITs which have lines of credit or any Debt outstanding);

(b) in the case of a Qualifying Security of a REIT, distributions by the REIT are less than or equal to the minimum amounts required in order for the REIT not to be taxed at the corporate or entity level or for it otherwise to maintain its status as a REIT;

(c) there is an event of default (howsoever described) or event which with the sending of notice, passage of time (other than any applicable grace period granted for curable defaults) or fulfillment of any other condition could become an event of default under any agreement constituting or evidencing Debt (not being Non-



Recourse Debt) of such Qualifying Issuer in an aggregate amount in excess of the lower of (x) US$10,000,000 or its equivalent in any other currencies and (y) 25 per cent. of the Net Worth of such Qualifying Issuer;

(d) an Event of Default specified in Clause 16.6 (Insolvency), 16.7 (Insolvency Proceedings) or 16.8 (Appointment of receivers and managers) occurs in relation to such Qualifying Issuer, other than the appointment of a receiver in respect of specific assets subject to Non-Recourse Debt, such Events of Default to be construed as if references in such Clauses to the Borrower and the Guarantor were references to such Qualifying Issuer;

and PROVIDED FURTHER that there shall be excluded from Qualifying Collateral a Qualifying Security which if it were included would result in the weighted average of the consolidated Debt to Net Worth ratio of all Qualifying Issuers forming part of the Qualifying Collateral exceeding 1:1 (weighted according to the proportion which the Market Value of the Qualifying Security of a particular class bears to the aggregate of the Market Value of all Qualifying Securities which the Borrower has designated as forming part of the Collateral).

"QUALIFYING ISSUER"

means any Real Estate Operating Company and any REIT which at any time has on a consolidated basis:

(a) a Debt to Net Worth ratio of no greater than 1.5:1.0;

(b) a ratio of EBITDA to average Debt of not less than 14 per cent.;

(c) an Interest Coverage Ratio of not less than 1.9:1.0; and

(d) a Debt Service Coverage Ratio of not less than 1.4:1.0,

calculated in the case of paragraphs (b), (c) and (d) on a rolling basis for the four most recent quarters or, if less, since the date of active operations, save in the case of a company which has been operating for less than one year in which case for the purpose of paragraph (b) EBITDA shall be calculated on an annualized basis with Debt being calculated on the average of Debt outstanding

during the relevant period; and

For the purposes of calculating the ratios set out in paragraphs (b) (ratio of EBITDA to Debt), (c) Interest

Coverage Ratio) and (d) (Debt Service Coverage Ratio) above for the three year period commencing on the date the Guarantor or the Borrower acquired an interest in the Qualifying Issuer, the general and administrative expenses of such Qualifying Issuer shall be deemed to equal:

(i) if they are equal to or less than 4.5 per cent. of gross revenues of such Qualifying Issuer, the amount of those expenses;

(ii) if they are greater than 4.5 per cent. but do not exceed 7.5 per cent. of gross revenues, 4.5 per cent. of gross revenues of such Qualifying Issuer; and



(iii) if they exceed 7.5 per cent. of gross revenues, the amount of those expenses of such Qualifying Issuer which exceed 7.5 per cent. of gross revenues, plus 4.5 per cent. of gross revenues,

Provided that if the Borrower owns less than one per cent. of the securities of a particular class issued by a Real Estate Operating Company or REIT and the Administrative Agent consents thereto in each particular case such entity need only satisfy the Debt to Net Worth ratio set out in paragraph (a) above to be a Qualifying Issuer and not the ratios set out in paragraphs (b), (c) and (d).

"QUALIFYING SECURITY"

means the securities of a Qualifying Issuer provided that there are no transfer restrictions or pre-emption rights applicable thereto other than transfer restrictions imposed to comply with applicable securities laws or other transfer restrictions which in either case have been approved by the Majority Lenders (such approval not to be unreasonably withheld).

"RATE FIXING DAY"

means in relation to any Advance, the second Business Day before its Utilisation Date.

"RATING AGENCIES"

means any of Moody's Investors Service, Inc, Standard & Poor's Ratings Group, Duff and Phelps and Fitch Investor Services, Inc.

"REAL ESTATE OPERATING COMPANY"

means a company the primary object and purpose of which is the acquisition, development, promotion, sale and lease of real estate or interests in real estate and which is incorporated and doing business in an Approved Jurisdiction.

"REIT"

means a real estate investment trust in either corporate or trust form and established under the laws of any State of the USA and qualifying for treatment as a "real estate

investment trust" under the Internal Revenue Code.

"REFERENCE LENDERS"

means, subject to Clause 24.5 (Reference Lenders), the principal London offices of Commerzbank Aktiengesellschaft, and of two other Lenders (or Affiliates of Lenders) to be appointed by the Administrative Agent after the

Signing Date after consultation with the Borrower and the Guarantor.



"REPAYMENT DATE"

means each date for the payment of principal on the Term Advance in accordance with Clause 8.1 (Repayment of Advances).

"REPAYMENT INSTALMENT"

means each instalment for repayment of the Term Advances referred to in Clause 8 (Repayment and Prepayment of Advances).

"REQUEST"

means a request, substantially in the form of Schedule 5, made by the Borrower in accordance with Clause 5.2 (Form of Request).

"REQUESTED AMOUNT"

in relation to a Request, means the amount of the Advance requested in the Request.

"REQUIREMENT(S) OF LAW"

shall mean as to any person, the certificate of incorporation and by-laws or other organisational or governing documents of such person, and any law, treaty, rule or regulation, or determination of an arbitrator or a court or other governmental authority, in each case applicable to or binding upon such person or any of its property or to which such person or any of its property is subject.

"SAME DAY FUNDS"

means Dollar funds settled through the New York Clearing House Interbank Payments System or such other same day funds for payment in Dollars as the Administrative Agent may specify to the Borrower as being customary at the time for the settlement of international transactions in New York City of the type contemplated by this Agreement.

"SCG"

means Security Capital Group Incorporated.

"SCG SECURITY"

means any security issued by SCG.

"SECURITY DOCUMENTS"

means each of:

(a) the Borrower Subordination Agreement, the Guarantor Subordination Agreement and the Stock Pledge Agreement;

(c) the Master Collateral Agreement;

(d) each document designated as a Security Document under Section 6 of the Master Collateral Agreement; or

(e) any other document designated as such in writing by the Collateral Agent and the Borrower.

"SECURITY INSTRUMENT"

means any mortgage, deed of trust, security agreement, amendment or supplement thereto, chattel mortgage, chattel mortgage note assignment, pledge agreement, or other agreement providing for, evidencing or perfecting any security interest in real or personal property.

"SECURITY INTEREST"

means any Lien, encumbrance or security interest of any kind whatsoever, whether arising under a Security Instrument or as a matter of law, judicial process or otherwise.

"SIGNING DATE"

means the date of this Agreement.

"STOCK PLEDGE AGREEMENT"

means an agreement between the Guarantor and the Collateral Agent substantially in the form exhibited to the Master Collateral Agreement.

"SUBORDINATED DEBT"

means any unsecured indebtedness for borrowed money of any member of the Group which is subordinate to its obligations under the Finance Documents.

"SUBSIDIARY"

means any person of which or in which any other person own directly or indirectly in excess of 50 per cent. of:

(a) the combined voting power of all classes of stock having general voting power under ordinary circumstances to elect a majority of the board of directors of such person, if it is a corporation; or



(b) the beneficial interest of such person, if it is a trust, association or other unincorporated organisation.

Provided always that any REIT or Real Estate Company in which the Borrower or the Guarantor reasonably expects to have its ownership of the rights referred to in (a) or (b) above eventually diluted to less than 50 per cent. and which in accordance with generally accepted accounting principles is not or would not be consolidated in the financial statements of the Borrower or the Guarantor shall

not constitute a Subsidiary.

"SUBSTITUTION CERTIFICATE"

has the meaning given to it in Clause 24.4 (Substitution Certificates).

"SYNDICATION"

means the primary syndication by the Arranger of the Facility.

"SYNDICATION AGREEMENT"

means an agreement substantially in the form of Schedule 7 with such amendments as the Arranger and the Agents may approve or reasonably require and which the Borrower has approved, acting reasonably.

"TAXES"

includes all present and future income and other taxes, levies, imposts, deductions, charges, duties and withholdings and any charges of a similar nature, together with interest thereon and penalties with respect thereto, if any, and any payments made on or in respect thereof; "TAXATION" and "TAX" shall be construed accordingly.

"TERM"

in relation to an Advance, means the period for which it is to be borrowed, as selected by the Borrower in the relevant Request and in the case of the Term Advances, means the duration of each Interest Period.

"TERM ADVANCE"

means each term advance made or deemed made by the Lenders to the Borrower in accordance with Clause 2.5 (Term-out Option).

"TERM-OUT OPTION"

means the option granted to the Borrower in Clause 2.5 (Term-out Option).



"TERM-OUT PERIOD"

means the period commencing on the Final Maturity Date and ending on the Final Repayment Date.

"TOTAL COMMITMENTS"

means the aggregate for the time being of the Commitments, being $200,000,000 at the date of this Agreement.

"TOTAL OUTSTANDINGS"

means, on any day, the aggregate of all Advances outstanding on that day, together with all other amounts outstanding under or in connection with the Finance Documents, including, without limitation, accrued interest and fees.

"USA"

means the United States of America.

"UTILISATION DATE"

means, in relation to any Advance, the date for the making of the Advance as specified by the Borrower in the relevant Request.

1.2 CONSTRUCTION

In this Agreement, unless the context otherwise requires:

(a) a reference to "ASSETS" includes property and rights of every kind, present, future and contingent (including uncalled share capital), and every kind of interest in an asset;

(b) a reference to a "PERSON" or "PERSON" means an individual, a company, a corporation, a partnership, a joint venture, a trust or unincorporated organisation, joint stock company or other similar organisation, a government or any political subdivision thereof, a court, or any other legal entity, whether acting in an individual, fiduciary or other capacity;

(c) a reference to the "WINDING UP" of a corporation shall be construed so as to include any equivalent or analogous proceedings under the law of any jurisdiction in which the company is incorporated or any jurisdiction in which the company carries on business;

(d) a reference to a Contracting Party or a Reference Lender is, where relevant and subject to Clauses 18 (The Agents and the Joint Arrangers) and 24 (Alterations to the Contracting Parties), a reference to or

to include, as appropriate, their respective successors or assigns;

(e) references to Clauses, Schedules and Attachments are references to, respectively, clauses of and schedules and attachments to this Agreement;



(f) a reference to another agreement shall be construed as a reference to that other agreement as it may have been, from time to time, amended, varied, supplemented or novated;

(g) references to "GENERALLY ACCEPTED ACCOUNTING PRINCIPLES" shall mean:

(1) as to a particular Person other than the Borrower or the Guarantor, such accounting practice as, in the opinion of the independent accountants of recognized national standing regularly retained by such Person and acceptable to the Administrative Agent, those principles and practices (i) which are recognized as such by the Financial Accounting Standards Board of the USA, (ii) which are applied for all periods after the date hereof in a manner consistent with the manner in which such principles and practices were applied to the most recent audited financial statements of the relevant Person furnished to the Lenders or where a change therein has been concurred in by such Person's independent auditors, and (iii) which are consistently

applied for all periods after the date hereof so as to reflect properly the financial condition, and results of operations and changes in financial position, of such Person.

(2) with respect to the Borrower or the Guarantor, the generally accepted accounting principles adopted by the Guarantor and Borrower as set forth in the financial statements delivered by such Person to the Finance Parties in respect of the fiscal year ending 31 December 1995. If there is a change in such accounting practice as to the Borrower or the Guarantor that could affect the Borrower's or the Guarantor's ability to comply with the terms of any Finance Document, the parties hereto agree to review and discuss such changes in accounting practice and the terms of this Agreement for a period of no more than thirty (30) days with a view to amending this Agreement so that the financial measures of the Borrower's or the Guarantor's operating performance and financial condition are substantially the same after such change as they were immediately before such change.

(h) a reference to "CONSOLIDATED" means the consolidation of accounts in accordance with generally accepted accounting principles;

(i) a reference to a time of day is, unless otherwise stated, a reference to London time;

(j) a period of a month or months is the period commencing on the first day thereof and ending on the numerically corresponding day in the relevant subsequent month or, if there is no such day, the last day of the relevant subsequent month; and

(k) the index to and the headings in this Agreement are for convenience only and shall be ignored in construing this Agreement.



## 2. FACILITIES

### 2.1 FACILITIES

Subject to the terms of this Agreement, the Lenders grant to the Borrower the following facilities:-

(a) a committed revolving advance facility whereby the Lenders shall, when requested by the Borrower, make revolving Advances to the Borrower; and

(a) a term advance facility whereby the Borrower may elect to convert outstanding revolving Advances into Term Advances in accordance with Clause 2.5 (Term-out Option).

### 2.2 FACILITY LIMITS

The aggregate principal amount of all outstanding Advances at any one time shall not exceed the Total Commitments at that time.

### 2.3 NATURE OF THE LENDERS' RIGHTS AND OBLIGATIONS UNDER THIS AGREEMENT

(a) No Lender is obliged to make an Advance if it would cause the aggregate principal amount of any outstanding Advances made by it and its Affiliated Lender(s) to exceed its Commitment.

(b) The obligations of each Financial Institution owed under the Finance Documents are several, and failure of a Financial Institution to carry out those obligations shall not relieve any other party of its obligations under the Finance Documents. No Financial Institution shall be responsible for the obligations of any other Financial Institution under the Finance Documents.

(c) The obligations of the Borrower and the Guarantor towards each of the Financial Institutions under the Finance Documents are given to each of them as separate and independent rights, and each Financial Institution may, except as otherwise stated in this Agreement, separately enforce those rights.

2.4 EXTENSION OF FINAL MATURITY DATES

(a) At least 60 days prior to the second Anniversary of the Signing Date and each Anniversary thereafter (which is one year prior to the applicable Final Maturity Date), the Borrower may, by notice to the Administrative Agent (which shall promptly notify the Lenders) request each Lender to review whether or not it is willing to extend the Final Maturity Date for a further year.

(b) Each Lender so requested will notify the Administrative Agent in writing no later than 30 days prior to the second Anniversary of the Signing Date or, as the case may be, the relevant Anniversary thereafter (which is one year prior to the applicable Final Maturity Date) whether or not it wishes its Final Maturity Date to be extended by a further year.



(c) If a Lender notifies the Administrative Agent that it agrees to extend as requested and Lenders with Commitments totalling not less than 80 per cent. of the Total Commitments (including that of the first mentioned Lender) also so agree, the Final Maturity Date applicable to that Lender's Commitment shall be extended for a further year from the then current Final Maturity Date and the Agent shall so notify that Lender and the Borrower thereof.

(d) upon receipt of notification by the Administrative Agent that Lenders with Commitments totalling at least 80 per cent. (but less than 100 per cent. of Total Commitments) have agreed to extend as requested the Borrower may, by notice to the Administrative Agent:

(i) request the other Lenders or any of them to indicate whether or not they are prepared to increase their Commitments (in place of the Lenders which have not agreed to extend as requested);

(ii) introduce another financial institution reason-

ably acceptable to the Administrative Agent to cover all or part of the shortfall; or

(iii) allow the Total Commitments to reduce by an amount equal to the Commitments of Lenders who have refused to extend their Commitment,

(and any Lender who has not agreed to an extension shall enter into such documentation as the Borrower and the Administrative Agent may reasonably require to transfer its Commitment to the existing Lender or new financial institution).

