

HIGHWOODS PROPERTIES INC

FORM 8-K

(Unscheduled Material Events)

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Industry	Real Estate Operations
Sector	Services
Fiscal Year	12/31

SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

FORM 8-K

CURRENT REPORT

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

Date of Report (Date of earliest event reported): December 14, 2000

HIGHWOODS PROPERTIES, INC.

(Exact name of registrant specified in its charter)

Maryland

(State of Incorporation)

1-13100

(Commission File Number)

56-1871668

(IRS Employer Identification No.)

3100 Smoketree Court, Suite 600, Raleigh, North Carolina 27604
(Address of principal executive offices, zip code)

Registrant's telephone number, including area code: (919) 872-4924

Item 2. Acquisition or Disposition of Assets.

On December 20, 2000, we announced that we have partnered with Denver-based Miller Global Properties, LLC in the formation of joint ventures valued at \$412 million.

One joint venture (the "Operating Asset Venture") involves the contribution of 21 in-service properties encompassing more than 3.0 million rentable square feet valued at approximately \$350 million. Miller Global has acquired an 80% ownership interest in the Operating Asset Venture. We retained the remaining 20% ownership interest. The Operating Asset Venture expects to borrow up to \$276 million from GE Capital Real Estate, of which approximately \$246 million will be funded upon the closing of the 21 in-service office properties. The properties included in the Operating Asset Venture are as follows:

Property -----	Location -----	Rentable ----- Sq. Feet -----	Property -----	Location -----	Rentable ----- Sq. Feet -----
Deerfield I	Atlanta	49,580	4101 Research Commons	Raleigh	73,003
Deerfield II	Atlanta	67,207	4201 Research Commons	Raleigh	83,719
Deerfield III(1)	Atlanta	53,576	4301 Research Commons	Raleigh	90,894
Peachtree Corners II	Atlanta	109,293	4501 Research Commons	Raleigh	59,261
			Concourse	Raleigh	132,175
Capital Plaza I	Orlando	241,190	Lake Plaza East	Raleigh	71,339
Capital Plaza II	Orlando	302,709	Situs I	Raleigh	59,255
Landmark I	Orlando	223,508	Situs II	Raleigh	59,749
Landmark II	Orlando	221,414	Situs III(1)	Raleigh	38,669
Signature Plaza	Orlando	273,571			
			Anchor Glass	Tampa	100,701
			Bayshore Place	Tampa	83,452
			Tower Place	Tampa	182,214

(1) To date, we have closed on the contribution or sale of all of the properties to the Operating Asset Venture other than Deerfield III and Situs III, which are currently under development. These projects are valued in the aggregate at \$10.3 million and are anticipated to close in early 2001. The Operating Asset Venture expects to borrow approximately \$7.2 million in connection with these two projects that will be funded upon closing, resulting in a total of \$246 million of debt relating to the Operating Asset Venture.

The Agreement to Form Limited Liability Companies, entered into as of August 9, 2000, by and among Miller Global Fund III, L.P., MGA Development Associates, L.P., Highwoods Realty Limited Partnership and Highwoods/Florida Holdings, L.P., which was filed as part of our Quarterly Report on Form 10-Q for the quarter ended June 30, 2000, has been superceded and replaced in its entirety by the Operating Agreement of MG-HIW, LLC, entered into as of December 1, 2000, by and among Miller Global HIW 20, LLC and Highwoods Realty Limited Partnership, and various other ancillary agreements.

A second venture (the "Development Venture") is initially focused on developing four properties, encompassing 435,000 rentable square feet with a budgeted cost of approximately \$62.0 million, on \$7.5 million of development land contributed by us. We each own 50% of the Development Venture.

We are the sole and exclusive manager and leasing agent for the properties in both joint ventures, for which we will receive customary management fees and leasing commissions. We expect to receive approximately \$300 million in aggregate net cash proceeds as a result of the formation of these joint ventures. We intend to use such proceeds to fund development activity, repurchase shares of our common stock under our ongoing share repurchase program and retire outstanding debt, either through direct payments or repayment of borrowings under our Revolving Loan (as defined below).

Certain matters discussed in this report, including but not limited to the possibility of additional investments and property contributions and borrowing expectations related to the joint ventures, are forward-looking statements within the meaning of the federal securities laws. Although we believe that the expectations reflected in such forward-looking statements are based upon reasonable assumptions, we can give no assurance that our expectations will be achieved. We assume no obligation to update or supplement forward-looking statements that become untrue because of subsequent events. Factors that could cause actual results to differ materially from our current expectations include general economic conditions, local real estate conditions, the timely development and lease-up of properties, and the other risks detailed in our most recent Quarterly Report on Form 10-Q.

Item 5. Other Events

On December 14, 2000, we obtained a new \$300 million revolving line of credit (the "Revolving Loan") from a group of 10 lender banks. The Revolving Loan was arranged and syndicated by Banc of America Securities LLC. Bank of America, N.A. is the administrative agent, Wells Fargo Bank, N.A. is the syndication agent and Wachovia Bank, N.A. is the documentation agent. Other lenders include: Managing Agent - Commerzbank; Co-Agents - AmSouth Bank, BB&T, Centura Bank, PNC Bank, and South Trust Bank; and Lender - Erste Bank.

The Revolving Loan matures in December 2003 and replaces our previous \$450 million revolving credit facility. The Revolving Loan carries an interest rate based upon our senior unsecured credit rating. At our current BBB/Baa2 senior unsecured rating, interest accrues on borrowings under the Revolving Loan at an average rate of LIBOR plus 85 basis points. The Revolving Loan also includes a \$150 million competitive bid sub-facility.

Item 7. Financial Statements, Pro Forma Financial Information and Exhibits.

(c) Exhibits

2 Operating Agreement of MG-HIW, LLC, entered into as of December 1, 2000, by and among Miller Global HIW 20, LLC and Highwoods Realty Limited Partnership

10.1 Credit Agreement among Highwoods Realty Limited Partnership, Highwoods Properties, Inc., the Subsidiaries named therein and the Lenders named therein, dated as of December 13, 2000

SIGNATURES

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

HIGHWOODS PROPERTIES, INC.

By: /s/ Carman J. Liuzzo

Carman J. Liuzzo

*Vice-President, Chief Executive Officer
and Treasurer*

Dated: December 20, 2000

EXHIBIT 2
OPERATING AGREEMENT

OF

MG-HIW, LLC

As of December 1, 2000

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OPERATING AGREEMENT OF MG-HIW, LLC

THIS AGREEMENT is made and entered into as of this 1st day of December, 2000, by and among MILLER GLOBAL HIW 20, LLC, a Colorado limited liability company ("MG"), and HIGHWOODS REALTY LIMITED PARTNERSHIP, a North Carolina limited partnership ("HIW").

WITNESSETH:

WHEREAS, the parties hereto have formed a limited liability company under the provisions of the Limited Liability Company Act as enacted in the State of Delaware (Del. Code Ann. tit. 6, (S)18-101 et seq.) (the "Act"), for the limited

purposes hereinafter described; and

WHEREAS, the parties hereto desire to set forth their respective rights, duties and responsibilities with respect to the Company;

NOW, THEREFORE, for and in consideration of Ten Dollars (\$10.00), the mutual promises, obligations and agreements contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto, intending to be legally bound, do hereby agree as follows:

ARTICLE 1

DEFINITIONS

For purposes of this Agreement, each of the following terms, when used in the singular or plural form, shall have the meaning hereinafter provided:

"AAA" has the meaning set forth in Section 18.17(b)(ii) hereof.

"Act" has the meaning set forth in the first recital hereof.

"Acquisition Agreement" means, collectively, the Agreements for Purchase and Sale of Property and Contribution Agreements, each between a City Group Owner and HIW or HIW Florida, pursuant to which the Properties (or all of the beneficial interests in the Land Trust, or all of the membership interests in the limited liability company, owning the same) will be, indirectly through the City Group Owners, contributed to, or purchased by, the Company.

"Additional Capital Contribution" means, any additional contribution of a Member to the capital of the Company made pursuant to Section 6.2 hereof.

"Adjusted Capital Account Deficit" means, as of any particular date, the deficit balance, if any, in such Member's Capital Account as of such date, as determined in the manner provided in Section 6.5 hereof and by then adjusting such capital account as so determined as follows:

- (a) such Capital Account shall be increased to reflect the amounts, if any, which such Member is obligated to restore to the Company or is treated or deemed to be obligated to restore pursuant to Treasury Regulations (S)(S) 1.704-1(b)(2)(ii)(b)(3), 1.704-1(b)(2)(ii)(c), 1.704-2(g)(1)(ii) and 1.704-2(i)(5);
- (b) such Capital Account shall be reduced to reflect any items described in Treasury Regulation (S)(S) 1.704-1(b)(2)(ii)(d)(4), (5) and (6);
- (c) if such Adjusted Capital Account Deficit is being determined as of the last day of a Fiscal Year for purposes of Section 7.7 hereof, then the applicable Capital Account shall be adjusted to reflect the allocation to such Member of all amounts required to be allocated to such Member for such Fiscal Year under Article 7 hereof (other than Sections 7.3 and 7.4 hereof);
- (d) if such Adjusted Capital Account Deficit is being determined as of the last day of a Fiscal Year for purposes of Section 7.8 hereof, then the applicable Capital Account shall be adjusted to reflect the tentative allocation to such Member of all amounts that would be required to be allocated to such Member for such Fiscal Year if neither Section 7.8 nor 7.9 hereof were a part of this Agreement; and
- (e) if such Adjusted Capital Account Deficit is being determined as of the last day of a Fiscal Year for purposes of Section 7.9 hereof, then the applicable Capital Account shall be adjusted to reflect the tentative allocation to such Member of all amounts that would be required to be allocated to such Member for such Fiscal Year if neither Section 7.8 nor 7.9 hereof were a part of this Agreement.

"Affiliate" means, with respect to any Person, a Person who, directly or indirectly, controls or is controlled by or is common control with such Person. As used in this definition, "control" means possession, directly or indirectly, of the power to direct the management policies of a Person, whether through the ownership or exercise of voting rights, by contract or otherwise.

"Approval of the Members" or similar phrases means a decision taken as described in Section 9.1(b) or 9.3 hereof, unless Approval of any individual Member or all of the Members is specifically required herein.

"Approve", "Approved", or "Approval" means, as to the subject matter thereof and as the context may require or permit, an express ratification or approval contained in a written statement signed by an approving Person.

"Bankruptcy of the Company" means (a) a general assignment by the Company for the benefit of creditors, (b) the appointment of a receiver, trustee or custodian for all or any substantial part of the Company's property and assets which is not dismissed within sixty (60) days thereafter, (c) the entry of any "order for relief" against the Company in, or the commencement by the Company of, any voluntary proceeding under present or future Federal bankruptcy laws or under any other state or local bankruptcy, insolvency or other laws respecting debtor's rights which is not dismissed within sixty (60) days thereafter, or (d) the entry against the Company of any "order for relief" or any other judgment or decree by any court of competent jurisdiction in any involuntary proceeding against the Company under present or future Federal bankruptcy laws or under any other state or local bankruptcy, insolvency or other laws respecting debtor's rights, but only if such order, judgment or decree continues unstayed and in effect for a period of sixty (60) consecutive days.