(e) No request to extend the Final Maturity Date may be made by the Borrower nor shall any agreement to extend become effective if there is a Default under the Facility on the date of such request.

(f) No extension of the Final Maturity Date shall be effective until the Administrative Agent (on behalf of those Lenders which have agreed to extend) has received the applicable Extension Fee payable in accordance with Clause 19.6 (Extension Fee).

(g) No Lender is under any obligation to extend the Final Maturity Date applicable to its Commitment or to increase its Commitment under Clause 2.4(d) but upon having so agreed, it shall be obliged to extend the Final Maturity Date in accordance with Clause 2.4(c)

or, subject to appropriate documentation being entered into by the relevant parties, to increase its Commitment in accordance with Clause 2.4(d).

(h) If any Lender does not give any notice in accordance with this Clause 2.4 following a request to extend from the Borrower that Lender shall be deemed to have refused to extend the Final Maturity Date.

(i) On each extension of the Final Maturity Date the Administrative Agent shall as soon as practicable notify the Borrower and each Lender which Lenders have agreed to extend the Final Maturity Date and their individual Commitments.



(j) Where the Final Maturity Date is extended under this Clause 2.4 in respect of less than all the Lenders, the Lenders in respect of which such extension takes effect shall, on and from the Final Maturity Date for the other Lenders, be deemed to be all the Lenders for the purposes of the definitions of "Commitment", and "Total Commitments", and the provisions of this Agreement shall be construed accordingly.

2.5 TERM-OUT OPTION

(a) At least 30 days prior to any Final Maturity Date, the Borrower may, by notice in the form set out in Part II of Schedule 5 to the Administrative Agent (which shall promptly notify the Lenders) request that all Advances outstanding on such Final Maturity Date be converted automatically into one or more Term Advances in accordance with this clause.

(b) In any request given under Clause 2.5(a), the Borrower shall also specify:

(i) the number of Term Advances (not exceeding four) which shall be in minimum amounts of $10,000,000;

(ii) whether the Term Advances are to be LIBOR Advances or Base Rate Advances or a mixture of the two; and

(iii) if any Term Advance is to be a LIBOR Advance, the duration of its first Interest Period selected in accordance with Clause 7.6 (Interest Periods for Term Advances).

(c) No such request may be made by the Borrower if there is a Default.

(d) The Borrower agrees to pay to the Lenders a conversion fee in connection with the Term-out Option. Such fee will be calculated and payable in accordance with Clause 19.7 (Conversion Fee).

(e) If the Borrower notifies the Administrative Agent in accordance with Clause 2.5(a) above, all Advances which are outstanding on such Final Maturity Date shall be automatically converted to Term Advances repayable on the Final Repayment Date in accordance with Clause 8 (Repayment and Prepayment of Advances).

(f) The Borrower may not borrow any further Advances following the Final Maturity Date.

(g) Any notice given by the Borrower under this Clause shall be irrevocable.

3. PURPOSE OF THE FACILITY

(a) The proceeds of each Advance shall be applied by the Borrower towards its general corporate purposes.



(b) Without prejudice to paragraph (a) above and the remaining provisions of this Agreement, none of the Financial Institutions shall be bound to enquire as to, nor shall any of them be responsible for, the application by the Borrower of the proceeds of any Advance.

4. CONDITIONS PRECEDENT

4.1 DOCUMENTARY CONDITIONS PRECEDENT

(a) The obligations of each Agent and each Lender under this Agreement are subject to the condition that the Administrative Agent has received all of the following in form and substance satisfactory to it:

(i) a certificate of a Managing Director of the Borrower and the Guarantor including:

(A) certified copies of resolutions of the Board of Directors of the Borrower and the Guarantor authorising or ratifying the execution, delivery and performance of the Finance Documents to which it is or will be a party;

(B) certified copies of all documents evidencing any necessary corporate action, consent, and governmental or regulatory approval (if any) with respect to the Finance Documents to which the Borrower and the Guarantor is or will be a party;

(C) certification of the names of the officer or officers of the Borrower and the Guarantor authorised to sign the Finance Documents to which each is or will be a party, together with a sample of the true signature of each such officer (it being understood that each Financial Institution may conclusively rely on such certificate until formally advised by a like certificate of any changes therein);

(ii) certified copies of the constitutive documents of the Borrower and the Guarantor;

(iii) a certificate from a Managing Director of each of the Borrower and the Guarantor confirming that:

(A) the representations and warranties in Clause 14 (Representations and Warranties) were correct on the Signing Date; and

(B) no Default had occurred and was continuing on the Signing Date.

(iv) the Master Collateral Agreement and the Borrower Subordination Agreement duly executed by the Borrower and the Guarantor together with all conditions precedent required thereunder;

(v) confirmation from State Street Bank and Trust Company that it has taken all steps required under the Master Collateral Agreement with respect to all Collateral held by them as custodian thereunder;



(vi) the Stock Pledge Agreement duly executed by the Guarantor;

(vii) a duly completed Federal Reserve Form U-1 executed by the Borrower;

(viii) the following legal opinions addressed to the Administrative Agent (on behalf of the Lenders), the Collateral Agent and to the Lenders:

(A) from Allen & Overy, in relation to English law;

(B) from Clifford Chance, in relation to New York law, the Master Collateral Agreement and the obligations of the Borrower and the Guarantor under the Finance Documents;

(C) from Massachusetts counsel to the Borrower and the Guarantor reasonably acceptable to the Administrative Agent in relation to Massachusetts law as to certain matters

concerning the Master Collateral Agreement;

(D) from Arendt & Medernach, Luxembourg counsel to the Borrower and the Guarantor;

(ix) evidence of the acceptance by the process agent of each of the Borrower and the Guarantor specified in Clause 29 Jurisdiction) of its appointment under that Clause and under Section 31 of the Master Collateral Agreement;

(x) confirmation from the Collateral Agent that it holds Collateral with a Market Value in excess of $350,000,000.

(b) Each of the documents specified in paragraph (a) above shall be certified by a Managing Director of the Borrower or the Guarantor (as the case may be) as being correct, complete and in full force and effect as at a date no earlier than the Signing Date.

(c) The Administrative Agent shall promptly notify the Borrower and the Lenders whether or not the above conditions precedent have been met or waived.

4.2 CONDITIONS PRECEDENT TO EACH REQUEST AND EACH ADVANCE

The obligations of each Agent and each Lender in respect of each Advance are subject to the further conditions precedent that:

(a) both on the date of the relevant Request and on the relevant Utilisation Date:

(i) the matters represented by the Borrower and the Guarantor and set out in Clause 14 (Representations and Warranties) (other than Clause 14.1(k)) are correct in all material respects on and as at each of those dates as if made on each date;



(ii) no Default has occurred and is continuing or would result from the Advance;

(iii) the Advance would not cause the Total Outstandings to exceed the Borrowing Base or otherwise cause Clause 2.2 (Facility limits) to be contravened;

(iv) a Collateral Shortfall shall not have occurred and be continuing;

(v) the Collateral Agent holds Collateral with a Market Value in excess of $350,000,000; and

(vi) no Event of Default specified in Clause 16.6 (Insolvency), 16.7 (Insolvency Proceedings) or 16.8 (Appointment of Receivers and Managers) shall have occurred in relation to the Investment Adviser, such Clauses to be construed as if references therein to the Borrower and the Guarantor were references to the Investment Adviser.

(vii) the Advance would not contravene Section 24(f) (Margin Regulations) of the Master Collateral Agreement.

PROVIDED THAT paragraphs (i) to (vii) shall not apply in respect of an Advance to be applied solely in or towards repayment of an outstanding Advance on the relevant Utilisation Date.

(b) no more than two Advances may be made on the same day and no more than 12 Advances may be outstanding at any one time.

4.3 CONFIRMATION OF COLLATERAL

No Advance (other than an Advance to be applied solely in or towards repayment of an outstanding Advance) may be disbursed to the Borrower unless on the proposed Utilisation Date the Administrative Agent and the Collateral Agent are satisfied that the Borrowing Base will be equal to or greater than the aggregate of the Total Outstandings after the disbursement to the Borrower of such Advance and all other Advances to be made on such Utilisation Date, taking into account any prepayments or repayments of Advances which are to be made by the Borrower on such Utilisation Date.

5. UTILISATION OF THE FACILITY

5.1 DELIVERY OF REQUESTS

Subject to the terms of this Agreement, the Borrower may utilise the Facility by delivering a duly completed Request to the Administrative Agent (copied to the Collateral Agent), not later than 12 noon three Business Days prior to the relevant Utilisation Date in relation to a LIBOR Advance and two Business Days prior to the relevant Utilisation Date in relation to a Base Rate Advance.



5.2 FORM OF REQUEST

Each Request shall specify:

(a) the proposed Utilisation Date, which shall be a Business Day falling two days or more before the then latest Final Maturity Date;

(b) the Requested Amount, which shall be a minimum of $3,000,000 and integral multiples thereof of $500,000;

(c) whether the Advances are to be LIBOR Advances or Base Rate Advances;

(d) the Term of any requested LIBOR Advances, which shall be a period of one, two, three or six months, or such other period as may be agreed between the Borrower and the Administrative Agent, in each case ending on or before the then latest Final Maturity Date, Provided always that the term of the requested Advance if it is to be a LIBOR Advance may be a period of less than one month if, at the time of requesting such Advance, the Borrower notifies the Administrative Agent that such request is made in connection with a public offering of shares by the Guarantor or a major sale of assets of the Borrower; and

(e) the details of the bank and account to which the proceeds of the Advances are to be made available to the

Borrower in accordance with Clause 10.1 (Funds and Place).

6. REDUCTION AND CANCELLATION OF THE TOTAL COMMITMENTS

6.1 AUTOMATIC REDUCTION OF EACH LENDER'S COMMITMENT

The amount of each Lender's Commitment shall (if not already so reduced) be automatically reduced to zero at close of business on the Final Maturity Date for that Lender.

6.2 VOLUNTARY CANCELLATION

(a) (i) Subject to sub-paragraph (ii) below, the Borrower may, on giving not less than five days' prior written notice to the Administrative Agent (which shall promptly give notice thereof to the Lenders), cancel the Total Commitments in whole or in part (but, if in part, in a minimum amount, and integral multiples, of $10,000,000).

(ii) Any cancellation may only take effect in respect of the unutilized portion of the Facility.

(b) Any cancellation in part under this Clause 6.2 shall be applied against the Commitment of each Lender pro rata.



6.3 IRREVOCABLE

(a) Any notice by the Borrower under this Clause 6 of cancellation of the whole or any part of the Total Commitments shall be irrevocable and shall specify the date upon which the cancellation is to become effective and the amount of the Total Commitments to be cancelled.

(b) No amount of the Total Commitments cancelled under this Agreement may subsequently be reinstated unless agreed by all the Lenders and the Administrative Agent.

7. INTEREST

7.1 RATE

The rate of interest applicable to each Advance for its Term shall be the rate per annum determined by the Administrative Agent to be the aggregate of:

(a) in the case of a LIBOR Advance, the LIBOR Margin and LIBOR relative to that Advance; or

(b) in the case of a Base Rate Advance, the Base Rate relative to that Advance.

7.2 DUE DATES

Save as otherwise provided in this Agreement,

(a) accrued interest on each LIBOR Advance is payable by the Borrower on its Maturity Date or the last day of its Interest Period and, if the Term of any LIBOR Advance is longer than three months, at three monthly intervals from the Utilisation Date of that Advance

or the first day of the relevant Interest Period as the case may be;

(b) accrued interest on each Base Rate Advance is payable by the Borrower in arrears in respect of the period in which such Base Rate Advance is outstanding on each March 31, June 30, September 30 and December 31 and the Final Maturity Date and the Final Repayment Date.

7.3 DEFAULT INTEREST

(a) If the Borrower or the Guarantor fails to pay any amount payable by it under this Agreement on the due date, it shall, on demand by the Administrative Agent from time to time, pay interest on the overdue amount from the due date up to the date of actual payment, as well after as before judgment, at a rate, subject

to paragraph (c) below, determined by the Administrative Agent to be two per cent. (2%) per annum above the higher of:

(i) (in the case of an Advance which has become due and payable prior to its Maturity Date or, if it is a Term Advance, prior to the last day of the relevant



Interest Period) the rate applicable to the overdue amount under Clause 7.1(a) (Rate) immediately before the due date (if of principal); and

(ii) (in all other cases) the rate which would have been payable if the overdue amount had, during the period of non-payment, constituted a LIBOR Advance in the currency of the overdue amount made under this Agreement for successive Terms of up to three months, as the Administrative Agent may determine from time to time (each a "DESIGNATED TERM").

(b) The rate of interest shall be determined:

(i) if calculated by reference to the Base Rate, on each day; or

(ii) if calculated by reference to LIBOR, two Business Days before the first day of the relevant Designated Term.

(c) If the Administrative Agent (after consultation with the Reference Lenders) determines that deposits in the currency of the overdue amount are not or were not, as the case may be, being made available by the Reference Lenders to leading banks in the London Interbank Market in the ordinary course of business, the rate shall be determined by reference to the cost of funds to the Reference Lenders from such other sources as the Administrative Agent (after consultation with the Reference Lenders) may from time to time reasonably determine.

(d) Interest shall be compounded monthly (if calculated by reference to the Base Rate) or at the end of each Designated Term (if calculated by reference to LI-

BOR).

7.4 CALCULATION OF INTEREST

Interest shall accrue from day to day, and be computed on the basis of:

(a) in the case of each LIBOR Advance and each Base Rate Advance in respect of which interest thereon is determined by reference to the Federal Funds Rate, 360 days and for the actual number of days elapsed;

(b) in the case of a Base Rate Advance in respect of which interest thereon is determined by reference to the Prime Rate, 365/366 days and for the actual number of days elapsed.

7.5 REDUCTION IN MARGIN

The LIBOR Margin applicable to a LIBOR Advance shall be reduced to 1.50 per cent. per annum if and for so long as the Guarantor receives an investment grade rating for its senior unsecured long-term debt from two Rating Agencies, one of which shall be Moody's Investor Services, Inc. or Standard & Poor's Ratings Group. Such reduction in LIBOR Margin shall apply on any Rate Fixing Day on which such investment grade rating is in effect.



7.6 INTEREST PERIODS FOR TERM ADVANCES

(a) During the Term Period the Borrower may designate Term Advances as LIBOR Advances or Base Rate Advances provided that each Advance is in a minimum amount of $10,000,000 and that there are not more than four Term Advances outstanding at any time. If the Borrower requests a Term Advance which is a LIBOR Advance, the Borrower shall select interest periods for the Term Advance. Such selection will be made by the Borrower in the Request given upon exercise of the Term-out Option and during the Term Period, by a notice received by the Administrative Agent not later than 12 (noon) three Business Days before the commencement of each Interest Period.

(b) During the Term Period, each Interest Period for the Term Advance will commence on the Final Maturity Date or the expiry of the immediately preceding Interest Period.

(c) Each Interest Period will be of either one, two, three or six months as so selected under paragraph (a) above subject as provided below.

(d) If the Borrower fails to select an Interest Period for the outstanding Term Advance during the Term Period in accordance with paragraph (a) above, that Interest Period will be one month.

(e) The Borrower will ensure that Interest Periods in respect of an Advance or Advances equal to a Repayment Instalment shall be selected (and if necessary shortened) so as to expire on a Repayment Date.

(f) An Interest Period which commences on the last Business Day of a month shall end on the last Business Day of the corresponding month.

(g) Subject to the foregoing, the Borrower may sub-divide or consolidate Advances during the Term Period.

7.7 NOTIFICATION

Each determination of a rate of interest by the Administrative Agent under this Agreement shall promptly be notified to the relevant Contracting Parties.

8. REPAYMENT AND PREPAYMENT OF ADVANCES

8.1 REPAYMENT OF ADVANCES

(a) The Borrower shall repay each Advance (other than a Term Advance) made to it in full on its Maturity Date

to the Administrative Agent for the account of the Lenders.

(b) The Borrower shall repay the Term Advances (if made) in full in four equal semi-annual instalments. Each instalment shall have a principal amount equal as nearly as possible to 25 per cent. of the aggregate principal amount of the Term Advances at the beginning of the Term-Out Period. The first repayment instalment shall be paid on the Business Day



falling six months after the Final Maturity Date. The final repayment instalment shall be repaid on the Final Repayment Date.

8.2 PREPAYMENT OF ADVANCES

(a) The Borrower may, by giving not later than 12 noon on the relevant day not less than three Business Days' notice to the Administrative Agent (which shall be irrevocable) and subject to Clause 26(a)(iii) (Indemnities), prepay any Advance made to it in a minimum amount of US$1,000,000 and integral multiples of $500,000 in excess thereof.

(b) The Borrower may not pre-pay any Advance except as expressly provided in this Agreement. Any Advance prepaid prior to the Final Maturity Date may be re-borrowed in accordance with the provisions of this Agreement.

(c) Prepayments shall be made together with accrued interest and all other amounts then due under this Agreement.

(d) Any partial prepayment of the Term Advance shall be applied against the repayment instalments in chronological order.

8.3 MANDATORY PREPAYMENT/PROVISION OF COLLATERAL

If at any time Total Outstandings exceed the Borrowing Base (a "COLLATERAL SHORTFALL"), the Borrower shall, before close of business on the relevant date (as determined in accordance with Clause 8.4 below) prepay Advances and/or provide further Qualifying Collateral to the Collateral Agent in accordance with the Master Collateral Agreement so that the Total Outstandings after such prepayment and/or provision of Qualifying Collateral are equal to or less than the Borrowing Base.

8.4 "BORROWING BASE VIOLATIONS"

(a) If a Compliance Certificate shows that the consolidated Debt to Net Worth ratio of a Qualifying Issuer exceeds 1.5:1 or the combined consolidated Debt to Net Worth ratios of all Qualifying Issuers calculated on a weighted average basis in accordance with the definition of Qualifying Collateral exceeds 1:1 (the "LEVERAGE EXCESS") and the Borrower has not provided the Administrative Agent with evidence reasonably satisfactory to the Administrative Agent that such Leverage Excess has been rectified within 30 days from the date of notification by the Administrative Agent of such violation (the "LEVERAGE VIOLATION INTERIM DATE") then the Borrower shall before close of business on the date fifteen days after the Leverage

Violation Interim Date, at its discretion, prepay Advances and/or provide further Qualifying Collateral to the Collateral Agent in accordance with the Master Collateral Agreement so that Total Outstandings after such prepayment and/or provision of Qualifying Collateral are equal to or less than the Borrowing Base.

(b) If the ratio of consolidated EBITDA to consolidated average Debt of a Qualifying Issuer is less than 14 per cent. or the consolidated Interest Coverage Ratio of a Qualifying Issuer is less than 1.9:1 or the Debt Service Coverage Ratio of a Qualifying Issuer is less than 1.4:1



for two consecutive quarters, as shown by reference to the relevant Compliance Certificates then the Borrower shall before close of business on the date fifteen days after notification by the Administrative Agent of such violation for two consecutive quarters, at its discretion, prepay Advances and/or provide further Qualifying Collateral to the Collateral Agent in accordance with the Master Collateral Agreement so that Total Outstandings after such prepayment and/or provision of Qualifying Collateral are equal to or less than the Borrowing Base.

(c) If the Administrative Agent has notified the Borrower that there is a violation of the Borrowing Base, as shown by a Compliance Certificate (other than a violation referred to in paragraphs (a) or (b) above) then the Borrower shall (i) before close of business on the date (the "COMPLIANCE CERTIFICATE INTERIM DATE") thirty days after the date on which the Administrative Agent has notified the Borrower of such breach notify the Administrative Agent of its proposals to rectify such breach and (ii) before the close of business on the date fifteen days after the Compliance Certificate Interim Date, at its discretion, prepay Advances and/or provide further Qualifying Collateral to the Collateral Agent in accordance with the Master Collateral Agreement so that Total Outstandings after such prepayment and/or provision of Qualifying Collateral are equal to or less than the Borrowing Base.

(d) If the Administrative Agent has notified the Borrower that there is a violation of the Borrowing Base, as shown by a Borrowing Base Certificate (other than a violation referred to in paragraphs (a) or (b)

above), then the Borrower shall (i) before close of business on the date (the "BORROWING BASE CERTIFICATE INTERIM DATE") fifteen days after the date on which the Administrative Agent has notified the Borrower of such breach notify the Administrative Agent of its proposals to rectify such breach and (ii) before close of business on the date thirty days after the Borrowing Base Certificate Interim Date, at its discretion, prepay Advances and/or provide further Qualifying Collateral to the Collateral Agent in accordance with the Master Collateral Agreement so that Total Outstandings after such prepayment and/or provision of Qualifying Collateral are equal to or less than the Borrowing Base.

9. MARKET DISRUPTION

(a) If, in relation to any proposed LIBOR Advance:

(i) where LIBOR is to be determined by reference to the Reference Lenders and no, or only one, Reference Lender is able to supply a rate for the purposes of determining LIBOR or the Administrative Agent otherwise determines (which determination shall be conclusive and binding on all the Contracting Parties) that adequate and fair means do not exist for ascertaining LIBOR relative to the LIBOR Advance; or

(ii) the Administrative Agent receives notification:

(A) from Lenders participating in more than 50 per cent. by value of the proposed LIBOR Advance that, in their opinion, Dollar deposits of equal duration to the Term requested will not be available to them in the London



or Interbank Market in the ordinary course of business in sufficient amounts to fund their LIBOR Advance for that Term; or

(B) from Lenders participating in more than 50 per cent. by value of the proposed LIBOR Advance that, by reason of circumstances affecting the London Interbank Market, the cost to them of deposits obtained in the London Interbank Market to fund their LIBOR Advances would be in excess of the relevant LIBOR,

the Administrative Agent shall, promptly serve a notice (a "SUSPENSION NOTICE") on the Borrower and the relevant Lenders stating that the relevant event has occurred and that this Clause 9 is in operation.

(b) After a Suspension Notice has been served:

(i) notwithstanding any other provision of this Agreement, the LIBOR Advance shall not be made;

(ii) no further Requests for a LIBOR Advance or for interest to be calculated on a LIBOR basis may be delivered by the Borrower until the Administrative Agent notifies the Borrower that the event specified in the Suspension Notice no longer prevails, which the Administrative Agent

shall do as soon as practicable after so ascertaining;

(iii) if the Borrower so requires, within five Business Days of service of a Suspension Notice, the Borrower and the Administrative Agent shall enter into negotiations (which the Administrative Agent shall not be obliged to continue for a period of more than 30 days) in good faith with a view to agreeing a substitute basis for determining the rate of interest and/or funding applicable to any future LIBOR Advances; and

(iv) any substitute basis agreed under sub-paragraph (iii) above shall, with the prior consent of all the Lenders, take effect in accordance with its terms and be binding on all the Contracting Parties.

10. PAYMENTS

10.1 FUNDS AND PLACE

(a) Except as otherwise provided in this Agreement, all payments to be made by the Borrower, the Guarantor or any Lender under this Agreement shall be made to the

Administrative Agent to the account of the Administrative Agent at Commerzbank Aktiengesellschaft New York Branch, 2 World Financial Center, New York, NY 10281-1050, USA for value on the due date in Dollars and in either immediately available Federal funds (payment to be made no later than 12 noon (New York time)) for credit to Account No. 150/1250406, Account name, Commerzbank International S.A., Luxembourg or Same Day Funds for credit to Account No 150/1250406, Account name, Commerzbank International S.A.,



Luxembourg or at such other office or bank in New York City as the Administrative Agent by not less than five Business Days notice shall have previously notified to the Borrower, Guarantor or Lender, as the case may be.

(b) Subject to Clause 10.3 (Taxes), each payment received by the Administrative Agent for the account of another person under paragraph (a) above shall:

(i) in the case of a payment received for the account of the Borrower, be made available by the Administrative Agent to the Borrower by application:

(A) first, in or towards payment (on the date of receipt) of any amount due from the Borrower under this Agreement

(B) secondly, in payment (on the date and in the currency and funds of receipt) to the account of the Borrower's custodial agent with such office or bank in North Quincy, Massachusetts as it shall have previously notified to the Administrative Agent;

and

(ii) in the case of any other payment, be made available by the Administrative Agent to the person for whose account the payment was received (in the case of a Lender for the account of its Facility Office) on the date of receipt for the account of such person to such account of the person with such office or bank in New York City as it shall have previously notified to the Administrative Agent;

(c) The Administrative Agent shall promptly distribute payments received for the account of the Lenders among the Lenders pro rata to their respective entitlements.

10.2 RECOVERY OF PAYMENTS

Unless the Administrative Agent has received notice from a Lender, the Borrower or the Guarantor not less than two Business Days before the date upon which the Lender, the Borrower or the Guarantor (the "PARTY LIABLE") is to pay an amount to the Administrative Agent for transfer to the Borrower or Lender respectively (the "PAYEE") that the party liable does not intend to make that amount available to the Administrative Agent, the Administrative Agent may assume that the party liable has paid the amount to it on

the due date in accordance with this Agreement. In reliance upon that assumption, the Administrative Agent may (but shall not be obliged to) make available to the payee(s) a corresponding sum. If the amount is not in fact made available to Administrative Agent and the party liable does not forthwith on demand pay the amount to the Administrative Agent together with interest on the amount until its payment at a rate determined by the Administrative Agent to reflect its cost of funds, the payee(s) shall forthwith on demand repay the amount to the Administrative Agent together with interest on the amount calculated as above. The provisions of this Clause 10.2 are without prejudice to any rights which the Agent and the payee may have against the party liable.



10.3 TAXES

(a) All payments to be made by the Borrower or the Guarantor under the Finance Documents shall be made:

(i) without set-off or counterclaim; and

(ii) free and clear of and without deduction for or on account of all Taxes except to the extent that the Borrower or the Guarantor is compelled by law to make payment subject to any Taxes.

For the purposes of this Clause 10, "RELEVANT TAX" means any Tax imposed by or in the USA or the jurisdiction of incorporation of the Borrower or the Guarantor or any other jurisdiction from or through which a payment is made by the Borrower or the Guarantor under any Finance Document (or any federation or organisation of which any of those jurisdictions is at the relevant time a member) or any political subdivision or taxing authority of any of the foregoing.

(b) All Taxes required to be deducted or withheld from any amounts paid or payable under the Finance Documents shall be paid by the Borrower or the Guarantor

(as the case may be) promptly and in any event before penalties attach thereto. If any Relevant Taxes or amounts in respect of Relevant Taxes must be deducted from any amounts payable or paid by the Borrower or the Guarantor under the Finance Documents (or payable or paid by an Agent to a Financial Institution under the Finance Documents), the Borrower or the Guarantor (as the case may be) shall pay such additional amounts as may be necessary to ensure that the relevant Financial Institution receives a net amount equal to the full amount which it would have received had payment not been made subject to Relevant Tax.

(c) Within thirty days of each payment by the Borrower or the Guarantor under sub-paragraph (b) above of Tax or in respect of Taxes, it shall deliver to the Administrative Agent for the relevant Financial Institution a certified copy of the original receipt, if one is available, or other appropriate evidence issued by the authority to whom the payment was made that the Tax has been duly remitted to the appropriate authority.

(d) (i) Subject to sub-paragraph (ii) below, if Relevant Taxes must be withheld or deducted from any amounts payable or paid by the Borrower or the Guarantor to a Lender under the Finance Documents the Borrower or the Guarantor (as the case may be) may by giving not less than ten Business Days' notice to the Lender (through the Administrative Agent):

(A) prepay in full any Advance made to it by the Lender together with all other amounts payable to the Lender under the Finance Documents; and

(B) cancel that Lender's Commitment;

(ii) any notice by the Borrower or the Guarantor shall be irrevocable and may only be given under sub-paragraph (i) above whilst the duty to withhold or deduct



continues and for so long as no Default has occurred which is continuing; such Lender's Commitment shall be cancelled on the giving of the notice; and

(iii) the Borrower shall be entitled to introduce a new Lender acceptable to the Administrative Agent or arrange for an existing Lender to assume the Commitment and Advance of the Lender where Commitment has been cancelled and Advance prepaid in accordance with sub-paragraphs (i) and (ii) above.

10.4 NON-BUSINESS DAYS

Whenever any payment under the Finance Documents becomes due on a day which is not a Business Day, then the due date shall instead be the next Business Day in that calendar month (if there is one) or the preceding Business Day (if there is not). During any extension of the due date for payment of any principal under this Agreement interest shall be payable on the principal at the rate payable on the original due date.

10.5 CERTIFICATIONS

Any certification or determination of a rate or amount made by a Financial Institution shall be prima facie evidence of the matters certified or determined.

10.6 APPROPRIATIONS

In the case of a partial payment, the Administrative Agent may appropriate the payment towards the obligations of the Borrower or the Guarantor under the Finance Documents in the following order:

(a) FIRST, in or towards payment pro rata of any costs and expenses of the Financial Institutions due but unpaid under the Finance Documents;

(b) SECONDLY, in or towards payment pro rata of any accrued interest due but unpaid under the Finance Documents;

(c) THIRDLY, in or towards payment pro rata of any principal due but unpaid under the Finance Documents; and

(d) FOURTHLY, in or towards payment pro rata of any other sum due but unpaid under the Finance Documents.

Any appropriation as above shall override any appropriation made by the Borrower or the Guarantor.

10.7 MITIGATION

If, in respect of any Lender, circumstances arise which would, or would on the giving of notice, result in:



(a) any additional amounts becoming payable under Clause 10.3(b) (Taxes); or

(b) any amount becoming payable under Clause 11 (Increased Costs); or

(c) any prepayment or cancellation under Clause 12 (Illegality),

then, without limiting the obligations of the Borrower and the Guarantor under this Agreement and without prejudice to the terms of Clauses 10 (Payments), 11 and 12, the Lender shall, in consultation with the Administrative Agent, the Borrower and the Guarantor, take such reasonable steps as may be open to it (including, without limitation, changing a Facility Office) to mitigate or remove such circumstance, including (without limitation) the transfer of its rights and obligations under this Agreement to another bank or financial institution acceptable to the Borrower and the Guarantor, unless to do so might (in the opinion of the Lender) in any way be materially prejudicial to it or would otherwise be contrary to its banking policy.