"Base Rate" means, on any particular date, the interest rate which Citibank, N.A., or any successor publicly announces as its "prime rate" as of the close of business on such date; provided, however, that in the event that such interest rate, as announced by Citibank, N.A. or its successor, is discontinued or becomes unascertainable, the Manager shall select and substitute an appropriate national banking association which publicly announces a "prime rate" of interest, and the term "Base Rate," as used in this Agreement, shall thereafter be deemed to refer to such interest rate as announced by such national banking association as its "prime rate" until such time as such interest rate as announced by Citibank, N.A. or its successor once again becomes ascertainable.

"Beneficial Interests" has the meaning set forth in Section 9.5(b) hereof.

"Book Basis" means, with respect to any asset of the Company, such asset's adjusted tax basis, as determined for federal income tax purposes; provided, however, that (a) if property is contributed to the Company, the initial Book Basis of such property shall be its fair market value, as determined by the Members, on the date of contribution; (b) if the Capital Accounts of the Company are adjusted pursuant to Treasury Regulation (S) 1.704-1(b)(2)(iv)(f) to reflect

the fair market value of the Company's assets, the Book Basis of each such asset shall be adjusted to equal its fair market value as of the time of such adjustment in accordance with such Treasury Regulation; and (c) the Book Basis of all assets shall be adjusted thereafter by Book Depreciation and amortization

as provided in Treasury Regulation (S) 1.704-1(b)(2)(iv)(g).

*"Book Depreciation" means, for each Fiscal Year, an amount computed for

such Fiscal Year in the manner provided in Treasury Regulation (S) 1.704-
1(b)(2)(iv)(g)(3) with respect to each item of property that has been

contributed to the capital of the Company by a Member.*

"Book/Tax Disparity" has the meaning set forth in Section 7.13 hereof.

*"Borrower" and "Borrowers" have the meanings set forth in Section 9.5(b)

hereof.*

"Budget" means an annual statement prepared by the Property Manager and Approved by the Manager, setting forth, by line item, the estimated receipts and expenditures (capital, operating and other) of the Company for the period covered by such statement and an estimate of the projected Net Cash Flow for each full or partial calendar month during the period covered by such statement. Only one "Budget" shall be in effect for any given time period. The Budget is further described in Sections 10.2 and 10.3 hereof.

"Capital Account" has the meaning set forth in Section 6.5 hereof.

"Capital Contribution" means, as to each Member, the sum of such Member's Initial Capital Contributions and Additional Capital Contributions as described in Article 6 hereof.

"City Group" means, those Properties described on Exhibit "A" as located in, or in the vicinity of, respectively, each of the cities of Atlanta, Georgia, Orlando, Florida, Tampa, Florida, or Raleigh, North Carolina.

"City Group Owner" means, respectively, each of the four (4) Persons owning, directly or indirectly, all of the Properties in a City Group, which Persons shall be wholly-owned by the Company.

"Claim" has the meaning set forth in Section 18.17(b) hereof.

"Claiming Member" has the meaning set forth in Section 18.17(b) hereof.

"Code" means the Internal Revenue Code of 1986, as amended from time to

time, or any successor statute. All references herein to specific sections of the Code shall be deemed to refer also to corresponding provisions of any successor statute.

"Company" means MG-HIW, LLC, a Delaware limited liability company.

"Competitor" means (a) any publicly-owned real estate company which is substantially active in the office/industrial property market segment, or (b) any Person engaged in the business of the development and/or leasing of office/industrial buildings of comparable quality to the Properties in the markets in Atlanta, Georgia, Orlando, Florida, Tampa, Florida and Raleigh, North Carolina that is a major direct competitor for tenants with the Highwoods Guarantor or any of its Affiliates in such markets.

"Contributing Member" has the meaning set forth in Section 6.2(b) hereof.

"Contributions Account" means HIW's Contributions Account or MG's Contributions Account, as the context may require.

"Contribution Date" has the meaning set forth in Section 6.2(a)(iii) hereof.

"Contribution Loan Member" has the meaning set forth in Section 6.2(b)(i) hereof.

"Continuing Party" has the meaning set forth in Section 16.2 hereof.

"Election Notice" has the meaning set forth in Section 13.2(b) hereof.

"Escrow Agent" has the meaning set forth in Section 16.5 hereof.

"Extraordinary Event" means any sale (other than the transfer of the Company's ownership interests in any City Group Owner pursuant to Article 16 hereof, a negotiated sale of one or more entire Properties or any other sale of one or more entire Properties specifically contemplated by any other provision of this Agreement), exchange, condemnation, conversion, damage or destruction of all or any portion of any of the Properties (other than any such events relating to Company tangible property and fixtures that, in the aggregate, involve property having a Book Basis to the Company of less than \$50,000.00).

"Extraordinary Event Proceeds" means the amount by which any cash proceeds (including, without limitation, insurance proceeds, recoveries, damages and awards) received or collected by the Company from any Extraordinary Event exceed (a) any satisfaction of indebtedness and closing and other costs and expenses incurred or required to be paid by the Company in connection with any such Extraordinary Event, (b) the amount of such proceeds used by the Company for restoration and repair in the event of any damage or destruction to the subject Property, and (c) the amount of such proceeds applied to fund any reserves contemplated by the then-current Budget or such additional reserves as the Manager deems reasonably appropriate. Notwithstanding the foregoing, the term "Extraordinary Event Proceeds" shall not include Net Sales Proceeds or Net Refinancing Proceeds.

"First Mortgage Loan" has the meaning set forth in Section 9.4 hereof.

"Fiscal Year" means the fiscal year of the Company. The first Fiscal Year shall commence on the date hereof, and each succeeding Fiscal Year shall commence on the date immediately following the last day of the immediately preceding Fiscal Year. Each Fiscal Year shall end on the earliest to occur after the commencement of such Fiscal Year of (a) December 31, (b) the day immediately preceding the date of the "liquidation" of a Member's interest in the Company (within the meaning of Treasury Regulation (S) 1.704-1(b)(2)(ii)(g),

(c) the day immediately preceding the date on which any distribution is made to the Members under Section 15.2 hereof, or (d) the date on which the Company is deemed liquidated and wound up under Section 15.4 hereof.

"Foreign Investment Acts and Regulations" has the meaning set forth in Section 13.3 hereof.

"Gross Purchase Price" has the meaning set forth in Section 13.4(a) hereof.

"Highwoods Guarantor" means Highwoods Properties, Inc., a Maryland corporation.

"HIW" means Highwoods Realty Limited Partnership, a North Carolina limited

partnership, a Member of the Company.

"HIW's Contributions Account" means, as of any relevant date, the excess, if any, of (a) aggregate of (i) the Initial Capital Contribution of HIW made to the Company pursuant to the terms of Section 6.1 hereof, and (ii) all Additional Capital Contributions made by HIW to the Company pursuant to the terms of Section 6.2 hereof, over (b) the aggregate amount of distributions made to HIW prior to such relevant date pursuant to Section 8.2 hereof in reduction of HIW's Contributions Account.

"HIW Florida" means Highwoods/Florida Holdings, L. P., a Delaware limited partnership, an Affiliate of HIW.

"Including," "such as," "for example," or similar words or phrases are to be interpreted as including, but not to denote a limitation to, the matter referred to unless words of limitation are expressly set forth.

"Independent Member" has the meaning set forth in Section 9.8 hereof.

"Initial Capital Contributions" has the meaning set forth in Section 6.1 hereof.

"Interest" means the entire ownership interest of a Member in the Company at any particular time, including the right of such Member to any and all benefits to which a Member may be entitled as provided in this Agreement, together with the obligations of such Member to comply with all of the terms and provisions of this Agreement.

"JAMS" has the meaning set forth in Section 18.17(b)(ii) hereof.

"Land Trusts" has the meaning set forth in the Loan Documents.

"Last Day" has the meaning set forth in Section 7.1(c) hereof.

"Lender" has the meaning set forth in Section 9.4 hereof.

"Liquidation Proceeds" means all cash held by the Company at the time of the happening of a dissolving event described in Section 15.1 hereof and all cash received by the Company after the happening of such dissolving event (irrespective of whether such cash was or would otherwise have been considered Net Cash Flow, Extraordinary Event Proceeds, Net Sales Proceeds or Net Refinancing Proceeds under the terms of this Agreement).

"Loan Documents" has the meaning set forth in Section 9.4 hereof.

"Management Agreement" means, collectively, the property management and leasing agreements concerning the property management and leasing of the Properties, to be entered into by each of the City Group Owners, as owner, and HIW, as property manager and leasing agent.

"Manager" means MG or any successor manager of the Company appointed as provided herein.

"Member" means HIW, MG or the Independent Member, or the permitted successor or assign of any of them, individually, and "Members" means HIW, MG and the Independent Member, and their respective permitted successors or assigns, collectively; provided, however, that it is mutually acknowledged and agreed that the Independent Member has no economic interest and, except as expressly conferred by Section 9.9 hereof, no voting or other rights or ability to participate in the affairs of the Company, and to that end, any use of the terms "Member" or "Members" herein in a context that presupposes a Member possesses such economic interest or voting or other rights shall not be deemed to include the Independent Member.

"MG" means Miller Global HIW 20, LLC, a Colorado limited liability company,

a Member of the Company.

"MG Guarantor" means Miller Global Fund III, L.P., a Colorado limited partnership.

"MG's Contributions Account" means, as of any relevant date, the excess, if any, of (a) aggregate of (i) the Initial Capital Contribution of MG made to the Company pursuant to the terms of Section 6.1 hereof, and (ii) all Additional Capital Contributions made by MG to the Company pursuant to the terms of Section 6.2 hereof, over (b) the aggregate amount of distributions made to MG prior to such relevant date pursuant to Section 8.2 hereof in reduction of MG's Contributions Account.

"Net Cash Flow" means, for any given period, all receipts from the conduct of the business of the Company for such period, from whatever source derived (including, without limitation, all amounts previously escrowed with any lender to the Company which are released from escrow and returned to the Company, but specifically excluding any Extraordinary Event Proceeds, Net Sale Proceeds and Net Refinancing Proceeds), which are available for distribution by the Company following (a) the payment of all operating, debt service and capital expenses of the Company for such period with respect to which no reserves have been established (including, without limitation, any principal and interest due during any such period with respect to any debt of the Company), and (b) the establishment or replenishment, as deemed reasonably necessary by the Manager, of reserves for taxes, debt service, tenant improvement expense, leasing commission expense, maintenance, repairs, capital improvements and other expenses and other working capital requirements of the Company or for contingent liabilities of the Company.