11. INCREASED COSTS

11.1 INCREASED COSTS

Subject to Clause 11.2 (Exceptions), if the result of the introduction of or any change in any law, regulation,

treaty or official directive or request from any governmental or regulatory authority (whether or not having the force of law but if not having the force of law, being of a type with which the Lender is accustomed to comply) or any change in the interpretation or application thereof including, without limitation, those relating to Taxation, any reserve, special deposit, cash ratio, liquidity or capital adequacy requirement or any other form of banking or monetary controls, is that:

(i) a Financial Institution incurs an additional cost as a result of having entered into, or performing, maintaining or funding its obligations under, any Finance Document; or

(ii) a Lender incurs an additional cost in making, funding or maintaining all or any advances comprised in a class of advances formed by or including the Advances made or to be made by it under this Agreement; or

(iii) any amount payable to a Financial Institution or the effective return to a Financial Institution under this Agreement or on its capital is reduced; or

(iv) a Financial Institution makes any payment or foregoes any interest or other return on or calculated by reference to any amount received or receivable by it from the Borrower, the Guarantor or the Administrative Agent under any Finance Document,

then and in each such case:

(A) the Financial Institution shall notify the Borrower through the Administrative Agent of the relevant event promptly upon becoming aware of the event and of the amount of any claim under this Clause 11.1 promptly upon ascertaining that amount;



(B) within 14 days of any demand from time to time by the Financial Institution through the Administrative Agent, the Borrower shall pay to the Administrative Agent for the account of the Financial Institution such amount as the Financial Institution shall certify will compensate the Financial Institution for the additional cost (or, in the case of paragraph (ii) above, the proportion of the additional cost as is attributable to its making, funding or maintaining Advance(s)), reduction, payment or forgone interest or other return.

(C) (a) subject to sub-paragraph (b) below, the Borrower may by giving not less than ten Business Days' notice to the Lender (through the Administrative Agent):

(i) prepay in full any Advance made to it by the Lender together with all other amounts payable to the Lender under the Finance Documents; and

(ii) cancel that Lender's Commitment;

(b) any notice by the Borrower shall be ir-

revocable and may only be given under sub-paragraph (a) above whilst the circumstances giving rise to the notification under paragraph (A) above continue and for so long as no Event of Default has occurred which is continuing; such Lender's Commitment shall be cancelled on the giving of the notice; and

(c) the Borrower shall be entitled to introduce a new Lender acceptable to the Administrative Agent or arrange for an existing Lender to assume the Commitment and Advance of the Lender where Commitment has been cancelled and Advance prepaid in accordance with sub-paragraphs (c)(a)(i) and (ii) above.

11.2 EXCEPTIONS

Clause 11.1 shall not apply to or in respect of:

(a) any change in the rate of Taxation on the overall net income of a Lender (or the overall net income of a division or branch of the Lender) imposed in the jurisdiction in which its principal office or Facility Office for the time being is situate;

(b) any circumstances referred to in Clause 10.3 (Taxes) or to the extent otherwise provided in Clause 24.8 (Increased Costs/Withholding Taxes);

(c) any increased cost which is incurred in consequence of the implementation of matters set out in the report of the Basle Committee on Banking Regulations and Supervisory Practices dated July, 1988 and entitled "International Convergence and Capital Measurement and Capital Standards", unless it results from a change in the interpretation,



administration or application of such matters by any relevant agency after the date of this Agreement; and

(d) any increased cost attributable to the negligence or wilful misconduct of a Finance Party.

12. ILLEGALITY

If the introduction of or any change in any law, regulation, treaty or official directive (whether or not having the force of law but, if not having the force of law, being of a type with which the Lender is accustomed to comply) shall make it unlawful or contrary to an official directive ("SUPERVENING ILLEGALITY") in any jurisdiction for any Lender to make available or fund or maintain any Advance or to give effect to its obligations as contemplated by this Agreement, the Lender may give notice thereof to the Borrower through the Administrative Agent, whereupon:

(a) the Borrower shall, within the time allowed by the relevant law, regulation, treaty or official directive, prepay the Lender's Advances to it together with all other amounts payable to the Lender under the Finance Documents; and

(b) such Lender's Commitment shall forthwith be can-

celled,

to the extent required to remove the Supervening Illegality.

13. GUARANTEE

13.1 GUARANTEE

The Guarantor irrevocably and unconditionally:

(a) guarantees to the Financial Institutions, as principal obligor and not merely as surety, prompt performance by the Borrower of all its obligations under this Agreement and the other Finance Documents and the payment of all sums payable now or in the future to the Financial Institutions by the Borrower under this Agreement when and as they become due; and

(b) undertakes with the Financial Institutions that if and whenever the Borrower is in default in the payment of any amount under this Agreement the Guarantor shall forthwith pay the amount as if the Guarantor instead of the Borrower were expressed to be the principal obligor, together with interest on the amount at the rate per annum from time to time payable by the Borrower on the amount from the date when it becomes payable by the Borrower until payment of it in full.

13.2 CONTINUING GUARANTEE

This guarantee is a continuing guarantee and shall extend to the ultimate balance of all sums payable by the Borrower under the Finance Documents.



13.3 REINSTATEMENT

Where any discharge (whether in respect of the obligations of the Borrower or any security for those obligations or otherwise) is made in whole or in part or any arrangement is made on the faith of any payment, security or other disposition which is avoided or must be repaid on bankruptcy, liquidation or otherwise without limitation, the liability of the Guarantor under this guarantee shall continue as if the discharge or arrangement, as the case may be, had not occurred. Each of the Financial Institutions is entitled to concede or compromise any claim that any payment, security or other disposition is liable to avoidance or repayment.

13.4 WAIVER OF DEFENCES

The obligations of the Guarantor under this Clause 13 shall not be affected by any act, omission, matter or thing which, but for this provision, might operate to release or otherwise exonerate it from its obligations under this Clause 13 in whole or in part, including without limitation and whether or not known to it or any Financial Institution:

(a) any time or waiver granted to or composition with the Borrower or any other person;

(b) the taking, variation, compromise, renewal or release of, or refusal or neglect to perfect or enforce, any

rights, remedies or securities against the Borrower or any other person;

(c) any legal limitation, disability, incapacity or other circumstances relating to the Borrower or any other person;

(d) any variation of a Finance Document or any other document or security so that references to the Finance Document in this Clause 13 shall include each variation (including without limitation any substitute basis agreed under Clause 9 (Market Disruption)); or

(e) any unenforceability, invalidity or frustration of any obligations of the Borrower or any other person under any Finance Document or any other document or security, to the intent that the Guarantor's obligations under this Clause 13 shall remain in full force and its guarantee be construed accordingly, as if there were no unenforceability, invalidity or frustration.

13.5 IMMEDIATE RECOURSE

The Guarantor waives any right it may have of first requiring any of the Financial Institutions to proceed against or enforce any other rights or security or claim payment from any other person before claiming from the Guarantor under this Clause 13.

13.6 PRESERVATION OF RIGHTS

Until all amounts which may be or become payable by the Borrower under or in connection with this Agreement and the other Finance Documents have been irrevocably paid and discharged in full, each Financial Institution may:



(a) refrain from applying or enforcing, as appropriate, any other moneys, security or rights held or received by that Financial Institution in respect of those amounts, or apply and enforce the same in such manner and order as it sees fit (whether against those amounts or otherwise) and the Borrower shall not be entitled to the benefit of the same; and

(b) hold in an interest bearing suspense account any moneys received from the Guarantor or on account of the Borrower's liability under this Clause 13.

13.7 NON-COMPETITION

(a) Until all amounts which may be or become payable by the Borrower under this Agreement have been irrevocably paid in full, the Guarantor shall not:

(i) be subrogated to any rights, security or moneys held, received or receivable by any Financial Institution or be entitled to any right of contribution in respect of any payment made or moneys received on account of the Guarantor's liability under this Clause 13;

(ii) be entitled and claim to rank as a creditor against the estate or in the bankruptcy or liq-

uidation of the Borrower in competition with any Financial Institution; or

(iii) receive, claim or have the benefit of any payment, distribution or security from or on account of the Borrower, or exercise any right of set-off as against the Borrower.

(b) The Guarantor shall forthwith pay to the Administrative Agent for the account of the Financial Institutions an amount equal to any set-off (as referred to in (iii) above) in fact exercised by it and shall hold in trust for and forthwith pay or transfer, as the case may be, to the Administrative Agent for the Financial Institutions any payment or distribution or benefit of security in fact received by it.

13.8 OTHER DOCUMENTS

This guarantee shall be in addition to and shall not in any way be prejudiced by any other guarantee or any security now or hereafter held by any Financial Institution in respect of the obligations of the Borrower under this Agreement.

13.9 CERTIFICATE

A certificate of the Administrative Agent as to any amount owing from the Borrower under this Agreement or any other Finance Document shall be prima facie evidence of that amount.



14. REPRESENTATIONS AND WARRANTIES

14.1 REPRESENTATIONS AND WARRANTIES

Each of the Borrower and the Guarantor (in respect of itself and its Subsidiaries) represents and warrants to each of the Financial Institutions that:

(a) ORGANISATION, ETC.

(i) Each member of the Group is a corporation validly organised and existing and, if applicable, in good standing under the laws of the State or jurisdiction of its incorporation, is duly qualified to do business and, if applicable, in good standing as a foreign corporation in each jurisdiction where the nature of its business makes such qualification necessary and has full power and authority to own its property and conduct its business substantially as presently conducted and as presently proposed to be conducted by it;

(ii) it has full power and authority to enter into and to perform its obligations under the Finance Documents to which each is a party; and

(iii) it is in compliance with all Requirements of Law, except to the extent that the failure to comply therewith could not, in the aggregate, have a material adverse effect on the business, operations, property or financial or other condition of the Group taken as a whole, and could not materially adversely affect the ability of the Borrower or the Guarantor to perform its

obligations under any Finance Document.

(b) DUE AUTHORISATION

The execution and delivery by each of the Borrower and the Guarantor of the Finance Documents executed or to be executed by it, the performance by each of the Borrower and the Guarantor of its respective obligations under the Finance Documents and the transactions contemplated by the Finance Documents:

(i) have been duly authorised by all necessary corporate action;

(ii) do not and will not require any approval or consent of any governmental agency or authority;

(iii) do not and will not conflict with, result in any violation of, or constitute a default under any provision of the constitutive documents of the

Borrower, the Guarantor or any of their Subsidiaries or any agreement, instrument or document binding upon or applicable to the Borrower or the Guarantor or any of their Subsidiaries or any present law or governmental regulation or court or administrative decree or order applicable to the Borrower, the Guarantor or any of their Subsidiaries;



(iv) will not, save as provided by the Finance Documents, result in or require the creation or imposition of any Security Interest on any property of any member of the Group pursuant to the provisions of any agreement, indenture or other instrument or document binding upon or applicable to any member of the Group.

(c) VALIDITY OF THE FINANCE DOCUMENTS

Each Finance Document will on the due execution and delivery thereof be the legal, valid and binding obligation of the Borrower or the Guarantor, as the case may be, enforceable against the Borrower or the Guarantor in accordance with its terms, subject only to such qualifications as may be contained in the legal opinions delivered under Clause 4.1(a) (Documentary Conditions Precedent).

(d) FINANCIAL INFORMATION

(i) All balance sheets, statements of income and shareholders' equity, changes in financial position and other financial information which have been or will be furnished by the Borrower or the Guarantor to the Administrative Agent for any Financial Institution for the purposes of or in connection with this Agreement or any transaction contemplated hereby have been or will be prepared in accordance with generally accepted accounting principles consistently applied throughout the periods involved (except as disclosed therein) and, as far as the Borrower or the Guarantor is aware, do or will give a true and fair view of the consolidated or consolidating, as appropriate, financial condition of the

Group or financial condition of the Borrower, as the case may be, as at the dates thereof and the results of their operations for the periods then ended, including, without limitation, the consolidated balance sheet at December 31, 1995, the statement of net assets, the statement of operations, the statement of changes in net assets and the schedule of investments for the Fiscal Year then ended, of the Group, certified by Price Waterhouse S.A. together with the unaudited statement of funds from operations for the period from July 7 to December 31, 1995; and

(ii) Since December 31, 1995 there has been no material adverse change in the consolidated financial condition of the Group taken as a whole from that reflected in the consolidated balance sheet as of December 31, 1995.

(e) ABSENCE OF DEFAULT

No member of the Group is in default in the payment of any Debt in an aggregate amount of more than $10,000,000 (or its equivalent in any other currency) or any other material obligation or under any law or governmental regulation or court or administrative decree or order materially affecting its property or business, or aware of any facts or circumstances which would give rise to any such default.



(f) LITIGATION, ETC.

No litigation or arbitration or governmental investigation or proceeding against any member of the Group or to which any of the properties of any member thereof is subject is pending or, to the knowledge of the Borrower or the Guarantor threatened which, if adversely determined, might materially adversely affect the consolidated financial condition or operations of the Group or impair the ability of the Borrower or the Guarantor to perform any of its obligations under any Finance Document.

(g) NO BURDENSOME AGREEMENT

No member of the Group is a party to any agreement or other instrument or document, or subject to any charter or other corporate restriction, materially adversely affecting its business, properties, assets, operations or condition (financial or otherwise).

(h) TAXES

Each member of the Group has filed all tax returns and reports required by law to have been filed by them and have paid all taxes and governmental charges thereby shown to be owing, except for taxes being contested in good faith by appropriate proceedings and for which appropriate reserves have been established in accordance with generally accepted accounting principles.

(i) ERISA

No member of the Group has a pension benefit plan subject to Title IV of ERISA. No unpaid or contin-

gent liability to the Pension Benefit Guaranty Corporation ("PBGC") has been or is expected to be incurred, directly or indirectly, by any member of the Group (other than for payment of PBGC premiums in the ordinary course). No event has occurred and there exists no condition or set of circumstances which presents a material risk of the termination or partial termination of any plan which could result, directly or indirectly, in a liability on the part of any member of the Group to the PBGC. The Group constitutes a venture capital operating company for the purposes of ERISA or is otherwise exempt from ERISA requirements.

(j) PARI PASSU

The obligations of the Borrower and the Guarantor under the Finance Documents are direct and unconditional obligations and rank in all respects at least

pari passu with all other present and future unsecured and unsubordinated obligations of the Borrower and the Guarantor except to the extent that such obligations are afforded priority under the Security Documents.

(k) CONFIDENTIAL INFORMATION MEMORANDUM

The information contained in the Confidential Information Memorandum (as supplemented prior to the date of the Syndication Agreement) was and remains true and accurate in all



material respects as at its date, the date of this Agreement and the date of the Syndication Agreement and was not incomplete or misleading in any material respect by reason of any omission.