"Net Profit" and/or "Net Loss" means, for each Fiscal Year, the Company's taxable income or taxable loss for such Fiscal Year, determined in accordance with Section 703(a) of the

Code and Treasury Regulation (S) 1.703-1, without separately stating any items of income, gain, loss, deduction or credit under Code Section 703(a)(1) (i.e., each separately-stated item shall be taken into account in determining Net Income and Net Loss), subject to the following adjustments:

(a) any tax-exempt income, as described in section 705(a)(1)(B) of the Code, realized by the Company during such Fiscal Year, shall be taken into account in computing such taxable income or taxable loss as if it were taxable income;

(b) any expenditures of the Company described in section 705(a)(2)(B) of the Code for such Fiscal Year, including any items treated under Treasury Regulation (S) 1.704-1(b)(2)(iv)(i) as items described in section

705(a)(2)(B) of the Code, shall be taken into account in computing such taxable income or taxable loss as if they were deductible items;

(c) Book Depreciation for such Fiscal Year shall be taken into account in computing such taxable income or taxable loss in lieu of any cost recovery deduction to which the Company is entitled for such Fiscal Year with respect to any item of property that has been contributed by a Member to the Company;

(d) any gain or loss recognized by the Company during such Fiscal Year by reason of a sale of, or other Extraordinary Event with respect to, all or any part of the assets of the Company shall not be taken into account in computing such taxable income or taxable loss; and

(e) any item of income, gain, loss or deduction that is required to be allocated to the Members under Section 7.5, 7.6, 7.8, 7.9, 7.10 or 7.11 hereof shall not be taken into account in computing such taxable income or taxable loss.

If the Company's taxable income or taxable loss for such Fiscal Year, as adjusted in the manner provided in clauses (a) through (e) above, is a positive amount, such amount shall be the Company's Net Profit for such Fiscal Year; and if negative, such amount shall be the Company's Net Loss for such Fiscal Year.

"Net Refinancing Proceeds" means the amount by which any cash proceeds received by the Company from any permanent loan exceeds (a) the amount required to be paid by the Company in reduction or satisfaction of prior loans or liens upon the Properties, (b) any closing costs incurred or required to be paid by the Company in connection with such permanent loan, (c) the amount of any such proceeds applied to fund any reserves contemplated by the then-current Budget or to fund any such additional reserves as the Manager reasonably deems appropriate, and (d) the amount of any such proceeds applied or set aside by the Manager to fund any capital improvements to any of the Company's Properties reasonably deemed necessary or appropriate by the Manager. Net Refinancing Proceeds shall be accounted for on a Property-by-Property basis (i.e., there shall be an allocation of the aggregate loan amount among the

Properties securing the subject refinancing) for the purposes of this Agreement, including, without limitation, Exhibit "E" attached hereto and made a part hereof.

"Net Sales Price" has the meaning set forth in Section 13.4(a) hereof.

"Net Sales Proceeds" means the amount by which the gross cash proceeds from the sale of any of the Properties exceed (a) the amount required to be paid by the Company in reduction or satisfaction of prior loans or liens upon the subject Property, (b) the customary and usual closing costs payable to third parties in connection with such sale, (c) the amount of any such proceeds applied to fund any reserves contemplated by the then-current Budget or to fund any such additional reserves as the Manager reasonably deems appropriate, and (d) the amount of any such proceeds applied or set aside by the Manager to fund any capital improvements to any of the Company's Properties reasonably deemed necessary or appropriate by the Manager.

"Non-Contributing Member" has the meaning set forth in Section 6.2(b) hereof.

"Non-Offering Member" has the meaning set forth in Section 13.2(a) hereof.

"Notice" has the meaning set forth in Section 17.1 hereof.

"Notice of Determination" has the meaning set forth in Section 9.1(b) hereof.

"Notice of Election" has the meaning set forth in Section 16.2(a) hereof.

"Offer Period" has the meaning set forth in Section 13.2(a) hereof.

"Offered Property" has the meaning set forth in Section 13.4(a) hereof.

"Offeree" has the meaning set forth in Section 16.1 hereof.

"Offering Member" has the meaning set forth in Section 13.2(a) hereof.

"Offering Notice" has the meaning set forth in Section 13.2(a) hereof.

"Offeror" has the meaning set forth in Section 16.1 hereof.

"Opposite Member" has the meaning set forth in Section 18.17(b) hereof.

"Person" means any individual, corporation, partnership (general or limited), joint venture, association, joint-stock company, limited liability company, limited liability partnership, limited liability limited partnership, professional corporation, trust, entity, unincorporated organization or government or any agency or political subdivision thereof.

"Properties" means, collectively, the real properties described on Exhibit
"A" attached hereto and by this reference made a part hereof, as well as the

tangible and intangible personal property incident thereto and used in connection therewith, all as more fully described in the Acquisition Agreement. "Property" means any one of the Properties, individually. If the context so requires (for example, a reference to "sale of the Properties"), the reference shall be deemed to include the ownership interests in the Properties, if and to the extent that the Company or any City Group Owner owns, transfers or otherwise deals in beneficial interests in the Land Trusts, or membership interests in limited liability companies, owning any of the Properties, rather than fee simple title thereto.

"Property Manager" means, HIW, as property manager and leasing agent under the Management Agreement, or any successor property manager and/or leasing agent appointed as provided herein.

"Redemption Closing Date" has the meaning set forth in Section 16.4(a) hereof.

"Redemption Notice" has the meaning set forth in Section 16.1 hereof.

"Redemption Price" has the meaning set forth in Section 16.3 hereof.

"Redemption Procedure" has the meaning set forth in Section 16.1 hereof.

"Redemption Value" has the meaning set forth in Section 16.1 hereof.

"Response" has the meaning set forth in Section 18.17(b)(i) hereof.

"Sale Gain" and/or "Sale Loss" means any gain or loss recognized by the Company for income tax purposes in any Fiscal Year by reason of the sale of, or other Extraordinary Event with respect to, all or any part of the assets of the Company, except that, with respect to any item of property that has been contributed by a Member to the capital of the Company, Sale Gain and Sale Loss means any gain or loss recognized by the Company for book purposes in any Fiscal Year by reason of the sale of, or other Extraordinary Event with respect to, any such item of property, and such book gain and book loss with respect to any such item of property shall be computed by reference to the Book Basis of such item of property as of the date of such sale or other Extraordinary Event, rather than by reference to the tax basis of the item of property as of such date.

"Sharing Ratio" of each Member, subject to adjustment pursuant to Section 6.2(b)(ii) hereof, shall be as follows:

MG 80%

HIW 20%

The Independent Member has no economic interest in the Company.

"Target Final Balances" has the meaning set forth in Section 7.12 hereof.

"Tax Matters Partner" has the meaning set forth in Section 10.8 hereof.

"Transferor" has the meaning set forth in Section 13.3 hereof.

"Treasury Regulation" means the Federal income tax regulations promulgated by the Department of the Treasury under the Code, as such regulations may be amended from time to time. All references herein to a specific section or sections of the Treasury Regulations shall be deemed to include a reference to any corresponding provisions of succeeding Treasury Regulations.

"Withdrawing Party" has the meaning set forth in Section 16.2(a) hereof.

"Vector" means Vector Property Services, LLC, a service provider affiliated

with MG.

ARTICLE 2

FORMATION OF COMPANY

The parties hereto have formed the Company under the Act.

ARTICLE 3

NAME AND PRINCIPAL OFFICE OF COMPANY; REGISTERED AGENT; STATUTORY COMPLIANCE

3.1 Name. The name of the Company shall be "MG-HIW, LLC".

3.2 Principal Office and Place of Business; Registered Agent. All third- party notices pursuant hereto shall be sent to the Manager or any successor manager appointed hereunder. The principal office of the Company shall be located initially at c/o Miller Global Properties, LLC, 4643 South Ulster Street, Suite 1500, Denver, Colorado, 80237 or at such other place as the Manager may from time to time and at any time designate after giving written notice of such designation to the Members. The registered agent of the Company in the State of Delaware shall be The Corporation Trust Company and the registered office of the Company in the State of Delaware shall be the office of said registered agent in Wilmington, Delaware or, following any removal, any successor and such successor's office in the State of Delaware as may be Approved by the Manager. The principal and registered office and principal place of business of the Company in Colorado shall be 4649 South Ulster Street, Suite 1500, Denver, Colorado, 80237, and at such other or additional places in such other jurisdictions as the Manager may from time to time deem necessary or advisable.

3.3 Statutory Compliance. The Company shall exist under and be governed by, and this Agreement shall be construed in accordance with, the internal laws of the State of Delaware, without reference to the conflicts of laws or choice of law provisions thereof. The Manager, on behalf of the Members, shall make all filings and disclosures required by, and shall otherwise comply with, all such laws. The Manager, on behalf of the Members, shall have executed and filed in the appropriate records any certificate or certificates and reports required by law to be filed in connection with the formation and operation of the Company and shall execute and file such other documents and instruments as may be necessary or appropriate with respect to the formation of, and conduct of business by, the Company.

ARTICLE 4

PURPOSE OF COMPANY; USE OF COMPANY ASSETS; TITLE TO PROPERTY; NO MERGER

4.1 Company Purposes. Subject to Section 9.4 hereof, the purpose of the Company shall be (a) to acquire the Properties and related warranties, permits, contract rights and entitlements, (b) to maintain, operate, manage, lease, mortgage, improve, sell, exchange, dispose of and otherwise deal in and exercise control over the Properties and the real and personal property relating thereto, and (c) to do everything necessary or desirable for the accomplishment of the above purposes or for the furtherance of any of the powers herein set forth, and to do every other act and thing incident thereto or connected therewith.

4.2 Use of Assets. The Members shall use the Company's assets solely for the benefit of the Company. No assets of the Company shall be transferred or encumbered for or in payment of any individual obligation of a Member.

4.3 Title to Property. All real property and personal property (which shall include, without limitation, the Company's ownership interests in the City Group Owners) owned by the Company shall be owned by the Company as an entity and, insofar as permitted by applicable law, no Member shall have any ownership interest in such property in its individual name or right and each Member's interest in the Company shall be personal property for all purposes.

4.4 No Merger. Notwithstanding anything to the contrary contained herein, the Company shall not be merged, nor shall it allow any Person directly or individually owned by the Company to be merged, with or into any other Person, nor shall the Company engage or permit such Persons to engage in any other business combination activity, nor shall the Manager be permitted to take any action which would cause a merger of the Company or such other Persons with or into any other Person or any such business combination activity, without, in each such case, the Approval of all of the Members.

ARTICLE 5

DURATION OF COMPANY

The duration of the Company shall continue until the Company is dissolved and liquidated under Article 15 hereof.

ARTICLE 6

CAPITAL OF COMPANY

6.1 Initial Capital Contributions. HIW has irrevocably committed to contribute to the capital of the Company, indirectly through the City Group Owners, the Properties on Exhibit "A" hereto, which, in the aggregate, the Members agree shall have an agreed fair market value at the time of contribution of \$12,536,000.00, and HIW has also irrevocably committed to contribute to the capital of the Company eight million four hundred twenty-nine thousand eight hundred thirty-four and 16/100 dollars (\$8,429,834.16) which, in the aggregate, shall result in a total capital contribution by HIW to the capital of the Company of twenty million nine hundred sixty-five thousand eight hundred thirty-four and 16/100 dollars (\$20,965,834.16). MG has irrevocably committed to contribute to the capital of the Company eighty-three million eight hundred sixty-three thousand three hundred thirty-six and 63/100 dollars (\$83,863,336.63) in cash. In each case, such party's capital contribution pursuant to this Section 6.1 shall be referred to as such party's "Initial Capital Contribution". The remainder of the Properties (or all of the beneficial interests in the Florida land trusts owning, or all of the membership interests in the limited liability company owning, such Properties) have been purchased, indirectly through the City Group Owners, by the Company from HIW or HIW Florida. The values at which various of the Properties (or all of the beneficial interests in the Florida land trusts owning, or all of the membership interests in the limited liability company owning, such Properties) have been contributed to, or purchased by, the Company are described with greater particularity on Exhibit "A" attached hereto. The Independent Member has not made or committed to make any capital contribution whatsoever hereunder, and shall have no economic interest in the Company.