(l) NOT AN INVESTMENT COMPANY

It is not an "investment company" within the meaning of the Investment Company Act of 1940 of the USA.

14.2 REPETITION

The representations and warranties set out in Clause 14.1 shall:

(a) be made on the Signing Date; and

(b) (unless expressed to be given as at or in respect of a particular date) be deemed to be repeated on the date of the Syndication Agreement and (other than Clause 14.1(k)) on the date of delivery of each Request, on each Utilisation Date and on the first day of each Interest Period, with reference to the facts and circumstances then subsisting, as if made at such time.

15. COVENANTS

The covenants in this Clause 15 shall remain in force from the Signing Date for so long as the Commitment is in force or any amount is outstanding under the Finance Documents.

15.1 FINANCIAL INFORMATION, ETC.

Each of the Borrower and the Guarantor will furnish, or will cause to be furnished to the Administrative Agent for each Lender and to the Collateral Agent, copies of the following financial statements, reports and information (all of which shall be computed in Dollars):

(a) together with the financial statements delivered pursuant to Clauses 15.1(b) and (c) hereof, a Compliance Certificate and an updated and revised schedule I to the Master Collateral Agreement;

(b) within 60 days after the close of each of the first three quarters of each Fiscal Year, consolidated balance sheets of the Borrower and of the Guarantor at the close of such quarter, and the related consolidated and consolidating statements of income and retained earnings, stockholders' equity and statements of changes in financial position of the Borrower and of the Guarantor for the period commencing at the end of the previous Fiscal Year and ending

with the close of such quarter, certified by a Managing Director or Financial Director of each of the Borrower and the Guarantor prepared in accordance with generally accepted accounting principles;

(c) within 90 days after the close of each Fiscal Year consolidated balance sheets at the close of such Fiscal Year and the related consolidated statements of income and retained



earnings, stockholders' equity and changes in financial position for such Fiscal Year, of the Borrower and of the Group, certified without qualification by Price Waterhouse S.A. or other independent public accountants of recognised standing selected by the Guarantor and acceptable to the Majority Lenders;

(d) promptly upon receipt thereof, copies of all detailed financial and management reports submitted to the Borrower or the Guarantor by independent public accountants in connection with each annual or interim audit made by such accountants of the books of any member of the Group;

(e) promptly upon the mailing thereof to stockholders generally, any annual report, proxy statement or other communication;

(f) promptly upon any filing thereof by the Borrower or the Guarantor with the Institute Monetaire Luxembourgeoise or the Securities and Exchange Commission, any annual, periodic or special report or registration statement (exclusive of exhibits thereto) or any prospectus generally available to the public;

(g) promptly from time to time at the reasonable request of the Administrative Agent valuations (appraisals) from the Guarantor's independent valuers approved by the Administrative Agent (acting reasonably) of land, properties under development and operating properties held by the Borrower and the Qualifying Issuers which are Subsidiaries and in the case of other Qualifying Issuers if the Borrower or the Guarantor or the Investment Adviser has such valuations;

(h) if in the Administrative Agent's reasonable opinion the aggregate Market Value of Qualifying Collateral has been adversely affected in a material way for whatever reason, a Borrowing Base Certificate dated and delivered within ten days of a request by the Administrative Agent which Borrowing Base Certificate shall demonstrate compliance with the Borrowing Base based upon the Market Value as defined in Clause 1.1 subject to the following modifications:

(1) the closing sale or bid price, as the case may be, of a Qualifying Security quoted by the Pricing Service as of the Business Day immediately preceeding the date of the Borrowing Base Certificate shall apply;

(2) in all other cases the values or amounts used for the purposes of the most recent Compliance Certificate delivered under Clause 15.1(a) shall apply for those items forming part of the

Qualifying Collateral at the date of the Borrowing Base Certificate or if the relevant Qualifying Security has been acquired since the date of the most recent Compliance Certificate the value basis set out in sub-paragraph (c) of the definition of Market Value shall be used for such items;

(i) promptly from time to time an updated and revised schedule I to the Master Collateral Agreement as the Administrative Agent may reasonably request from time to time; and



(j) promptly from time to time such other information with respect to the Collateral or the financial condition and operations of the Group as any Lender may, through the Administrative Agent, from time to time reasonably request.

15.2 MAINTENANCE OF CORPORATE EXISTENCE

Except as permitted by Clause 15.13 (Consolidation, Merger, etc.), each of the Borrower and the Guarantor will cause to be done at all times all things necessary to maintain and preserve its corporate existence.

15.3 PAYMENT OF TAXES, ETC.

Each of the Borrower and the Guarantor will, and shall cause each of its Subsidiaries to, pay and discharge, as the same may become due and payable, all taxes, governmental assessments and other governmental charges or levies on it or on any of its property, as well as claims of any kind which, if unpaid, might become a lien upon any of its properties, provided, however, that the foregoing shall not require any member of the Group to pay any such tax, assessment, charge, levy or lien so long as it shall contest the validity thereof in good faith by appropriate proceedings and shall set aside and maintain, in accordance with generally accepted accounting principles, adequate reserves with respect thereto.

15.4 INSURANCE

Each of the Borrower and the Guarantor will, and will cause each other member of the Group to, maintain insurance coverage by financially sound and reputable insurers in such forms and amounts, with such deductibles and against such risks, as are customary for corporations engaged in the same or a similar business and owning and operating similar properties.

15.5 NOTICE OF DEFAULT OR LITIGATION

Each of the Borrower and the Guarantor will as soon as practicable after becoming aware of the same (and in any event within one Business Day of becoming aware of such occurrence) give notice to the Administrative Agent of:

(a) the occurrence of any Default;

(b) any litigation or arbitration or any governmental investigation or proceeding previously not disclosed by it to the Lenders which has been instituted or is threatened against any member of the Group or to which any of the properties of any thereof is or may become subject which, if adversely determined, might

materially adversely affect the consolidated financial condition or operations of the Group or impair the ability of the Borrower or the Guarantor to perform its obligations under any Finance Document; and

(c) any material adverse development which shall occur in any litigation, arbitration or governmental investigation or proceeding previously disclosed by the Borrower to the Lenders.



15.6 CONDUCT OF BUSINESS

Each of the Borrower and the Guarantor will, and will cause each Subsidiary to do or cause to be done all things reasonably necessary to preserve and keep in full force and effect its existence and all franchises, rights and privileges necessary for the proper conduct of its business.

15.7 DIRECT OWNERSHIP OF REAL ESTATE

No member of the Group will own directly any real property or interest therein without giving prior notice to the Administrative Agent and agreeing with the Administrative Agent prior to acquiring such property or interest a form of mortgage or security interest in respect of such property or interest in form and substance reasonably satisfactory to the Administrative Agent and granting to the Collateral Agent on behalf of the Lenders a first ranking priority security interest over such property or interest provided that this covenant shall not apply to a lease by the Borrower or the Guarantor of office premises for its own use for which a full market rent with no premium is to be paid.

15.8 BOOKS AND RECORDS

Each of the Borrower and the Guarantor will, and will cause each other member of the Group to, keep all material books and records reflecting all of its business affairs and transactions in accordance with generally accepted accounting principles and permit any Lender or

any of its representatives (provided that such person is accompanied by a representative of the Borrower or the Guarantor), at reasonable times and intervals, to visit all of its offices, discuss its financial matters with its officers and independent accountants (and hereby authorises such independent accountants to discuss its financial matters with the Administrative Agent or any Lender or its representatives) and examine any of its books and other corporate records.

15.9 VALUE OF ASSETS

The Borrower and Guarantor will ensure that the value of consolidated gross assets of the Borrower comprise no less than 90 per cent. of the value of consolidated gross assets of the Guarantor computed in accordance with generally accepted accounting principles.

15.10 SECURITY INTERESTS

The Borrower and the Guarantor will not, and will not permit any Subsidiary to, create, incur, assume or suffer to exist any Security Interest upon any of its property

or assets or revenues, whether now owned or hereafter acquired, except:

(a) liens for taxes, assessments or other governmental charges or levies, and liens securing claims or demands incurred in the ordinary course of business, provided in each case that:

(i) payment thereof is not at the time required by Clause 15.3 (Payment of Taxes); and



(ii) if required by generally accepted accounting principles, the applicable member of the Group shall have set aside and maintained adequate reserves with respect thereto;

(b) liens incurred in the ordinary course of business in connection with workmen's compensation, unemployment insurance or other forms of governmental insurance or benefits, or to secure performance of tenders, statutory obligations, leases and contracts (other than for borrowed money) entered into in the ordinary course of business or to secure obligations on surety or appeal bonds;

(c) Security Interests for the benefit of the Lenders under the Security Documents;

(d) Security Interests over real property or interests therein in existence at the date of acquisition of such property or interest by a Subsidiary which is a US person (and not created in contemplation of such acquisition) and which secures a principal amount no greater than that outstanding at the date of acquisition together with any items capitalized in accordance with generally accepted accounting principles; and

(e) any other Security Interest to which the Majority Lenders have granted their prior written consent.

15.11 FINANCIAL CONDITION

(a) The Borrower will not incur any liabilities other than:

(i) indebtedness under the Finance Documents;

(ii) indebtedness owed to the Guarantor which is fully subordinated to the Borrower's indebtedness under the Finance Documents in form and substance reasonably satisfactory to the Majority Lenders; and

(iii) other liabilities arising in respect of short-term (meaning 90 days or less) accounts payable not to exceed $15,000,000 or its equivalent in aggregate at any time.

(b) The Borrower will ensure that at all times an aggregate amount of $10,000,000 will:

(i) remain undrawn under this Agreement but available for borrowing hereunder;

(ii) be held by the Collateral Agent as Collateral in freely marketable securities; or

(iii) be held by the Borrower in the form of Cash Equivalent Investments.

(c) The Guarantor will:

(i) (other than obligations under the Finance Documents and any liabilities arising under the indemnity, referred to at Section 30(b) of the Master Collateral Agreement, given by the Guarantor in favour of Banque Internationale a



Luxembourg) not incur any indebtedness for borrowed money or prepay any principal of or make any payment of interest on or guarantee or indemnify any person in respect of, any such indebtedness unless the obligations in respect of such indebtedness, guarantee or indemnity is fully subordinated to the Guarantor's obligations under the Finance Documents in form and substance reasonably satisfactory to the Majority Lenders;

(ii) ensure that its Net Worth, calculated on a consolidated basis, exceeds $250,000,000 at all times;

(iii) procure that all relevant times, calculated on a consolidated basis:

(A) its Debt to Net Worth Ratio is not less than 1:1

(B) its Interest Coverage Ratio is not less than 2:1

(C) its Debt Service Coverage Ratio is not less than 1.4:1.

15.12 DIVIDENDS, STOCK PURCHASES

(a) The Borrower will not declare or pay any dividends or

make any other distribution, either in cash or property, on any shares of its capital stock of any class which exceed 50 per cent. of its consolidated net income plus depreciation but after deduction of taxes for each Fiscal Year all as computed in accordance with generally accepted accounting principles;

(b) Neither the Borrower nor the Guarantor will:

(i) directly or indirectly, or through any Subsidiary, purchase, redeem or retire any shares of its capital stock of any class or any warrants, rights or options to purchase or acquire any shares of its capital stock; or

(ii) pay any dividend or make any other payment or distribution, either directly or indirectly or through any Subsidiary, in respect of its capital stock or otherwise, other than in respect of normal operating expenses (including advisory fees),

at any time when a Default or a Collateral Shortfall has occurred and is continuing or would result therefrom.

15.13 CONSOLIDATION, MERGER, ETC.

Neither the Borrower nor the Guarantor nor any of their respective Subsidiaries or Affiliates will consolidate with or merge into or with any other corporation or sell, transfer, lease or otherwise dispose of all or any substantial part of its assets to any person, except the merger, consolidation or liquidation of any Subsidiary into or with any other member of the Group.



15.14 PLANS

No Borrower will, and the Borrower will not permit any ERISA Affiliate to, establish, or incur or suffer to exist any obligations with respect to, any employee pension benefit plan maintained for the employees of the Borrower or any ERISA Affiliate and covered by Title IV of ERISA.

15.15 INCONSISTENT AGREEMENTS

Neither the Borrower nor the Guarantor will, and will not permit any other member of the Group to, enter into any agreement containing any provision which would be violated or breached by any borrowing by the Borrower made under this Agreement or by the performance by the Borrower or the Guarantor of its obligations under the Finance Documents.

15.16 ERISA AND COMPLIANCE WITH REQUIREMENTS OF LAW

The Borrower and the Guarantor will, and will cause each Subsidiary to, comply in all respects with all Requirements of Law, the non-compliance with which could have a material adverse effect on the business operations, financial condition or properties of the Borrower, the Guarantor or any Subsidiary or on the ability of the Borrower to perform its obligations under this Agreement. Neither the Borrower nor the Guarantor will permit any of their respective assets to become or be deemed to be "plan assets" within the meaning of ERISA, the Internal

Revenue Code and the respective regulations promulgated thereunder, of any ERISA Plan or any non-ERISA plan.

16. DEFAULT

16.1 Events of Default

Each of the events set out in Clauses 16.2 (Non-Payment) to 16.16 (Investment Adviser) (inclusive) is an Event of Default (whether or not caused by any reason whatsoever outside the control of the Borrower, the Guarantor or any other person).

16.2 NON-PAYMENT

The Borrower or the Guarantor does not pay:-

(a) any principal amount payable by it under the Finance Documents within two days of the due date therefor;

(b) interest or any fee or any other amount payable by it under the Finance Documents within five days of the due date therefor,

at the place at which, and in the currency in which, it is expressed to be payable.

16.3 BREACH OF OTHER OBLIGATIONS

The Borrower or the Guarantor, as the case may be, does not comply with:



(a) Clause 8.3 (Mandatory Prepayment/Provision of Collateral), Clause 8.4 (Borrowing Base Violations), Clause 15.5(a) (Notification of a Default) or Clause 15.10 (Security Interests);

(b) any provision of Clause 15.1(a) (Compliance Certificates) or (h) (Borrowing Base Certificates) or Clause 15.1(i) (other financial information) within 10 days of the Administrative Agent providing written notice to the Borrower and the Guarantor (as appropriate) of the failure;

(c) any provision of Clause 15.1(b) to (g) (financial statements and appraisals) or Clause 15.3 (Payment of Taxes etc.) within 60 days of the Administrative Agent providing written notice to the Borrower and the Guarantor (as appropriate) of the failure;

(d) any other provision of the Finance Documents and the failure to comply (if it is capable of remedy) is not remedied within 30 days of the Administrative Agent providing written notice to the Borrower or the Guarantor (as appropriate) of the failure.

16.4 MISREPRESENTATION

A representation, warranty or statement made or repeated in or in connection with any Finance Document or in any document delivered by or on behalf of the Borrower or the Guarantor under or in connection with any Finance Document is incorrect in any material respect when made or deemed to be made or repeated.

16.5 CROSS-DEFAULT

(a) Any Debt of the Guarantor, the Borrower or any of their respective Subsidiaries in an aggregate amount of at least $10,000,000 or its equivalent in any other currencies is not paid when due or within any applicable grace period; or

(b) any Debt of the Guarantor, the Borrower or any of their respective Subsidiaries in an aggregate amount of at least $10,000,000 or its equivalent in any other currencies becomes, or becomes capable of being declared, prematurely due and payable, in each case as a result of an event of default (howsoever described) under the document relating to that indebtedness.