6.2 Additional Capital Contributions.

(a) Call for Additional Capital Contributions.

(i) At any time that any amount required by the Loan Documents to be paid by the Borrowers (specifically excluding amounts which would be required to be so paid to cure non-monetary defaults) has not been paid by the sixth (6th) day after the date on which it is due, until the three (3) five (5)-Business Day cure periods allotted to HIW under the Loan Documents have been exhausted, and thereafter, on the date on which it is due, and a call for an Additional Capital Contribution in respect thereof has not previously been made pursuant to the terms hereof, HIW may call for an Additional Capital Contribution, without the Approval of the Manager or the other Member, in the amount of such payment and any late charges, interest or other amounts required to avoid

or cure an Event of Default under the Loan Documents which has or would otherwise occur solely on account of such delinquency. If the timing of the payment due under the Loan Documents is such that HIW must advance the full amount of the Additional Capital Contribution to avoid or cure such Event of Default before MG's time to make its share of any outstanding Additional Capital Contribution has expired, then HIW, upon twenty-four (24) hours' prior Notice to MG, may make the full amount thereof, and MG's share shall be treated as a Contribution Loan pursuant to Section 6.2(b)(i). Given the uncertainty regarding the timing of HIW's calls for capital as aforesaid, HIW agrees to modify any such call to conform them to the amount actually required to avoid or cure Events of Default as aforesaid. In addition, HIW shall be entitled to cure any non-monetary Event of Default or Potential Default under the Loan Documents, but shall not be entitled to make a call for an Additional Capital Contribution hereunder to fund such cure. HIW shall also be entitled, at any time that the "Research Commons Ground Lease" (as defined in the Loan Documents) is in existence and the premises demised thereunder are encumbered by the Loan or any financing subsequently entered into by the Company in full or partial replacement thereof, to call for an Additional Capital Contribution, without the Approval of the Manager or the other Member, to pay the Company's pro-rata share of taxes on the Properties owned by the Raleigh City Group Owner which are located within the development known locally as Research Commons, but only to the extent that such taxes are delinquent (i.e., the unpaid amount thereof is subject to penalties and/or interest) and not being protested in a manner which excuses the payment of such taxes until such protest is resolved. Further, at any time that the MG Guarantor does not have the right to direct the Manager to make calls for Additional Capital Contributions hereunder, if Highwoods should at any time determine (A) that, in order for the Company to meet its cash requirements, the Company is in need of any funds in excess of amounts: available to the Company from cash flow; available from reserves set forth in the applicable Budget or otherwise Approved by the Manager; available from any loans Approved by the Manager made to the Company to fulfill such obligations or requirements; and available from the Initial Capital Contributions made by the Members pursuant to Section 6.1 hereof, and (B) that it would be in the best interests of the Company to obtain such required funds, then HIW may call for an Additional Capital Contribution to the Company, without Approval of the Manager or the other Members, only when the Company's funds are insufficient to pay any anticipated expense or other obligation of the Company which will become due and owing within the next sixty (60) calendar days thereafter (but only if the Company is not then protesting such expense or other obligation in good faith and through appropriate proceedings, it being mutually agreed and understood that HIW shall not be entitled to make a call for an Additional Capital Contribution hereunder for any expense or other obligation which is being so contested), and such expense or obligation (a) is in the nature of debt service on existing loans to the Company and/or any City Group Owner which are secured by one or more of the Properties, payment of other contractual obligations of the Company which have been duly Approved by the Manager, maintenance of Company properties and assets (which shall specifically exclude capital improvements), payment required to prevent the Company from defaulting under any lease of Company property or other

contract to which the Company is a party, or payment of Company obligations for taxes, utility services, tort liability, judgments against the Company and amounts owing which are needed to keep in place all of the Company's insurance policies, as such become due and payable, or (b) arises from an emergency situation or any unanticipated event or circumstance that causes an imminent danger of material financial or other loss to the Company or any of the Properties; provided, however, that any such call by HIW for an Additional Capital Contribution hereunder may be made for up to \$250,000 per affected Property, and for up to \$1,000,000 in the aggregate, but in no event may all calls by HIW for an Additional Capital Contribution pursuant to this Section 6.2(a)(i) be made for more than an aggregate of \$1,000,000. It is mutually agreed and understood that the foregoing right is solely for the benefit of HIW and any Affiliate(s) of HIW to which HIW's Interests may be transferred hereunder, and such right shall not be available to any other transferee of HIW's Interests. At any time that the aggregate calls for Additional Capital Contributions by HIW pursuant to this Section 6.2(a)(i) reach an aggregate of \$1,000,000, the right granted to HIW hereunder shall terminate, and this Section 6.2(a)(i) shall thereafter be of no further force or effect.

(ii) The Manager may call for Additional Capital Contributions if, in its reasonable judgment, additional funds are needed for the operation, protection, or improvement of the Properties consistent with the purposes hereof. By way of example, but not by way of limitation of the generality of the foregoing, Additional Capital Contributions may be called for improvements to which the Company is committed in executed leases, leasing commissions, scheduled debt service, real estate taxes, other operating expenses, or capital improvements appropriate for the operation of the Properties such as improvements to common areas, parking facilities, and similar investments. The Members hereby acknowledge that they are in agreement that the Manager is entitled to call for up to a maximum of \$2,500,000.00 in Additional Capital Contributions, during the first five

(5) years from the date hereof, for capital expenditures (not including tenant improvement expenditures) for the Properties owned by the Orlando City Group Owner; provided, however, that, notwithstanding any other provision hereof to the contrary, HIW's consent must be obtained for any Additional Capital Contributions made during the first five (5) years hereof for capital expenditures (other than for tenant improvement expenditures) for the Properties owned by the Orlando City Group Owner. The foregoing sentence shall not limit, nor shall it be deemed to limit, the Manager's ability to make calls for Additional Capital Contributions for tenant improvements for the Properties owned by the Orlando City Group Owner, whether during or after the five (5)- year period referred to above.

(iii) Each such call shall be made by written notice specifying the amount to be contributed in the aggregate, the purposes for which the funds are to be applied, the due date thereof (the "Contribution Date") which shall not be earlier than thirty (30) days following the call, and the share of each Member thereof determined by reference to its respective Sharing Ratio.

(b) Failure to Contribute. If either Member fails to contribute by the Contribution Date its share of the Additional Capital Contribution so called for (said Member being the "Non-Contributing Member"), the other Member, so long as it has contributed its share of the Additional Capital Contribution so called for (the "Contributing Member"), may advance the amount of the Non-Contributing Member's share of the Additional Capital Contribution to the Company, in which event:

(i) The amount so advanced shall constitute a loan (each a "Contribution Loan") to the Non-Contributing Member in the amount advanced (any Member who makes such a Contribution Loan being a "Contribution Loan Member"). Each such Contribution Loan shall bear interest at a rate equal to the Base Rate plus five percent (5%), compounded monthly (but such rate shall not, in any event, exceed the maximum rate permitted by law), and shall be repayable at any time without penalty. While such Contribution Loan is outstanding, any distributions from the Company to which the Non-Contributing Member would otherwise be entitled shall be paid by the Company to the Contribution Loan Member, first, to pay accrued interest, and then in reduction of such Contribution Loan. Upon repayment of such Contribution Loan prior to the effectiveness of an election for adjustment of Sharing Ratios described in Section 6.2(b)(ii) below, the Non-Contributing Member shall be restored to its full rights hereunder as if it had timely responded to the call for the subject Additional Capital Contribution.

(ii) If the Non-Contributing Member has not repaid any Contribution Loan, with interest as described in Section 6.2(b)(i) hereof, in full within sixty (60) days after the date on which such Contribution Loan was made, then, within forty-five (45) days following the expiration of such sixty (60)-day period, the Contribution Loan Member may give written notice to the Non-Contributing Member of its intention to avail itself of the remedy described in this Section 6.2(b)(ii). If the Non-Contributing Member repays the Contribution Loan, with interest as described in Section 6.2(b)(i) hereof, within thirty (30) days following receipt of the notice referred to in the preceding sentence, it shall be restored to its full rights and authorities hereunder as if it had timely responded to the call for an Additional Capital Contribution. If the Non-Contributing Member does not do so, however, the advance by the Contributing Member on behalf of the Non-Contributing Member (without interest), together with the Contributing Member's own Additional Capital Contribution, shall be credited to the Contributions Account of the Contributing Member, and the Sharing Ratios of each Member shall then be recalculated, by establishing fractions, the numerators of which shall be the respective amounts in the Contributions Accounts of the Members, and the denominator of which shall be the aggregate of the amounts in HIW's Contributions Account and MG's Contributions Account (after crediting all amounts paid by the Contributing Member pursuant to this Section 6.2(b) to its Contribution Account). The Sharing Ratios, as thus recalculated, shall thereafter be the "Sharing Ratios" of each of the Members, and the definition thereof contained herein shall be deemed so modified. In such event, the Contribution Loan in respect of which such adjustment is made shall be extinguished. In

all other respects, however, such adjustment of Contributions Accounts and recalculation of Sharing Ratios shall be the sole remedy for the failure to repay a Contribution Loan to a Non-Contributing Member. Exhibit "B" attached hereto and by this reference made a part hereof sets forth an example of the calculation of such decrease and increase in Sharing Ratios.

6.3 Debt Financing. It is acknowledged that, coincident with the acquisition of the Properties (or beneficial interests in the Land Trusts, or membership interests in the limited liability company, owning the same) by the City Group Owners, loans have been extended to the Company and the City Group Owners by Lender in the maximum principal amount of up to Two Hundred Eighty Million and 00/100 Dollars (\$280,000,000.00), secured by the Properties. The MG Guarantor and HIW have guaranteed their respective portions of the nonrecourse carveouts associated with such financing. The Manager is empowered to refinance such indebtedness at such time or times and in such manner as it shall consider to be reasonably appropriate and in the Company's best interests. To the extent required by any subsequent lender, the Members shall, or shall cause their respective Guarantors to, guarantee the recourse carveouts of any subsequent nonrecourse financing, but only if such Member's or Guarantor's liability thereunder is not materially greater than its liability under the loans first described above. If possible, the potential liability of each such Member or Guarantor shall be limited to the Sharing Ratio of its principal(s) multiplied by the amount guaranteed. If, however, any such guaranty is joint and several, the Members and their Guarantors shall enter into a contribution agreement reflecting their undertaking to contribute, in accordance with the Members' Sharing Ratios, to any payment required of any such party under any such guaranty, to the end that any payment required of a Member and/or its Guarantor is limited to the Member's Sharing Ratio multiplied required by the amount.

6.4 Return of Capital Contributions; No Restoration of Deficits in Capital

Accounts. All Capital Contributions shall be expended in furtherance of the business of the Company. All costs and expenses of the Company shall be paid from its funds. No interest shall be paid on Capital Contributions or Capital Accounts, and, except as herein expressly provided to the contrary, no Member shall have the right to demand or receive the return of all or any part of such Member's Capital Contributions or Capital Account. Notwithstanding anything contained herein to the contrary, no Member shall have any obligation to restore any deficit, as determined pursuant to this Agreement, to its Capital Account.

6.5 Capital Accounts. A separate capital account (each a "Capital Account") shall be maintained for each Member, and the amount of such capital account, as of any particular date, shall be the sum of the following amounts:

- (a) the aggregate amount of cash that has been contributed to the capital of the Company by such Member as of such date; plus

- (b) the agreed upon net fair market value (as of the date of contribution) of any property that has been contributed by such Member to the capital of the Company as of such date; plus
- (c) the aggregate amount of the Company's Net Profit and Sale Gain for all Fiscal Years ending prior to such date that has been, or is required to be, allocated to such Member pursuant to Sections 7.1 and 7.2 hereof; plus
- (d) the aggregate amount of items of income for all Fiscal Years ending prior to such date that has been, or is required to be, allocated to such Member pursuant to Sections 7.8, 7.9 and 7.10 hereof; minus
- (e) the aggregate amount of the Company Net Loss and Sale Loss for all Fiscal Years ending prior to such date that has been, or is required to be, allocated to such Member pursuant to Sections 7.3, 7.4 and 7.7 hereof; and minus
- (f) the aggregate amount of items that has been, or is required to be, allocated to such Member pursuant to Sections 7.5 and 7.11 hereof for all Fiscal Years ending prior to such date; and minus
- (g) the aggregate amount of cash and the agreed upon net fair market value (as of the date of distribution) of all other property that has been distributed to such Member by the Company as of such date.

A Member's Capital Account shall also be increased or decreased to reflect any items described in Treasury Regulation (S) 1.704-1(b)(2)(iv) that are required to be reflected in such Member's Capital Account under such Treasury Regulation and which are not otherwise taken into account in computing such Capital Account as provided above.

ARTICLE 7

ALLOCATION OF PROFITS AND LOSSES

7.1 Net Profit. The Company's Net Profit, if any, for each Fiscal Year shall be allocated to the Members in the following manner and in the following order of priority:

- (a) first, to the Members, in proportion to, and to the extent of, their respective shares of any distributions made or to be made by the Company pursuant to Section 8.1 hereof with respect to such Fiscal Year; then
- (b) second, to the Members, in proportion to, and to the extent of, the respective excesses, if any, of any distributions made or to be made by the Company pursuant to Section 8.1 hereof with respect to such Fiscal Year and for all prior Fiscal Years over the respective aggregate amounts of Net

Profit theretofore allocated to such

Members pursuant to Section 7.1(a) hereof (including Net Profit allocated to the Members under Section 7.1(a) hereof for such Fiscal Year) and this Section 7.1(b); and then

(c) to the Members in proportion to their respective Sharing Ratios as of the last day (the "Last Day") of such Fiscal Year.

For purposes of this Section 7.1, any distribution of cash made by the Company to any of the Members under Section 8.1 hereof during the first thirty (30) days of any Fiscal Year of the Company shall be deemed to have been distributed to such Member on the last day of the immediately preceding Fiscal Year of the Company.

7.2 Allocation of Sale Gain.

(a) Any Sale Gain recognized by the Company in any Fiscal Year shall be allocated to the Members in the following manner and in the following order of priority:

(i) first, to MG and HIW, pro rata (but subject to the distribution requirements and limitations of Section 8.2 hereof), the amounts, if any, necessary to increase their respective Capital Accounts as of the Last Day to a positive balance equal to the balance, if any, then standing in MG's Contributions Account and HIW's Contributions Account, respectively; then

(ii) second, and finally, any remaining Sale Gain shall be allocated to the Members in proportion to their respective Sharing Ratios (or, to the extent of any reallocation pursuant to Section 8.2 and Exhibit "E" hereto, consistent therewith) such other ratio as may be required by Section 8.2 hereof as of the Last Day.

(b) For purposes of this Section 7.2, the amount of a Member's Capital Account as of a Last Day shall be computed as of such Last Day in the manner provided in Section 6.5 hereof, but shall be adjusted to reflect the allocation to such Member of all amounts required to be allocated to such Member for such Fiscal Year under Article 7 hereof (other than pursuant to this Section 7.2).

7.3 Net Loss from Operations. The Company's Net Loss, if any, from the normal operations of the Company for each Fiscal Year shall be allocated to the Members in proportion to and to the extent of their respective positive Capital Account balances as of the Last Day of such Fiscal Year, and thereafter, in proportion to their respective Sharing Ratios.

7.4 Allocation of Sale Loss. Any Sale Loss recognized by the Company in any Fiscal Year shall, subject to Section 7.14 hereof, be allocated to the Members in the following manner and the following order of priority:

(a) first, such Sale Loss shall be allocated to the Members in proportion to, and to the extent of, the positive balances standing in their respective Capital Accounts as of the Last Day; provided, however, that if the amount of Sale Loss to be allocated is less than the sum of the Capital Account balances of all Members having positive Capital Account balances, then the Sale Loss shall be allocated to the Members in such proportions and in such amounts as would result in the respective Capital Account balances of each Member equaling, as nearly as possible, the amount such Member would receive if an amount equal to the excess of (i) the sum of all of the Members' Capital Account balances (computed prior to the allocation of Sale Loss pursuant to this paragraph (a)), over (ii) the aggregate amount of Sale Loss to be allocated to the Members pursuant to this paragraph (a) were distributed to the Members in accordance with the provisions of Section 8.2 hereof; and

(b) thereafter, such Sale Loss shall be allocated to the Members in proportion to their respective Sharing Ratios as of the Last Day.

For purposes of this Section 7.4, the amount of a Member's Capital Account as of a Last Day shall be computed as of such Last Day in the manner provided in

Section 6.5 hereof, but shall be adjusted to reflect the allocation to such Member of all amounts required to be allocated to such Member for such Fiscal Year under Article 7 hereof (other than pursuant to Section 7.2 hereof and this Section 7.4).

7.5 Allocable Cash Basis Items. Any "allocable cash basis item" of the Company (as defined in section 706(d) of the Code) for any Fiscal Year that is required to be allocated to the Members in the manner provided in section 706(d) of the Code shall be allocated to the Members in the manner so required.

7.6 Section 704(c) Allocation. Any items of income, gain, loss and deduction with respect to any property that has been contributed by a Member to the capital of the Company and which is required or permitted to be allocated to the Members for income tax purposes under section 704(c) of the Code so as to take into account the variation between the tax basis of such property and its agreed upon fair market value at the time of its contribution shall be allocated to the Members solely for income tax purposes in the manner so required or permitted. It is agreed that if, in MG's judgment, MG is disadvantaged by the "traditional method", it may select the "traditional method with curative allocations", as permitted by the Treasury Regulations promulgated under section 704(c) of the Code, in making such allocations.

7.7 Limitation on Net Loss Allocation. Notwithstanding the provisions of Sections 7.3 and 7.4 hereof, if the amount of Net Loss and Sale Loss that would otherwise be allocated to a Member in any Fiscal Year under Section 7.3 or 7.4 hereof would cause (or increase) an Adjusted Capital Account Deficit for any Member as of the Last Day of such Fiscal Year, then a proportionate part of such Net Loss and Sale Loss equal to the sum of such Net Loss and Sale Loss, to the extent it creates (or increases) such Member's Adjusted Capital Account Deficit, shall be allocated to the other Member(s).

7.8 Qualified Income Offset. Notwithstanding any provision hereof to the contrary, if any Member unexpectedly receives in any Fiscal Year any adjustment, allocation or distribution described in Treasury Regulation (S) 1.704-1(b)(2)(ii)(d)(4), (5), or (6), and if such Member has an Adjusted Capital

Account Deficit as of the Last Day of such Fiscal Year, then all items of income and gain (including Sale Gain) of the Company (consisting of a pro rata portion of each item of Company income and gain, including gross income and Sale Gain) for such Fiscal Year (and, if necessary, for subsequent Fiscal Years) shall be allocated to such Member in the amount and in the manner necessary to eliminate such Adjusted Capital Account Deficit as quickly as possible.

7.9 Gross Income Allocation. Notwithstanding any provision hereof to the contrary, if any Member has an Adjusted Capital Account Deficit as of the Last Day of any Fiscal Year, then all items of income and gain (including Sale Gain) of the Company (consisting of a pro rata portion of each item of Company income and gain, including gross income and Sale Gain) for such Fiscal Year shall be allocated to such Member in the amount and in the manner necessary to eliminate such Adjusted Capital Account Deficit as quickly as possible.

7.10 Minimum Gain Chargeback. Notwithstanding any provision hereof to the contrary, any item of Company income or gain (including Sale Gain) for any Fiscal Year (or any portion of any such item) that is required to be allocated to the Members under Treasury Regulation (S) 1.704-2(f) shall be allocated to the Members for such Fiscal Year in the manner so required by such Treasury Regulation.

7.11 Member Nonrecourse Deductions. Notwithstanding any provision hereof to the contrary, any item of Company loss, deduction or expenditure described in section 705(a)(2)(B) of the Code for any Fiscal Year (or any portion of any such item) that is required to be allocated to the Members under Treasury Regulation (S) 1.704-2(i)(1) shall be allocated to the Members for such Fiscal Year in the manner so required by such Treasury Regulation.

7.12 Target Final Balances. The allocations of Net Profit, Net Loss, Sale Gain and Sale Loss under this Agreement are intended to produce final Capital Account balances (Capital Account balances immediately prior to the liquidation of the Company or of a Member's interest, after taking into account all allocations for fiscal periods through such point in time) that are at levels ("Target Final Balances") which permit liquidating distributions made in accordance with such final Capital Account balances to equal the distributions which would occur if such liquidating proceeds were distributed in accordance with Section 15.2. To the extent that the tax allocation provisions of this Agreement would not produce the Target Final Balances, the Members agree to take such actions as are necessary to amend such tax allocation provisions to produce such Target Final Balances. Notwithstanding the other provisions of this Agreement, allocations of income, gain, loss and deduction (including items of gross income, gain, loss and deduction) shall be made prospectively as necessary to produce such Target Final Balances, and, to the extent such prospective allocations would not effect such result, the prior tax returns of the

Company shall be amended to reallocate items of gross income, gain, loss and deductions to produce such Target Final Balances.

7.13 Book/Tax Disparity. In accordance with section 704(c) of the Code and the Treasury Regulations promulgated thereunder, income, gain, loss and deduction with respect to any property contributed (or deemed contributed pursuant to the provisions of section 708 of the Code) to the capital of the Company shall, solely for tax purposes, be allocated among the Members so as to take account of any variation between the adjusted basis of such property to the Company for Federal income tax purposes and its fair market value, as determined by the Members, at the time of contribution (the "Book/Tax Disparity").