16.6 INSOLVENCY

(a) The Borrower or the Guarantor or any of their respective Subsidiaries is, or is deemed for the purposes of any law to be, unable to pay its debts as they fall due or is, or is deemed to be, insolvent, or admits inability to pay its debts as they fall due; or

(b) the Borrower or the Guarantor or any of their respective Subsidiaries suspends making payments on all or any class of its debts or announces an intention to do so, or a moratorium is declared in respect of any of its indebtedness.



16.7 INSOLVENCY PROCEEDINGS

Otherwise than in connection with a voluntary amalgamation or reconstruction on a solvent basis permitted under Clause 15.13 (Consolidation, Merger, etc.):-

(a) any step (including petition, proposal or convening a meeting) is taken by the Borrower or the Guarantor or any of their respective Subsidiaries in any relevant jurisdiction with a view to a composition, assignment or arrangement with its creditors generally (or any class of them); or

(b) a members' or board meeting of the Borrower or the Guarantor or any of their respective Subsidiaries is convened for the purpose of considering any resolution for (or to petition for) its winding-up or its administration or any such resolution is passed; or

(c) any person presents a petition for the winding-up or for the administration of the Borrower or the Guarantor or of their respective Subsidiaries in any relevant jurisdiction and the relevant petition or action is not dismissed, withdrawn or otherwise discontinued within 30 days; or

(d) any order for the winding-up or administration of the Borrower or the Guarantor or any of their respective Subsidiaries is made in any relevant jurisdiction;

(e) any other step (including petition, proposal or convening a meeting) is taken in any relevant jurisdiction with a view to the rehabilitation, administra-

tion, custodianship, liquidation, winding-up or dissolution of the Borrower or the Guarantor or any of their respective Subsidiaries or any other insolvency proceedings involving the Borrower or the Guarantor or any of their respective Subsidiaries and the relevant petition, action or procedure is not dismissed, withdrawn or otherwise discontinued within 60 days; or

(f) the Borrower or the Guarantor or any of their respective Subsidiaries shall commence a voluntary case concerning itself under Title 11 of the U.S. Code entitled "Bankruptcy", as now or hereafter in effect, or any successor thereto (the "BANKRUPTCY CODE") or, in the case of a Subsidiary, under any equivalent bankruptcy law;

(g) an involuntary case is commenced against the Borrower or the Guarantor or any of their respective Subsidiaries or any of its respective Subsidiaries, and the petition is not controverted within 20 days,

or is not dismissed within 30 days, after commencement of the case;

(h) a custodian (as defined in the Bankruptcy Code) is appointed for, or takes charge of, all or substantially all of the assets of the Borrower or the Guarantor or any of their respective Subsidiaries, or the Borrower, the Guarantor or any of their respective Subsidiaries commences any other proceeding under any reorganisation, arrangement, adjustment of debt, relief of debtors, dissolution, insolvency or liquidation or similar law of any jurisdiction whether now or hereafter in effect relating to the Borrower, the Guarantor or any of their respective Subsidiaries, or there is commenced against the Borrower, the Guarantor or any of their respective Subsidiaries any such proceeding which remains



unstayed or undismissed for a period of 30 days, or the Borrower, the Guarantor or any of their respective Subsidiaries is adjudicated insolvent or bankrupt;

(i) any order of relief or other order approving any such case or proceeding is entered;

(j) the Borrower, the Guarantor or any of their respective Subsidiaries suffers any appointment of any custodian or the like for it or any substantial part of its property to continue undischarged or unstayed for a period of 30 days;

(k) the Borrower, the Guarantor or any of their respective Subsidiaries makes a general assignment for the benefit of creditors; or

(l) any corporate action is taken by the Borrower, the Guarantor or any of their respective Subsidiaries for the purpose of effecting any of the foregoing.

16.8 APPOINTMENT OF RECEIVERS AND MANAGERS

(a) Any liquidator, trustee in bankruptcy, judicial custodian, compulsory manager, receiver, administrative receiver, administrator or the like is appointed in any place in respect of the Borrower or the Guaran-

tor or any of their respective Subsidiaries or any material part of the respective assets of any of the foregoing; or

(b) the directors of the Borrower or the Guarantor or any of their respective Subsidiaries request the appointment of a liquidator, trustee in bankruptcy, judicial custodian, compulsory manager, receiver, administrative receiver, administrator or the like in respect of the Borrower, the Guarantor or any of their respective Subsidiaries or any substantial part of its or their assets; or

(c) any person enforces any Security Interest over any of the Collateral or any other material part of the assets of the Borrower or the Guarantor or any of their respective Subsidiaries and (except in relation to the Collateral) the relevant proceedings are not dismissed, withdrawn or otherwise discontinued within 60 days.

16.9 LEGAL PROCESS

(a) Any judgment or order is made against any member of the Group (not paid or fully covered by insurance) of US$10,000,000 or more which is not stayed or discharged or bonded pending appeal within 30 days or (where payment may be lawfully withheld pending the outcome of such proceedings) is not being contested

in good faith by the relevant party by appropriate proceedings within 30 days; or

(b) any attachment, sequestration, distress or execution or lien in favour of any governmental or regulatory authority affects any material asset of the Guarantor, the Borrower or any of their respective Subsidiaries and is not discharged within 30 days.



16.10 UNLAWFULNESS

It is or it becomes unlawful for the Guarantor or the Borrower to perform any of its obligations under the Finance Documents.

16.11 GUARANTEE

The guarantee by the Guarantor hereunder is not effective or enforceable or is alleged by the Guarantor to be ineffective or unenforceable for any reason.

16.12 SECURITY

(a) Any Security Document is not effective or enforceable in whole or in part or is alleged by the Borrower or the Guarantor to be ineffective or unenforceable in whole or in part for any reason; or

(b) proceedings are brought by any person alleging any Security Document to be ineffective or unenforceable in whole or in part for any reason and:

(i) such proceedings are not discontinued, dismissed or withdrawn within 30 days; or

(ii) the Borrower or the Guarantor does not within 30 days demonstrate to the satisfac-

tion of the Collateral Agent (acting on the instructions of the Majority Lenders) that such proceedings are frivolous or vexatious or have no reasonable prospect of success and in any such case are being contested by the Borrower or the Guarantor in good faith by appropriate proceedings.

16.13 LOSS OF AUTHORISATIONS

Any authorisation material to the business of the Borrower or the Guarantor is suspended, revoked or lapses and is not renewed.

16.14 CHANGE OF CONTROL

(a) The Investment Adviser ceases to be directly or indirectly a Subsidiary of SCG;

(b) SCG fails to own beneficially directly or indirectly at least 20 per cent. of the voting share capital of the Guarantor;

(c) the Guarantor fails to own beneficially directly or indirectly at least 95 per cent. of the voting share capital of the Borrower;

(d) any person or persons acting in concert (other than SCG) owns more than 10 per cent. of shares of the Guarantor and continues to do so for more than 30 days after notice thereof has been given by the Administrative Agent to the Guarantor or such longer period as may be reasonably necessary for the Guarantor to exercise promptly and in good faith its rights with respect to any excess shares under the Guarantor's Articles of Incorporation.



16.15 PARI PASSU

The obligations of the Borrower and the Guarantor under the Finance Documents shall not constitute direct and unconditional obligations or shall not rank in all respects at least pari passu with all other present and future unsecured and unsubordinated obligations of the Borrower or the Guarantor as the case may be.

16.16 INVESTMENT ADVISER

Any Event of Default specified in Clause 16.6 (Insolvency), 16.7 (Insolvency Proceedings) or 16.8 (Appointment of Receivers and Managers) shall occur in relation to the Investment Adviser and there shall not be appointed within 15 days following such Event of Default a substitute Investment Adviser reasonably acceptable to the Majority Lenders.

16.17 ACCELERATION

On and at any time after the occurrence of an Event of Default and whilst such Event of Default is continuing the Administrative Agent may, and shall if so directed by the Majority Lenders, by notice to the Borrower or the Collateral Agent (as the case may require):-

(a) cancel the Total Commitments; and/or

(b) demand that all the Advances, together with accrued interest and all other amounts accrued under this Agreement be immediately due and payable, whereupon they shall become immediately due and payable;

(c) demand that all the Advances, together with accrued interest and all other amounts accrued under this Agreement, be payable on demand, whereupon they shall immediately become payable on demand by the Administrative Agent; and/or

(d) request and direct the Collateral Agent to take all steps necessary or advisable to protect and enforce Security Interests pursuant to the Master Collateral Agreement, and the Collateral Agent shall act accordingly.

17. ACCOUNTS AS EVIDENCE

Accounts maintained by a Lender in connection with this Agreement shall constitute prima facie evidence of sums owing to the Lender.

18. THE AGENTS AND THE ARRANGER

18.1 APPOINTMENT AND DUTIES OF THE AGENTS

(a) Each Financial Institution (other than the Administrative Agent) irrevocably appoints the Administrative Agent to act as its agent under and in connection with the Finance Documents.



(b) Each Financial Institution (other than the Collateral Agent) irrevocably appoints the Collateral Agent to act as its agent in connection with the Finance Documents.

(c) Each Contracting Party appointing an Agent irrevocably authorises that Agent on its behalf to perform the duties and to exercise the rights, powers and discretions that are specifically delegated to it under or in connection with the Finance Documents, together with any other incidental rights, powers and discretions. Each Financial Institution irrevocably appoints each Agent to enter into the Finance Documents on its behalf.

(d) An Agent shall have only those duties which are expressly specified in the relevant Finance Documents. Those duties are solely of a mechanical and administrative nature.

18.2 ROLE OF THE ARRANGER

Except as otherwise provided in this Agreement, the Arranger has no obligations of any kind to any other Contracting Party under or in connection with any Finance Document.

18.3 RELATIONSHIP

The relationship between an Agent and the Contracting Parties which have appointed it as Agent is that of agent and principal only. Except in relation to the Security Documents, nothing in this Agreement constitutes an Agent as trustee or fiduciary for any other Contracting Party

or any other person and as between the Agents and the other Financial Institutions no Agent need hold in trust any moneys paid to it for a Contracting Party or be liable to account for interest on those moneys.

18.4 MAJORITY LENDERS' DIRECTIONS

As against the Financial Institutions, each Agent will be fully protected if it acts in accordance with the instructions of the Majority Lenders in connection with the exercise of any right, power or discretion or any matter not expressly provided for in the Finance Documents. Any such instructions given by the Majority Lenders will be binding on all the Lenders. In the absence of such instructions, an Agent may, as between itself and the other Financial Institutions, act as it considers to be in the best interests of all the Lenders.

18.5 DELEGATION

Each Agent may act under the Finance Documents through its personnel and agents and except as specifically provided in the Finance Documents, it is not responsible for the acts and omissions of such agents (other than employees) who are selected by it with reasonable care. The Collateral Agent may appoint State Street Bank and Trust Company to act as custodian in respect of the Collateral and neither it nor the Administrative Agent shall be responsible for the acts and omissions of such custodian.

18.6 RESPONSIBILITY FOR DOCUMENTATION

Neither of the Agents or the Arranger is responsible to any other Contracting Party for:-



(a) the execution, genuineness, validity, enforceability or sufficiency of any Finance Document or any other document;

(b) the sufficiency of the Security Interests created under the Security Documents in respect of any Collateral;

(c) any error or omission in any legal opinion;

(d) the collectability of amounts payable under any Finance Document; or

(e) the accuracy of any statements (whether written or oral) made in or in connection with any Finance Document.

18.7 DEFAULT

(a) Neither Agent is obliged to monitor or enquire as to whether or not a Default has occurred. Neither Agent will be deemed to have knowledge of the occurrence of a Default. However, if an Agent receives notice from a Contracting Party referring to this Agreement, describing the Default and stating that the event is a Default, or otherwise has actual knowledge of an Event of Default, it shall promptly notify the Lenders and the Borrower.

(b) An Agent may require the receipt of security satisfactory to it whether by way of payment in advance

or otherwise, against any liability or loss which it will or may incur in taking any proceedings or action arising out of or in connection with any Finance Document on behalf of the Financial Institutions before it commences those proceedings or takes that action.

18.8 EXONERATION

(a) Without limiting paragraph (b) below, neither Agent will be liable to any other Contracting Party for any action taken or not taken by it under or in connection with any Finance Document, unless directly caused by that Agent's gross negligence or wilful misconduct.

(b) No Contracting Party may take any proceedings against any officer, employee or agent of an Agent in respect of any claim it might have against that Agent or in respect of any act or omission of any kind (including gross negligence or wilful misconduct) by that officer, employee or agent in relation to any Finance Document.

18.9 RELIANCE

Each Agent may:-

(a) rely on any notice or document reasonably believed by it to be genuine and correct and to have been signed by, or with the authority of, the proper person;



(b) rely on any statement made by a director or employee of any person regarding any matters which may reasonably be assumed to be within his knowledge or within his power to verify; and

(c) engage and rely on legal or other professional advisers selected by it (including those in the Agent's employment and those representing a Contracting Party other than that Agent).

18.10 CREDIT APPROVAL AND APPRAISAL

Without affecting the responsibility of the Borrower and the Guarantor for information supplied by it or on its behalf in connection with any Finance Document, each Lender confirms that it:-

(a) has made its own independent investigation and assessment of the financial condition and affairs of the Borrower, the Guarantor and their related entities in connection with its participation in this Agreement and has not relied on any information provided to it by any Agent or Joint Arranger in connection with any Finance Document; and

(b) will continue to make its own independent appraisal of the creditworthiness of the Borrower, the Guarantor and their related entities while any amount is or may be outstanding under the Finance Documents or any Commitment is in force.

18.11 INFORMATION

(a) Each Agent shall promptly forward to the person concerned the original or a copy of any document which is delivered to that Agent by a Contracting Party for that person.

(b) The Administrative Agent shall promptly supply a Lender with a copy of each document received by the Administrative Agent under Clause 4 (Conditions Precedent) upon the request and at the expense of that Lender.

(c) Except where this Agreement specifically provides otherwise, neither Agent is obliged to review or check the accuracy or completeness of any document it forwards to another Contracting Party.

(d) Except as provided above, neither Agent has any duty:-

(i) either initially or on a continuing basis to provide any Lender with any credit or other information concerning the financial condition or affairs of the Borrower, the Guarantor or any related entity of the Borrower or the Guarantor whether coming into the possession of that Agent or that of any of its related entities before, on or after the date of this Agreement; or

(ii) unless specifically requested to do so by a Lender in accordance with this Agreement, to request any certificates or other documents from the Borrower or the Guarantor.

18.12 THE AGENTS AND THE ARRANGER INDIVIDUALLY



(a) If it is also a Lender, each of the Agents and the Arranger has the same rights and powers under this Agreement as any other Lender and may exercise those rights and powers as though it were not an Agent or an Arranger.