7.14 Interpretation. The foregoing provisions of this Article 7 notwithstanding, the allocation provisions of this Agreement shall satisfy the provisions of Code section 514(c)(9)(E) and the Treasury Regulations thereunder, and shall be construed accordingly. If an allocation otherwise required herein would violate Code section 514(c)(9)(E) or the Treasury Regulations thereunder, the Manager shall alter the same so as to prevent such violation, but subsequent adjustments shall be made pursuant to Section 7.12 as soon as the same would be permitted without such a violation, so that the economic arrangements of the parties herein contemplated are not modified by such alteration. As an example, but not in limitation of the generality of the foregoing, and any provision of this Article 7 to the contrary notwithstanding, MG's share of overall Company loss for each taxable year of the Company shall not be less than its Sharing Ratio, so that MG's "fractions rule percentage" as contemplated in such Treasury Regulations shall not be less than its Sharing Ratio.

ARTICLE 8

DISTRIBUTIONS

8.1 Net Cash Flow. The Company shall distribute the Net Cash Flow of the Company to the Members within thirty (30) days after the end of each calendar quarter, subject to the terms of Section 6.2(b)(i) hereof, in the proportion of each Member's Sharing Ratio as of the date such distribution is made, and in equal priority, subject, however, to the right of HIW to require, after the determination of the amounts which would otherwise have been distributed pursuant hereto, but prior to actual distribution, reallocation of its share of Net Cash Flow to MG in accordance with Exhibit "E" hereto. The Members acknowledge and agree that the amounts actually distributed pursuant hereto, after any reallocation in accordance with Exhibit "E" hereto, are determined with regard to the income of the Company and shall be treated for income tax purposes as distributions to the Members in their respective capacities as Members.

8.2 Net Sales Proceeds; Net Refinancing Proceeds; Extraordinary Event

Proceeds. Subject to the requirements of Section 15.2 hereof in the event of liquidation, if applicable, Net Sales Proceeds, Net Refinancing Proceeds and Extraordinary Event Proceeds shall be distributed by the Company to the Members, within thirty (30) days after the same are received or collected by the Company, subject to the terms of Section 6.2(b)(i) hereof, in the proportion of each

Member's Sharing Ratio as of the date such distribution is made, and in equal priority; provided, however, that, with respect to any Net Sales Proceeds, Net Refinancing Proceeds or Extraordinary Event Proceeds relating to any of the Properties in the Orlando, Florida City Group, to the extent permitted or required by Exhibit "E" hereto, the share of HIW in the same shall, after the determination of the amount which would otherwise have been distributed pursuant hereto, but prior to actual distribution, be reallocated from HIW to MG to the extent provided in Exhibit "E" hereto, and the amounts so reallocated shall then be distributed pursuant hereto. The Members acknowledge and agree that the amounts actually distributed pursuant hereto, after any reallocation in accordance with Exhibit "E" hereto, are determined with regard to the income of the Company and shall be treated for income tax purposes as distributions to the Members in their respective capacities as Members.

8.3 Consent to Distributions. Any changes in the distributions provided for herein shall be made only as and when Approved by the Members.

8.4 Withholding. If the Code or applicable state law requires the Company to withhold any tax with respect to a distributive share of Company income, gain, loss, deduction or credit, or a distribution of cash or property, the Tax Matters Partner shall cause the Company to withhold and pay the tax. If at any time the amount required to be withheld exceeds the amount that would otherwise be distributed to the Member to whom the withholding requirement applies, then that Member shall promptly remit to the Company an amount (which shall not be deemed an Additional Capital Contribution hereunder) equal to the excess of the amount required to be withheld over the amount, if any, that would otherwise be distributed to that Member and which is available to be withheld. Any amount withheld with respect to a Member shall be deducted from the amount that would otherwise be distributed to that Member but shall be treated as though it had been distributed to such Member.

8.5 Escrow of Distributions Pending Dispute Resolution. The foregoing provisions of this Article 8 notwithstanding, in the event that a Claim described in Section 18.17(b) is pending at the time that any distribution would otherwise be made pursuant to Sections 8.1 and/or 8.2 hereof, the amount of such distribution to which the Opposite Member would otherwise be entitled shall, to the extent of the amount in dispute under Section 18.17(b), be deposited with the Escrow Agent and shall be applied in the manner therein described. Likewise, if Section 18.17(b) requires the payment to the Claiming Member (or as it may direct) of all or any portion of any amount otherwise distributable to a Member pursuant to Sections 8.1 and/or 8.2 hereof, such amount shall be paid to the Claiming Member as required by, and in accordance with, Section 18.17(b) hereof.

ARTICLE 9

MEMBERS

9.1 Management.

(a) The Members reserve to themselves overall management authority, including authority to approve Budgets, financing, leasing, management and operating policies, and any disposition of the Properties, but the Members shall not have responsibility for the day-to-day affairs of the Company, which authority is delegated to Manager as provided herein.

(b) In construing the provisions of this Agreement, decisions and approvals of the Members shall be taken by the affirmative vote of Members holding a majority of the Sharing Ratios unless expressly otherwise provided herein; provided, however, subject to the provisions hereafter set forth and Section 9.9 hereof (which shall, if applicable, control over the provisions of this Section 9.1(b)), that neither the Manager nor the Members holding a majority of the Sharing Ratios may initiate or acquiesce in any Bankruptcy of the Company (which shall include, for the purposes of this Section 9.1(b), any City Group Owner) without the Approval of all Members, without regard to Sharing Ratios; but provided further that, in the event that the Manager determines that the Bankruptcy of the Company (or any one or more City Group Owners, as the case may be) is in the best interests of the Company and gives Notice of its determination (the "Notice of Determination") to all Members, the Members shall have a period of one hundred eighty (180) days in which to determine whether or not to Approve such action. During such time, the Members shall be free to attempt a negotiated alternative to the Bankruptcy of the Company (or such one or more City Group Owners, as the case may be) or to initiate the Redemption Procedure. If, at the end of such one hundred eighty (180)-day period, the Manager's position respecting the Bankruptcy of the Company (or any one or more City Group Owners, as the case may be) remains unchanged, all Members shall be deemed to have Approved the Bankruptcy of the Company (or such one or more City Group Owners, as the case may be) originally proposed by the Manager in the Notice of Determination, and in such event, the Manager may proceed on behalf of the Company without execution of any documents by the Members. Any Notice of a Redemption Procedure given by any Member to the other Member(s) which is received or deemed received pursuant hereto within said one hundred eighty (180)-day period shall deny the Manager the authority to initiate the Bankruptcy of the Company (or any one or more City Group Owners which are subject of the Manager's proposed filing) on behalf of the Company until the two hundred tenth (210th/) day after the receipt or deemed receipt of the Notice of Determination, but if the Redemption Procedure is not closed by that time, the Manager shall be free to proceed as provided in the immediately preceding sentence.

(c) Anything in this Agreement to the contrary notwithstanding, all decisions concerning the enforcement of any agreement between the Company and HIW or a HIW Affiliate, including the Acquisition Agreement, and any management agreement contemplated in Section 10.7 below, as against HIW or any Affiliate thereof shall be taken and made by, and all

actions required therefor shall be unilaterally carried out by, the Manager. Such decisions and actions may be taken by the Manager in the Company's (but not HIW's) interest and shall not be affected by fiduciary duties otherwise owed to HIW or its Affiliates by reason of the relationships established hereby. In such event, MG shall be solely entitled to any recovery until all damage to MG's Interest in the Company is fully compensated for the losses occasioned thereby.

9.2 Member Meetings. The Members shall hold meetings either in person or by telephone not less often than quarterly to review Company activities and such other matters as the Members deem appropriate. In addition, the Members shall meet on three business days' notice after call by any Member.

9.3 Action by Members. MG designates Myron M. Miller and James H. Miller as its Member representatives, and HIW designates Edward J. Fritsch and Mack D. Pridgen, III as its Member representatives. Each Member may designate in writing alternate representatives, and may have such alternates present at meetings, as it deems appropriate. A Member's representatives and alternates may be changed at any time upon written notice, but until notified each Member may rely on those representatives and alternates set forth herein or in the most recent notice either prior to the action contemplated or promptly thereafter in confirmation of their oral consent. Except as otherwise provided in Section 9.9 hereof, each Member's vote shall be weighted as described in Section 9.1(b) on all matters to be decided by the Members, regardless of the number of representatives or alternates, and regardless of whether one or both such representatives are present to cast the vote of the Member represented. Except as otherwise provided in Section 9.9 hereof, action may be taken (a) at a meeting attended by at least one Member representative or alternate for each Member, or (b) by a writing signed by at least one Member representative or alternate on behalf of such of the Members as is necessary for the approval of the action pursuant to Section 9.1(b). Meetings may be held by telephone conference call, so long as all Member representatives or alternates attending such meeting can hear one another at the same time. The Manager shall prepare minutes of meetings not otherwise memorialized in writing, but a failure to do so shall not affect any action approved at the meeting.

9.4 Purpose. For so long as that certain indebtedness from General Electric Capital Corporation, as Administrative Agent, on behalf of several lenders, or its successors or assigns ("Lender") to the Company, the City Group Owners and certain affiliates of the Company (the "First Mortgage Loan") encumbers any portion of the Properties, the purpose of the Company shall be limited solely to (a) acquiring, developing, owning, holding, selling, leasing, transferring, exchanging, operating and managing the Properties and refinancing the First Mortgage Loan in connection with a permitted repayment of the First Mortgage Loan, (b) entering into the First Mortgage Loan with Lender, and (c) transacting any and all lawful business that is incident, necessary and appropriate to accomplish the foregoing or acting as the sole managing member in any of the Borrowers. The First Mortgage Loan is evidenced, secured and advanced in accordance with the loan documents entered into in connection with such First Mortgage Loan (collectively, the "Loan Documents").

9.5 Prohibited Actions without Lender Consent. Notwithstanding any other provision contained herein to the contrary, so long as the First Mortgage Loan is outstanding, the Company may not, without the prior written consent of Lender, do any of the following:

(a) engage in any business or activity other than those set forth in Section 9.4 hereof;

(b) acquire any assets other than those related to (a) the Properties; (b) the beneficial ownership interests (the "Beneficial Interests") in the Land Trusts; or (c) its membership interests in the City Group Owners (each a "Borrower" and collectively, the "Borrowers"); or

(c) incur any indebtedness or assume or guaranty any indebtedness, other than in connection with the First Mortgage Loan, or unsecured trade debt (i) incurred in the ordinary course of business which is payable within sixty (60) days of when incurred, (ii) not evidenced by a note, and (iii) paid when due, provided that the total outstanding amount of such trade debt does not exceed any maximum amount provided in the loan agreement for the First Mortgage Loan at any one time. No debt other than the First Mortgage Loan or any Swap Guaranty (as defined in the Loan Documents) given by Lender may be secured (subordinate or pari passu) by the Properties or the Beneficial Interests.

9.6 Prohibited Actions While First Mortgage Loan Outstanding.

Notwithstanding any other provision of this Agreement to the contrary, so long as the First Mortgage Loan is outstanding, the Company may not do any of the following:

(a) dissolve, wind-up or liquidate, in whole or in part;

(b) consolidate or merge with or into any other entity or convey, sell or transfer substantially all of its Properties and assets to any person or entity, except as permitted under the terms of the Loan Documents;

(c) amend or cause to be amended this Agreement or the Company's Certificate of Formation with respect to changing the sole purpose of the Company contained in Section 9.4 hereof, or the provisions contained in Sections 9.7, 9.9 and 9.10 hereof or this Section 9.6; or

(d) take any action that might cause the Company to become insolvent.

9.7 Covenants of the Company. Notwithstanding any other provision of this Agreement to the contrary, the Company shall:

- (a) maintain books and records separate from any other person or entity and file its own tax returns, except to the extent its returns are required to be combined or consolidated with those of others;
- (b) maintain its bank accounts, if any, separate from any other person or entity;
- (c) not commingle its assets with those of any other person or entity and hold all of its assets in its own name, except those assets held in the name of a Land Trust, in which case the Beneficial Interests therein will be held by the Company or a City Group Owner in its own name;
- (d) has maintained and will maintain its assets in such a manner that it will not be costly or difficult to segregate, ascertain or identify its individual assets from those of any other person or entity;
- (e) conduct its own business in its own name;
- (f) maintain separate financial statements, showing its assets and liabilities separate and apart from those of any other person or entity, or maintain consolidated returns with the Borrowers in which the Company is the sole managing member, so long as such consolidated financial statements indicate that they consolidate the financial statements of separate legal entities;
- (g) pay its own liabilities and expenses only out of its own funds;
- (h) observe all organizational formalities;
- (i) maintain an arm's length relationship with its affiliates and enter into transactions with affiliates only on a commercially reasonable basis;
- (j) pay the salaries of its own employees, if any, from its own funds;
- (k) maintain a sufficient number of employees in light of its contemplated business operations;
- (l) not guarantee or become obligated for the debts of any other entity or person other than in connection with the First Mortgage Loan;
- (m) not hold out its credit as being available to satisfy the obligations of any other person or entity;

(n) has not and will not have any obligation to indemnify its partners, officers, directors or members, as the case may be, unless such obligation is fully subordinated to the First Mortgage Loan and will not constitute a claim against it in the event that, after payment of the First Mortgage Loan, cash flow is insufficient to pay such obligation;

(o) not acquire the obligations or securities of its Affiliates or owners, including partners, members or shareholders, as appropriate;

(p) not make loans to any other person or entity or buy or hold evidence of indebtedness issued by any other person or entity (other than cash and investment-grade securities issued by a non-affiliated entity or subject to common ownership with such entity);

(q) allocate fairly and reasonably any overhead expenses that are shared with an affiliate, including paying for office space and services performed by any employee of an affiliate;

(r) any separate stationery, invoices, and checks used shall bear its own name;

(s) not pledge its assets for the benefit of any other person or entity other than to Lender as specifically provided under the Loan Documents;

(t) conduct business and hold itself out as a separate identity;

(u) correct any known misunderstanding regarding its separate identity;

(v) not identify itself as a division or part of any other person or entity and not identify any other person or entity as a division or part of the Company; and

(w) maintain adequate capital in light of its contemplated business operations.

9.8 Independent Member. So long as the First Mortgage Loan is outstanding, the Company shall have at least one Member (the "Independent Member") which complies with the definition of Independent Member contained below and which complies with all of the applicable criteria described in Section 9.7 of this Agreement, except as modified to reflect such Member's position as a Member of the Company having a non-economic interest in the Company. An "Independent Member" shall mean a Member in the Company who is not at the time of initial appointment and has not been at any time during the preceding five (5) years and shall not be at any time while serving as Independent Member: (a) a stockholder, director, officer, employee, partner or Member of the Company or its Affiliates; (b) a customer, supplier or other person who derives more than ten percent (10%) of its purchases or revenues from its

activities with the Company or its Affiliates; (c) a person or other entity controlling, controlled by or under common control with any such stockholder, director, officer, employee, partner, member, customer, supplier or other person; or (d) a member of the immediate family of any such stockholder, director, officer, employee, partner, member, customer, supplier or other person. (As used herein, the term "control" means the possession, directly or indirectly, of the power to direct or cause the direction of management, policies or activities of a person or entity, whether through ownership of voting securities, by contract or otherwise).

9.9 Actions Requiring the Vote of Independent Member. Notwithstanding any other provision of this Agreement to the contrary, the consent of such of the members of the Company as may otherwise be required by this Agreement plus the vote of the Independent Member is required for the Company to (either with respect to itself, any of the City Group Owners or any other entity in which it has a direct or indirect legal or beneficial ownership interest or as to which the Company is the direct or indirect general partner or managing member):

- (a) institute proceedings to be adjudicated bankrupt or insolvent;
- (b) consent to the institution of bankruptcy or insolvency proceedings;
- (c) file a petition seeking, or consent to, reorganization or relief under any applicable federal or state law relating to bankruptcy or insolvency;
- (d) seek or consent to the appointment of a receiver, liquidator, conservator, assignee, trustee, sequestrator, custodian or any other similar official of the Company or a substantial part of its properties;
- (e) make any assignment for the benefit of creditors;
- (f) admit in writing its inability to pay its debts generally as they become due;
- (g) otherwise seek relief under any laws relating to the relief from debts or the protection of debtors generally;
- (h) take any action in furtherance of any of the preceding actions;
- (i) engage in transactions with Affiliates (except in the ordinary course of its business and on terms which are intrinsically fair, commercially reasonable and are no less favorable to it than would be obtained in a comparable arm's-length transaction with an unrelated third party); or
- (j) if not permitted under Section 9.6(c) hereof, amend the organizational documents of the Company.

In the consideration of any possible bankruptcy or insolvency proceedings of the Company, any of the City Group Owners or any other entity that is directly or indirectly owned or controlled by the Company or as to which the Company is the general partner or managing member, the Members shall, to the fullest extent permitted by law, including, without limitation, Section 18- 1101(c) of the Act, consider solely the financial position of the Company or such entity, as the case may be, and its creditors and a proceeding may not be voluntarily commenced unless, in addition to the above stated considerations, the Company's or such entity's, as the case may be, liabilities exceed its assets or if the Company or such entity, as the case may be, is unable to pay its debts as they become due. In evaluating the Company's or any such entity's liabilities, the members may discount contingent liabilities in the exercise of reasonable business judgment for the likelihood of occurrence and may also value as assets contingent claims for contribution under guarantees and similar arrangements.

9.10 Transfers of Interests. Notwithstanding any other provision of this Agreement to the contrary, so long as the First Mortgage Loan is outstanding, no Member of the Company may transfer any direct or indirect ownership interest in the Company except as permitted under Section 8.1 of the loan agreement comprising a part of the Loan Documents for the First Mortgage Loan.

ARTICLE 10

MANAGER

10.1 Appointment of Manager. The Members hereby appoint MG as the Manager of the Company.

10.2 Budgets. The Members have approved a Budget for the operation of the Properties during the year 2000 attached hereto as Exhibit "C" and by this reference made a part hereof. Further, commencing in 2001, and each calendar year thereafter, the Manager shall cause the Property Manager to prepare, for the Approval of the Members, no later than sixty (60) days prior to the end of the preceding calendar year, an annual Budget for the next calendar year, setting forth the anticipated revenue and expenditures, cash flow and any other reasonably required information. No changes may be made in the Budget without the Approval of the Members given in the manner described in Section 9.1(b). Until a Budget for the succeeding year is approved, the Manager shall be authorized to operate the Company and its assets consistent with the last Approved Budget, with an increase in aggregate expenses of three percent (3%).

10.3 Implementation of Budgets. The Manager shall, subject to the limitations contained herein, implement the then-applicable Budget. Each Member shall promptly inform the Manager of any transaction, notice, event, or proposal directly relating to the management

and operation of the Company's business of which it has knowledge and which does or could significantly affect the Company or cause a significant deviation from the applicable Budget.

10.4 Authority and Responsibilities. Subject only to the matters reserved to the Members in Section 9.1, the Manager shall have sole responsibility for, and authority to conduct, the day-to-day affairs of the Company, including, without limitation, the right to exercise the following specific rights and powers without the approval of the Members unless otherwise specifically herein provided:

(a) subject to the limitations contained in the Management Agreement (which shall control over this Section 10.4), to engage and dismiss any and all Persons necessary to further the purposes of the Company, including those providing legal, accounting, engineering, brokerage, consulting, appraisal, management, leasing, development, repair or custodian services to the Company, or such other Persons as the Manager deems necessary or desirable for the management and operation of the Company and its properties, including Persons related to MG or to the Persons in control thereof, provided that such Persons charge fees no higher than those available to the Company through arm's-length, third-party contracts;

(b) to incur and pay, or authorize the Property Manager to incur or pay, on the Company's behalf, all expenses and obligations incident to the operation and management of the Company, including the cost of the above- described services, taxes, interest, travel expenses, insurance premiums, and similar items;

(c) to make interim investments (which may be made through an agent) of cash reserves and other liquid assets of the Company prior to their use for Company purposes or distribution to the Members;

(d) to acquire and enter into any contract of insurance deemed necessary or desirable for the protection or conservation of the Company, its properties, and the Manager (including, without limitation, directors' and officers' liability insurance), or otherwise in the interest of the Company as the Manager shall determine;

(e) to open accounts and deposit, maintain and withdraw funds in the name of the Company in banks, savings and loan associations, or other financial institutions;

(f) to establish reserves for normal repairs, replacements and contingencies and for any other proper Company purpose;

(g) to distribute funds to the Members by way of cash or otherwise, all in accordance with the provisions of this Agreement;

(h) to bring and defend actions and proceedings at law or equity before any court or governmental, administrative or other regulatory agency, body or commission or otherwise;

(i) to prepare and file all necessary returns and statements and pay all taxes, assessments and other impositions applicable to the assets of the Company; and

(j) subject to the limitations set forth in Sections 4.4 and 13.4 hereof, with the Approval of the Members given in the manner described in Section 9.1(b), to dispose of some, all or substantially all of the assets of the Company on such terms and conditions as the Manager shall determine, even though such action would make it impossible to thereafter carry on the ordinary business of the Company.

10.5 Reliance by Third Parties. No third party dealing with the Company shall be required to ascertain whether the Manager is acting in accordance with the provisions of this Agreement. All third parties may rely on any document executed by the Manager as binding upon the Company. The Manager acting without authority shall be liable to the Members for any damages arising out of its unauthorized actions.