(b) Each of the Agents and the Arranger may:-

(i) carry on any business with the Borrower, the Guarantor or their related entities;

(ii) act as agent or trustee for, or in relation to any financing involving, the Borrower, the Guarantor or their related entities; and

(iii) retain any profits or remuneration in connection with its activities under the Finance Documents or in relation to any of the foregoing.

(c) In acting as an Agent, the agency division of each Agent will be treated as a separate entity from its other divisions and departments. Any information acquired by an Agent otherwise than in its capacity as an Agent may be treated as confidential by that Agent and will not be deemed to be information possessed by that Agent in its capacity as such.

18.13 INDEMNITIES

(a) Without limiting the liability of the Borrower and

the Guarantor under the Finance Documents, each Lender shall forthwith on demand indemnify each Agent, for that Lender's pro rata share of any liability or loss incurred by such Agent in any way relating to or arising out of its acting as the Administrative Agent or the Collateral Agent (as the case may be), except to the extent that the liability or loss arises directly from the relevant Agent's negligence or wilful misconduct.

(b) The Borrower shall forthwith on demand reimburse each Lender for any payment made by it under paragraph (a) above.

18.14 COMPLIANCE

(a) An Agent may refrain from doing anything which might, in its opinion, constitute a breach of any law or regulation or be otherwise actionable at the suit of any person, and may do anything which, in its opinion, is necessary or desirable to comply with any law or regulation of any jurisdiction.

(b) Without limiting paragraph (a) above, neither Agent need disclose any information relating to the Borrower, the Guarantor or any of their related entities if the disclosure might, in the opinion of that Agent, constitute a breach of any law or regulation or any duty of secrecy or confidentiality or be otherwise actionable at the suit of any person.

18.15 RESIGNATION OF AGENTS

(a) Notwithstanding its irrevocable appointment, both Agents (but not one Agent only) may resign by giving not less than 60 days' notice to the Lenders and the Borrower,



in which case each Agent concerned may forthwith appoint one of its Affiliates as successor Agent or, failing that, the Majority Lenders may identify a proposed successor Agent and notify the Borrower of the identity of such person. Such person shall, with the consent of the Borrower, be appointed as the successor Agent. If the Borrower withholds its consent to the appointment of any successor Agent it shall, within 30 days of receiving notice of the identity of the proposed appointee of the Majority Lenders, identify one or more other persons who are willing to act as the relevant Agent and whom the Majority Lenders shall (subject to paragraph (ii) below) thereafter appoint as the relevant Agent, provided that:

(i) if the Borrower does not during such 30 day period identify any such persons, the person identified by the Majority Lenders shall at the end of such period be appointed as the successor Agent; and

(ii) if the Majority Lenders do not consent to the person (or any of the persons) identified by the Borrower (such consent not to be unreasonably withheld) the person initially identified by the Majority Lenders shall be appointed as the relevant Agent.

(b) If the appointment of a successor Agent is to be made by the Majority Lenders but they have not,

within 45 days after notice of resignation, appointed a successor Agent which accepts the appointment, the retiring Agent may appoint a successor Agent.

(c) The resignation of the retiring Agent and the appointment of any successor Agent will both become effective only upon the successor Agent notifying all the Parties that it accepts the appointment and (in the case of a successor Collateral Agent) the transfer of the benefit of the Security Documents to the new Collateral Agent as agent and trustee for the Financial Institutions. On giving the notification, the successor Agent will succeed to the position of the retiring Agent and the term "ADMINISTRATIVE AGENT" or "COLLATERAL AGENT", as appropriate, will mean the successor Agent.

(d) A retiring Agent shall, at its own cost, make available to the successor Agent such documents and records and provide such assistance as the successor Agent may reasonably request for the purposes of performing its functions as the relevant Agent under this Agreement.

(e) Upon its resignation becoming effective, this Clause 18 (The Agents and the Arranger) shall continue to benefit the retiring Agent in respect of any action taken or not taken by it under or in connection with the Finance Documents while it was an Agent, and, subject to paragraph (d) above, it shall have no further obligation in its capacity as such Agent under any Finance Document.

(f) The resignation of an Agent is subject to the successor Agent becoming a party to the Master Collateral Agreement and the other Security Documents to which the retiring Agent is a party as a Financial Institution.

18.16 LENDERS



Each Agent may treat each Lender as a Lender, entitled to payments under this Agreement and as acting through its Facility Office(s), until it has received notice from the Lender to the effect that it is no longer entitled to payments and/or is no longer acting through its specified Facility Office not less than 5 Business Days prior to the relevant payment.

18.17 INFORMATION BETWEEN AGENTS

(a) Each Agent shall promptly notify the other Agent of receipt by it of any Request or repayment of any Advance.

(b) Each Agent shall notify the other Agent, promptly on request, of any relevant information concerning a Utilisation which that Agent requires in order to enable it to perform its obligations under this Agreement.

18.18 THE AGENTS AS TRUSTEE

(a) Each of the Agents in its capacity as trustee or otherwise in respect of the Collateral and the Security Documents is not liable for any failure, omis-

sion or defect in perfecting the security constituted by any Security Document, including failure to (i) register the same in accordance with the provisions of any of the documents of title of the Borrower to any of the property thereby charged, (ii) effect or procure registration of or otherwise protect or perfect any Security Document or any Security Interest created by a Security Document under any registration laws or requirements in any jurisdiction or (iii) take any other steps to perfect the Security Interests intended to be created under the Security Documents in respect of any of the Collateral, except (in each case) as specifically provided otherwise in the Security Documents.

(b) Each of the Agents in its capacity as trustee or otherwise in respect of the Security Documents and the Collateral may accept without enquiry such title as the Borrower may have to the Collateral.

(c) As between itself and the other Financial Institutions, each of the Agents in its capacity as trustee or otherwise in respect of the Security Documents is not under any obligations to hold any title deed, Security Document or any other document in connection with the Collateral in its own possession or to take any steps to protect or preserve the same. The Collateral Agent will use all reasonable care to ensure the safe custody of all such title documents, Security Documents and other documents which are in its possession but will not, as between itself and

the other Financial Institutions, be liable for the damage or destruction of any such documents save where caused by the gross negligence of the Collateral Agent or any of its employees, servants or agents.

(d) Save as otherwise provided in the Security Documents, all moneys which under the trusts therein contained are received by either Agent in its capacity as trustee or otherwise may be invested in the name of or under the control of such Agent in any investment for the time being authorised by English or New York law for the investment by trustees of trust money or in any other investments which may be selected by such Agent. Additionally, save as otherwise provided in the Security Documents, the same may be placed on deposit



in the name of or under the control of such Agent at such bank or institution (including such Agent or one of its Affiliates) and upon such terms as such Agent may think fit.

19. FEES

19.1 COMMITMENT FEE

(a) The Borrower shall pay to the Administrative Agent for the account of each Lender a commitment fee in Dollars on the undrawn, uncancelled amount of that Lender's Commitment during the period from the Signing Date up to and including the Final Maturity Date for that Lender. Such fee shall be computed at the

rate of 0.25 per cent. per annum where the aggregate undrawn, uncancelled Commitments of all of the Lenders (taken as a whole) is equal to or less than $100,000,000 and at the rate of 0.375 per cent for any amount in excess of $100,000,000.

(b) Accrued commitment fee shall be payable quarterly in arrears from the Signing Date and on the Final Maturity Date and shall be calculated to and including the last day of the immediately preceding month. Accrued commitment fee shall also be payable to the Administrative Agent for the account of the relevant Lender(s) on the cancelled amount of any Commitment at the time the cancellation comes into effect.

19.2 ACCRUAL

The commitment fee referred to in Clause 19.1 (Commitment fee) shall accrue from day to day and be calculated on the basis of a year of 360 days and for the actual number of days elapsed.

19.3 ARRANGEMENT FEE

The Borrower shall pay to the Administrative Agent for the account of the Arranger on the Signing Date an arrangement fee and an underwriting fee in the amounts agreed between the Administrative Agent and the Borrower in a letter dated the Signing Date. The underwriting fee shall be distributed to the Lenders in the proportions agreed between the Arranger and the Lenders prior to the Signing Date.

19.4 ADMINISTRATIVE AGENT'S FEE

The Borrower shall pay to the Administrative Agent for its own account an annual agency fee of the amount agreed between the Administrative Agent and the Borrower in the letter referred to in Clause 19.3. The Administrative

Agent's fee shall be payable quarterly in arrears for so long as any amount is or may be outstanding under the Finance Documents or any Commitment is in force.



19.5 COLLATERAL AGENT'S FEE

The Borrower shall pay to the Collateral Agent for its own account an annual agency fee of the amount agreed between the Collateral Agent and the Borrower. The Collateral Agent's fee shall be payable quarterly in arrears for so long as any amount is or may be outstanding under the Finance Documents or any Commitment is in force.

19.6 EXTENSION FEE

If the Borrower requests and Lenders holding at least 80 per cent. of Total Outstandings agree to extend the Final Maturity Date of the Facility in accordance with Clause 2.4 (Extension of Final Maturity Dates), the Borrower shall in respect of such extension pay to the Administrative Agent for the account of each such Lender an extension fee in Dollars computed at the rate of 0.15 per cent. of the amount of its Commitment as will be in effect immediately following the then latest Final Maturity Date. Such extension fee shall be payable within ten

Business Days of the date of notification by the Administrative Agent that the Final Maturity Date is extended and no extension of the Final Maturity Date shall be effective until such extension fee has been paid by the Borrower.

19.7 CONVERSION FEE

If the Borrower exercises the Term-out Option in accordance with Clause 2.5 (Term-out Option) the Borrower shall pay to the Administrative Agent for the account of the Lenders a conversion fee in Dollars computed at the rate of 0.20 per cent. of Total Outstandings on the first day of the Term-out Period payable on such day and 0.10 per cent. of Total Outstandings on the first anniversary thereof payable on such day.

19.8 VAT

Any fee referred to in this Clause 19 (Fees) is exclusive of any value added tax or any similar tax chargeable in connection with that fee. If any value added tax or similar tax is so chargeable, it shall be paid by the Borrower at the same time as it pays the relevant fee.

20. EXPENSES

20.1 FACILITY EXPENSES

The Borrower shall reimburse the Administrative Agent or the Joint Arrangers, as appropriate on demand for the reasonable charges and expenses (together with value added tax or any similar tax thereon and including, without limitation, the reasonable fees and expenses of legal advisers) incurred by the Administrative Agent or the Joint Arrangers, as the case may be, in connection with:

(a) the Syndication;

(b) the negotiation, preparation, printing and execution of this Agreement and any other documents referred to in this Facility Agreement;



(c) any other Finance Document; and

(d) all supplements, waivers and variations in relation to the Finance Documents and any other documents referred to therein.

20.2 ENFORCEMENT EXPENSES

The Borrower shall reimburse each of the Agents on demand for the charges and expenses (together with value added tax or any similar tax thereon and including, without limitation, the fees and expenses of legal advisers) properly incurred by either of them in connection with the enforcement of, or the preservation of any rights under, any of the Finance Documents.

21. STAMP DUTIES

The Borrower shall pay, and on demand indemnify, each of the Agents against any and all stamp, registration and similar Taxes which may be payable in connection with the

entry into or performance of any of the Finance Documents including the Syndication Agreement (other than any Substitution Certificate or any other document transferring an interest pursuant to Clause 24.3) or the enforcement of any of the Finance Documents.

22. AMENDMENTS, WAIVERS, REMEDIES CUMULATIVE

22.1 AMENDMENTS

(a) Subject to paragraph (b) below, if authorised by the Majority Lenders, the Administrative Agent or the Collateral Agent, as the case may be, may, on behalf of the Lenders, grant waivers or consents or (with the prior consent of the Borrower) vary the terms of the provisions of any Finance Document, unless the express provisions of the relevant Finance Document provide that the same can only be granted or effected by another authority.

(b) Nothing in paragraph (a) above shall authorise except with the prior consent of all the Lenders:

(A) subject to Clause 2.4 (Extension of the Final Maturity Date), the extension of any Commitment Period or Final Maturity Date; or

(B) any variation of the definition of "BORROWING BASE", "MAJORITY LENDERS" or "QUALIFYING ISSUER" in Clause 1.1 (Terms defined); or

(C) any change in any rate at which interest is payable under any of the Finance Documents; or

(D) any extension of the date for, or alteration in the amount or currency of, any payment of principal, interest, fee, commission or any other amount payable under any of the Finance Documents; or



(E) any increase in any Lender's Commitment; or

(F) any variation of Clause 27 (Pro Rata Sharing) or this Clause 22.1; or

(G) any variation or amendment to any provision of the Finance Documents requiring the unanimous consent of the Lenders which would result in the removal of such requirement; or

(H) any release of the guarantee contained in Clause 13 (Guarantee); or

(I) any variation of Clause 15.11(c) (Financial Condition); or

(J) save as otherwise provided in any Finance Document, any release of Collateral.

22.2 WAIVERS

No failure to exercise and no delay in exercising, on the part of any Contracting Party, any right, power or privilege under any Finance Document shall operate as a waiver thereof, nor shall any single or partial exercise of any

right, power or privilege preclude any other or further exercise thereof, or the exercise of any other right, power or privilege. No waiver by any Contracting Party shall be effective unless it is in writing and signed by the waiving party.

22.3 REMEDIES CUMULATIVE

The rights and remedies of each Contracting Party provided in the Finance Documents are cumulative and not exclusive of any rights or remedies provided by law.

23. NOTICES

23.1 ADDRESS

(a) Except as otherwise stated in this Agreement, all notices or other communications under this Agreement to any Contracting Party shall be made by letter or facsimile and shall be deemed to be duly given or made when delivered (in the case of a letter or when received (in the case of facsimile) to or by the Contracting Party addressed to it at its address, telex number or facsimile number:

(i) notified to the Administrative Agent prior to the Signing Date; or

(ii) in the case of a Contracting Party which becomes a Contracting Party after the Signing Date, notified to the Administrative Agent before or at the time it becomes a Contracting Party;

(iii) in the case of the Administrative Agent, at its address, telex number of facsimile number set out in paragraph (b) below; or



(iv) in the case of the Collateral Agent, at its address, telex number or facsimile number set out in paragraph (c) below; or

(v) in the case of the Borrower, at the Borrower's address, telex number or facsimile number set out in paragraph (d) below; or

(vi) in the case of the Guarantor, at the Guarantor's address, telex number or facsimile number set out in paragraph (e) below; or

(vii) as the Contracting Party may, after the Signing Date, specify to the Administrative Agent for such purpose by not less than five Business Days' notice; or

(viii) in the case of the Administrative Agent or the Collateral Agent, as the Administrative Agent or the Collateral Agent may specify to the other Contracting Parties, for such purpose by not less than five Business Days' notice.

(b) The Administrative Agent's address, telex number and facsimile number for notices as at the Signing Date is:

Commerzbank International S.A.
11, rue Notre Dame
2240 Luxembourg
Grand Duchy of Luxembourg

For the attention of the Loan Department

Telephone No.: 477911-1
Telex No.: 1293 cbklu lu
Fax No.: 477911-419

with a copy to

Commerzbank Aktiengesellschaft
New York Branch
2 World Financial Center
New York, N.Y. 10281-1050
USA

For the attention of the Real Estate Department

Fax No.: 212 266-7530

(c) The Collateral Agent's address, telex number and facsimile number for notices as at the Signing Date is:

Commerzbank Aktiengesellschaft
New York Branch



2 World Financial Center
New York, N.Y. 10281-1050
USA

For the attention of the Real Estate Department

Fax No.: 212 266-7530

(d) The Borrower's address, telex number and facsimile number for notices as at the Signing Date is:

69, Route D'Esch
L-1470 Luxembourg
Telex: 3636BIL
Fax: 352 7590 335

For the attention of Paul Szurek

with a copy to

Security Capital UK Management Limited
162 Queen Victoria Street
London EC4V 4DB

Fax No.: 0171 332 2915

(e) The Guarantor's address, telex number and facsimile number for notices as at the Signing Date is:

69, Route D'Esch
L-1470 Luxembourg
Telex: 3636BIL
Fax: 352 7590 335

For the attention of Paul Szurek

23.2 NON-WORKING DAYS

A notice or other communication received on a non-working day or after business hours in the place of receipt shall be deemed to be served on the next following working day in that place.

24. ALTERATIONS TO THE CONTRACTING PARTIES

24.1 SUCCESSORS



This Agreement shall be binding upon and inure to the benefit of each of the Contracting Parties and their respective successors and permitted assigns.

24.2 ASSIGNMENTS AND TRANSFERS BY BORROWER OR GUARANTOR

Neither the Borrower nor the Guarantor may assign or otherwise transfer all or any part of its rights or obligations under the Finance Documents without the prior consent of all the Lenders.

24.3 ASSIGNMENTS AND TRANSFERS BY LENDERS

(a) Subject to paragraphs (b) and (c) below, any Lender (the "ASSIGNOR") may at any time assign or otherwise transfer all or any part of its rights or obligations under this Agreement (subject in the case of an assignment or transfer of part only of its rights or obligations, to a minimum amount of US $10,000,000 being assigned or transferred and to the Assignor retaining a minimum Commitment of US $10,000,000) to another bank or financial institution (the "ASSIGNEE") with, subject as provided below, the prior consent of the Administrative Agent and the Borrower (not to be unreasonably withheld). The minimum Commitment of US $10,000,000 applicable to partial assignments or transfers shall be reduced proportionately in accordance with the cancellation or reduction of the Total Commitments.

(b) A transfer of obligations shall only be effective if it is made pursuant to the Syndication Agreement or if the Assignee has confirmed to the Administrative Agent, Collateral Agent, the Borrower and the Guarantor prior to the transfer taking effect, that it undertakes to be bound by the terms of this Agreement as a Lender in form and substance satisfactory to the Administrative Agent, the Collateral Agent, the Borrower and the Guarantor; on any such transfer becoming effective and the Assignee becoming bound, the Assignor shall be relieved of its obligations to the extent that they are transferred to the Assignee.

(c) Nothing in this Agreement restricts the ability of a Lender:

(i) to sub-contract an obligation if that Lender remains liable under this Agreement for that obligation; or

(ii) to sub-participate its rights. However in the case of any such sub-contract or sub-participation, the Lender must retain sole management

and voting powers under this Agreement in relation to the obligations and rights concerned; or

(iii) to assign or otherwise transfer its rights or obligations to any Affiliate of such Lender; or

(iv) to assign or otherwise transfer its rights or obligations under the Finance Documents by way of security to a Federal Reserve Bank; or

(v) to assign or otherwise transfer its rights or obligations if an Event of Default has occurred and is continuing; or



(vi) to assign or otherwise transfer its rights or obligations by virtue of the Syndication Agreement provided there is prior consultation with the Borrower about the New Lenders.

(d) On each occasion (other than under the Syndication Agreement) an Assignor assigns, transfers or novates its Commitment rights and/or obligations under this Agreement, the Assignee shall on the date of the assignment, transfer and/or novation, pay to the Administrative Agent for its own account a fee of $2,500.

24.4 SUBSTITUTION CERTIFICATES

(a) If any Lender (the "EXISTING LENDER") wishes to transfer all or any of its rights and/or obligations under this Agreement to another bank or financial institution (the "NEW LENDER") as contemplated in Clause 24.3 (Assignment and Transfers by Lenders), then, as an alternative to Clause 24.3 and subject to paragraph (b) below, such transfer may be effected by way of a novation by the delivery to, and the execution by, the Administrative Agent of a duly completed certificate, substantially in the form of Schedule 6 (a "SUBSTITUTION CERTIFICATE").

(b) On the date specified in the Substitution Certificate:

(i) to the extent that in the Substitution Certificate the Existing Lender seeks to transfer its rights and/or obligations under this Agreement, the Borrower, the Guarantor and the Existing Lender shall each be released from further obligations to each other under this Agreement and their respective rights against each other shall be cancelled (such rights and obligations being referred to in this Clause 24.4 as "DISCHARGED RIGHTS AND OBLIGATIONS");

(ii) the Borrower, the Guarantor and the New Lender shall each assume obligations towards each other and/or acquire rights against each other which differ from the Discharged Rights and Obligations only insofar as the Borrower, the Guarantor and the New Lender have assumed and/or acquired them in place of the Borrower, the Guarantor and the Existing Lender; and

(iii) the New Lender and the other Contracting Parties shall acquire the same rights and assume the same obligations between themselves as they would have acquired and assumed had the New

Lender been a Contracting Party as a Lender with the rights and/or the obligations acquired or assumed by it as a result of the transfer, and, on the date upon which the transfer takes effect, the New Lender named therein shall pay to the Administrative Agent for its own account a transfer fee of $2,500.

(d) (i) Subject to sub-paragraph (ii) below, each of the Contracting Parties authorises the Administrative Agent to execute any duly completed Substitution Certificate on its behalf.



(ii) The authorisation contained in sub-paragraph (i) above does not extend to the execution of a Substitution Certificate on behalf of either the Existing Lender or the New Lender named therein.

(e) The Administrative Agent shall promptly notify the other Contracting Parties of the receipt and execution on their behalf by it of any Substitution Certificate.

24.5 REFERENCE LENDERS

If a Reference Lender (or, if a Reference Lender is not a Lender, the Lender of which it is an Affiliate) ceases to be one of the Lenders, the Administrative Agent will, in consultation with the Borrower and the Guarantor appoint another Lender or an Affiliate of a Lender as a Reference Lender.

24.6 DISCLOSURE

Each Lender may disclose to a proposed assignee or transferee or a New Lender or any sub-participant, risk participant or other participant proposing to enter or having entered into a contract with the Lender regarding any Finance Document any information in the possession of the Lender received under this Agreement relating to the Borrower, the Guarantor or any of its related entities as it sees fit provided always that information which is confidential may only be disclosed to a person with whom such Lender is proposing to enter, or has entered into, a transfer, participation or other agreement in relation to this Agreement if the person has provided a written undertaking to keep the information confidential and only to use it for the purposes of this Agreement.

24.7 CHANGE OF FACILITY OFFICE

Each Lender shall participate in this Agreement through its Facility Office(s), but may change any Facility Office from time to time by five Business Days' prior notice to the Administrative Agent.

24.8 INCREASED COSTS/WITHHOLDING TAXES

If:

(a) any assignment or transfer of all or any part of the rights or obligations of a Lender pursuant to Clause 24.3 (Assignment and Transfers by Lenders) or 24.4 (Substitution Certificates); or

(b) any change in a Lender's Facility Office,

results at the time of any assignment, transfer or change in amounts becoming due under Clause 10.3(b) (Taxes) or 11.1 (Increased Costs), then the assignee, transferee, New Lender or Lender, as the case may be, shall be entitled to receive those amounts only to the extent that the assignor, transferor, Existing Lender or Lender, as the case may be, would have been so entitled had there been no assignment, transfer, substitution or change in Facility Office.



25. SET-OFF

Each Financial Institution may (but shall not be obliged to) at any time after a Default has occurred and is continuing set off against any obligation of the Borrower or the Guarantor due and payable but not paid under any Finance Document any moneys held by the Lender for the account of the Borrower or the Guarantor as the case may be at any office of the Financial Institution anywhere and in any currency. The Financial Institution may effect any appropriate currency exchanges to implement such set-off and shall thereafter notify the Borrower.

26. INDEMNITIES

(a) Each of the Borrower and the Guarantor shall indemnify each Financial Institution against any loss or expense which that Financial Institution may reasonably sustain or incur as a consequence of:

(i) the occurrence of any Default; or

(ii) the operation of Clause 16.2 (Non-Payment); or

(iii) any repayment or prepayment of a LIBOR Advance or payment of an overdue amount being made otherwise than on a Maturity Date relative thereto and, for the purpose of this Clause 26 (a)(iii), a Maturity Date relative to an overdue amount shall be the last day of any Designated Term (as defined in Clause 7.3(a)(ii)(Default Interest)); or

(iv) (other than by reason of gross negligence or default by any Lender or any Agent) any Advance not being made after a Request has been served in respect thereof; or

(v) any prepayment not being made following notice thereof by the Borrower.

(b) The Borrower's and the Guarantor's liability under paragraph (a) above shall include, without limitation, any loss (but not loss of margin) or expense on account of funds borrowed, contracted for or utilised to fund any amount payable under any Finance Document, any amount repaid or prepaid or any Ad-

vance.

## 27. PRO RATA SHARING

### 27.1 REDISTRIBUTION

(a) Subject to Clause 27.2 (Notification), if at any time the proportion which any Lender (the "RECEIVING LENDER") has received or recovered (whether by set-off or otherwise) in respect of its portion of any sum due and owing from a Borrower under any Finance Document is greater (the amount of excess being referred to in this Clause 27.1 as the "EXCESS AMOUNT") than the proportion received or recovered by the Lender receiving or recovering the smallest proportion (which shall include a nil receipt), then:

(i) the receiving Lender shall promptly notify the Administrative Agent;



(ii) the receiving Lender shall promptly and in any event within ten days of receipt or recovery of the excess amount pay to the Administrative Agent an amount equal to the excess amount;

(iii) the Administrative Agent shall treat the payment as if it were a payment by the Borrower on account of a sum owed to the Lenders and shall pay the same to the Lenders (including the receiving Lender) pro rata to their respective entitlements; and

(iv) as between the Borrower and the receiving Lender the excess amount shall be treated as not having been paid, while as between the Borrower and each Lender (including the receiving Lender), it shall be treated as having been paid to the extent receivable by the Lender.

(b) If a receiving Lender is subsequently required to repay to a Borrower any amount received or recovered by it and dealt with under paragraph (a) above, each Lender shall promptly repay to the Administrative Agent for the account of the receiving Lender the portion of the amount distributed to it, together with interest thereon at a rate sufficient to reimburse the receiving Lender for any interest which it has been required to pay to the Borrower in respect of the portion of such amount.

### 27.2 NOTIFICATION

(a) Each Lender shall promptly give notice to the Administrative Agent of the receipt or recovery by the Lender of any amount received or recovered by it in respect of this Agreement otherwise than through the Administrative Agent.

(b) Each Lender shall give notice to the Administrative Agent before instituting any legal action or proceedings under or in connection with this Agreement.

(c) Upon receipt of any notice under paragraph (a) or (b) above, the Administrative Agent will as soon as

practicable notify all the other Lenders.

28. GOVERNING LAW

This Agreement is governed by English law.

29. JURISDICTION

(a) Each of the Borrower and the Guarantor irrevocably agrees for the benefit of each of the Financial Institutions that the Courts of England shall have jurisdiction to hear and determine any suit, action or proceeding and to settle any disputes, which may arise out of or in connection with the Finance Documents, and for such purposes irrevocably submits to the jurisdiction of such Courts.



(b) Without prejudice to paragraph (a) above, each of the Borrower and the Guarantor irrevocably agrees that the State Courts or the Federal District Courts sitting in New York City shall have jurisdiction to hear and determine any suit, action or proceeding, and to settle any disputes, which may arise out of or in connection with the Finance Documents, and for such purposes irrevocably submits to the jurisdiction of such Courts.

(c) Each of the Borrower and the Guarantor irrevocably waives any objection which it may have now or hereafter to such Courts as are referred to in paragraph (a) or (b) above being nominated as the forum to hear and determine any suit, action or proceeding, and to settle any disputes, which may arise out of or in connection with the Finance Documents and any claim that any such Court is not a convenient or appropriate forum.

(d) Each of the Borrower and the Guarantor agrees that the process by which any suit, action or proceeding in England is begun may be served on the Borrower and/or the Guarantor by being delivered to Legibus Secretaries Limited, 200 Aldersgate Street, London EC1A 4JJ and that the process by which any suit action or proceeding in New York is begun may be served on the Borrower and/or the Guarantor by being delivered to CT Corporation System, 1633 Broadway New York, New York, 10019.

(e) The submission to the said jurisdictions shall not (and shall not be construed so as to) limit the right of any of the Contracting Parties to take proceedings against any other Contracting Party in any other court of competent jurisdiction, nor shall the taking of proceedings in any one or more jurisdictions preclude the taking of proceedings in any other jurisdiction, whether concurrently or not.

(f) Each of the Borrower and the Guarantor further irrevocably consents to the service of process out of the aforesaid Courts in any such action or proceedings by the mailing of copies thereof by registered or certified airmail, postage prepaid to the Borrower and/or the Guarantor at its address applying for the time being under Clause 23.1 (Notices).

(g) Nothing herein shall affect the right to serve process in any other manner permitted by law.

| ..... | ..... |
|---|---|
| SECURITY CAPITAL HOLDINGS S.A. | SECURITY CAPITAL U.S. REALTY |

30. SEVERABILITY

If any provision of this Agreement is prohibited or unenforceable in any jurisdiction, the prohibition or unenforceability shall not invalidate the remaining provisions of this Agreement or affect the validity or enforceability of the provision in any other jurisdiction.

31. COUNTERPARTS

This Agreement may be executed in any number of counterparts and all of the counterparts taken together shall be deemed to constitute one and the same instrument.



32. LANGUAGE

Each document referred to herein or to be delivered hereunder shall be in the English language or accompanied by an English translation thereof certified as accurate by an officer of the Borrower or the Guarantor. In the case of conflict and unless the Administrative Agent otherwise specifies, the English language version of any such document shall prevail.

IN WITNESS whereof the parties hereto have caused this Agreement to be duly executed on the date first written above.



SIGNATORIES

BORROWER

SECURITY CAPITAL HOLDINGS S.A.

By: /s/ Paul E. Szurek

GUARANTOR

SECURITY CAPITAL U.S. REALTY

By: /s/ Paul E. Szurek

ARRANGER

COMMERZBANK A.G. NEW YORK BRANCH

By: /s/ Marianne I. Medora
Vice President

/s/ Sean H. Harrigan
Senior Vice President

LENDER

COMMERZBANK A.G. LOS ANGELES BRANCH

By: /s/ Marianne I. Medora  /s/ Sean H. Harrigan
Vice President  Senior Vice President

ADMINISTRATIVE AGENT

COMMERZBANK INTERNATIONAL S.A.

By: /s/ Ellen Farns

COLLATERAL AGENT

COMMERZBANK A.G. NEW YORK BRANCH

By: /s/ Marianne I. Medora  /s/ Sean H. Harrigan
Vice President  Senior Vice President