10.6 Resignation; Removal. The Manager may resign at any time, upon giving at least thirty (30) days' prior written notice to the Members. Upon such resignation, the Members, acting in the manner described in Section 9.1(b), may designate a successor Manager. The Manager may be removed at any time and replaced by a successor by a vote of the Members pursuant to Section 9.1(b); provided, however, that, so long as HIW is a Member hereof, no Competitor may be appointed as the Manager hereunder, and any attempt to appoint a Competitor as the Manager hereunder shall be null, void and of no effect. The foregoing does not preclude the ownership of an Interest in the Company by a Competitor and its substitution as a Member, if a transfer to a Competitor is otherwise permitted by the terms hereof,

10.7 Fees. It is mutually acknowledged and agreed that HIW shall be

engaged as Property Manager. It is also mutually acknowledged and agreed that HIW will engage Vector as its consultant so long as the Management Agreement is in effect, and pay Vector thirty-five one-hundredths percent (.35%) of Gross Income (as defined in the Management Agreement), pursuant to that Consulting Agreement of even date herewith, between HIW and Vector.

10.8 Tax Matters Partner. The Manager is hereby designated as the "tax matters partner" (as defined in Section 6231(a) of the Code) for the Company (the "Tax Matters Partner"). The Tax Matters Partner is authorized to perform, on behalf of the Company, any act that may be necessary to make this designation effective.

10.9 Other Business. The Manager, the Members, and their respective Affiliates may engage, independently or with others, in other business ventures of every nature and description, including, without limitation, the development and ownership of real properties and the making or management of other real estate investments. Neither the Company nor any Member shall have the right, by virtue of this Agreement or the relationship created hereby, in or to such other ventures or activities, or to the income or proceeds derived therefrom, and the pursuit of such

ventures, even if competitive with the business of the Company, shall not be deemed wrongful or improper.

10.10 Standard of Care; Indemnification. The Manager shall carry out its duties in good faith, but neither the Manager nor its members, employees or agents shall be liable to the Company or any Member for any act performed or omitted to be performed by it on behalf of the Company, including actions taken as Tax Matters Partner, provided such act or omission was taken in good faith, was reasonably believed by the Manager to be in the best interests of the Company, was not the result of gross negligence or willful misconduct, and was within the scope of its authority granted hereunder. The Manager shall devote such time to the business of the Company as is reasonably necessary for the efficient conduct of the Company's business. The Members acknowledge, however, that the Manager has continuing responsibilities with respect to other assets of Manager and its Affiliates, and that the Company and the other Members have no rights to such assets or the income derived therefrom. Each Member, including the Manager acting in such capacity, as well as the members, employees and agents thereof, shall be indemnified, defended and held harmless by the Company for any cost, liability, damage or expense arising out of the affairs of the Company or by reason of its status or service in any such capacity, including reasonable attorneys' fees and other expenses incurred in its defense, which shall be paid as incurred. If, however, it is finally determined that an action or omission on the part of such Person resulting in such cost or liability constitutes fraud, willful misconduct or gross negligence, such Person shall not be entitled to indemnification hereunder and the Company shall be entitled to recover payments previously made pursuant to this Section 10.10.

10.11 Related Party Agreements. Each Member shall be liable and responsible to the Company for all amounts owing, and damages caused, to the Company by any Affiliate of such Member who has entered into a contractual arrangement with the Company (or such Member for the direct or indirect benefit of the Company) to the same extent that such Affiliate is liable to the Company under such contractual arrangement; provided, however, that it is mutually agreed and understood that the MG Guarantor shall be liable and responsible for all Affiliates of MG which are also its Affiliates, and Miller Global Properties, LLC (the sole member of MG IV-GP, LLC, which is in turn the sole general partner of the MG Guarantor) only, and not the MG Guarantor, shall be liable and responsible for all Affiliates of MG which are not Affiliates of the MG Guarantor, and each so agrees by its execution hereof on behalf of the MG Guarantor.

ARTICLE 11

ACCOUNTING AND REPORTING

11.1 Books. The Company shall maintain complete and accurate books of account at the registered office of the Company. The Company shall provide any Member any information requested relating to the business of the Company. During ordinary business hours any Member or its authorized representative shall have access to all books, records and materials regarding the Company and its activities.

11.2 Capital Accounts. The Company shall maintain a separate Capital Account for each Member and such other accounts as may be necessary or desirable to comply with the requirements of applicable laws and regulations.

11.3 Method of Accounting. The Company's books of account shall be maintained, and its income, gains, losses and deductions shall be determined and accounted for using the accrual method of accounting. For Federal income tax reporting, the depreciation method used shall be the most accelerated method available.

11.4 Reports. Within ninety (90) days after the close of each Fiscal Year, the Manager, at the expense of the Company and in cooperation with the Property Manager, shall have a full audit and financial statements of the Company for such Fiscal Year prepared and distributed to the Members. Such financial statements and audit results shall be certified in the customary manner a firm of independent certified public accountants selected by the Manager, and shall include an income and expense statement and balance sheet which shall reflect the results of the operations of the Company for such Fiscal Year, the unpaid balance due on all obligations of the Company and all other information customarily reflected in financial statements. If timely receipt of information from the Property Manager allows, within twenty-five (25) days after the end of each calendar month, the Manager shall also have prepared and delivered to the Members (a) a profit and loss statement and Company balance sheet, and a comparison to the Budget then in effect of the income and expenses of the Company through the previous calendar month, together with a written narrative explaining all material variances, (b) a cash flow statement, setting out current month and year-to-date figures (budget and actual), a rent roll, a security deposit listing, schedules describing building improvements made, bank reconciliations and disbursement listings, and (c) a Property cost report setting out, on a line-item basis, the applicable Budget figures, the funds expended to date and the balance needed for completion. On or before the ninetieth (90th) day after the end of each Fiscal Year, the Manager shall provide to the Members a schedule K-1 for the Company, copies of the Company's information returns and such other information respecting the Company as may be required to enable each Member to complete properly its federal income tax return, any income tax return of any state and any other reporting or filing requirement imposed by any governmental agency or authority for such Fiscal Year. The Members acknowledge and agree that the Company is a partnership for income tax purposes, and that they shall file tax returns and otherwise conduct their affairs in a manner consistent with such characterization. The Manager may rely on reports of the Property Manager in carrying out such obligations, and shall not be responsible for breaches hereof caused by the Property Manager's delay. Further, the Manager, on behalf of the Company, may engage HIW to assist with tax compliance activities on mutually agreeable terms.

11.5 Restrictions on Company Activities. It is mutually agreed and understood that certain actions, if taken by the Company, could have seriously adverse tax and/or other economic consequences to the Members. In order to avoid such consequences, the Members hereby agree as follows:

(a) Without the prior Approval of HIW, the Company shall neither acquire, nor own, directly or indirectly, (i) securities possessing more than ten percent (10%) of the total voting power of the outstanding securities of any one issuer which is treated as a corporation for Federal income tax purposes, or

(ii) securities having a value of more than ten percent (10%) of the total value of the outstanding securities of any one issuer which is treated as a corporation for Federal income tax purposes. Any securities held by the Company in excess of the amounts allowed by the preceding sentence shall be deemed for all purposes to be held in trust by the Company for the benefit of MG, and shall not be an asset of the Company. The Company shall immediately distribute such excess securities to MG. MG hereby acknowledges and agrees that it will pay an amount of cash to HIW equal to twenty percent (20%) of the fair market value of such excess securities, as determined by appraisal pursuant to Section 11.5(f) hereof, and that MG will pay all of the expenses associated with the appraisal process.

(b) Without the prior Approval of HIW, the Company shall not elect to be treated as other than a partnership for federal, state and local tax purposes.

(c) Without the prior Approval of HIW, the Company shall not actively market and hold for sale subdivided lots or condominium units.

(d) Upon any direct or indirect sale or transfer of assets by the Company to HIW, pursuant to Section 13.4 or Article 16 hereof which would result in the allocation of gain to HIW or the partners of HIW pursuant to Code section 704(c), the Members agree to use reasonable efforts, at HIW's sole cost, expense and risk, to arrange such sale or transfer to minimize the Code section 704(c) gain (so long as MG's share of taxable gain is not increased nor the Company's receipt of proceeds delayed), including a possible distribution of such property to HIW in redemption of part of its equity interests and assumption of debt.

(e) Without the prior Approval of HIW, the Company shall not acquire new assets valued in excess of three million dollars (\$3,000,000.00) per year, nor shall the Company acquire, in the aggregate, more than ten million dollars (\$10,000,000.00) of new assets during the Company's existence.

(f) If an appraisal is required pursuant to Section 11.5(a) hereof, such appraisal shall be conducted by a committee of three (3) appraisers, each of whom shall be an MAI appraiser, chosen as follows: one (1) such appraiser shall be chosen by MG, the second appraiser shall be chosen by HIW and the third appraiser shall be chosen by the two (2) appraisers chosen as aforesaid. If either party does not select an appraiser within ten (10) days of the date of the election and direction from the other party to so select an appraiser, then the appraiser chosen by the other party shall be solely responsible for determining such fair market value. Each appraiser shall make an independent appraisal, and, if there is more than one (1) appraiser, the fair market value shall be the average of the two (2) appraisals closer in value. Each appraiser shall file its appraisal with the Company within twenty (20) days of its being retained hereunder.

ARTICLE 12

ADMISSION OF ADDITIONAL MEMBERS

Except as otherwise provided in Article 13 hereof, no additional Person shall be admitted to the Company as a Member without the Approval of all of the Members.

ARTICLE 13

TRANSFERS

13.1 Restrictions on Transfer of Interests.

(a) Except as specifically provided in this Article 13 or in Article 16 below, a Member may not sell, transfer, pledge, encumber or otherwise assign all or any portion of its Interest in the Company, whether voluntarily or involuntarily, and whether by legal process or operation of law, to any Person other than to another Member without the consent of all of the Members. Any attempted sale, transfer, pledge, encumbrance or other assignment in contravention of the provisions of this Article 13 shall be void and ineffectual, and shall not be recognized by the Company. Transfers of interests in Members are not restricted by this Agreement; provided, however, that if any such transfer results in a Competitor acquiring a controlling interest in MG while MG is the Manager hereunder, MG shall be deemed to have been removed as the Manager, effective as of the date and time of such change in control, and the Members shall, subject to Section 10.6 hereof, appoint a successor Manager hereunder.

(b) The foregoing notwithstanding, either Member shall be at liberty to transfer all or any portion of its Interest to an Affiliate and require that such Affiliate be substituted as a Member and, if the transferor is the Manager, as the Manager hereunder. No such transfer shall relieve the transferor or, if applicable, its Guarantor of any obligation contemplated herein. In the event of a transfer of less than all of a Member's Interest, the transferee shall irrevocably designate the transferor as the agent of the transferee to represent the transferee with regard to all matters pertaining to the Company, including the exercise of all managerial prerogatives, and the exercise of all rights under Article 16 hereof. In the event that, by reason of the operation of Article 16 hereof, the transferor is required to dispose of its Interest, such obligation shall pertain equally to the Interest held by the transferee and the transferor shall (i) (if the transferor is the buyer of an Interest under Article 16 hereof) be primarily obligated to the other Member to perform all of the obligations of the buyer under Article 16 hereof (including the payment of the entire amount of the purchase price in connection with the purchase of the other Member's Interest pursuant to Article 16 hereof), and (ii) (if the transferor is the seller of an Interest under Article 16 hereof) be primarily obligated to the other Member to effectuate the sale of all the Interests being purchased by said other Member under Article 16 hereof. No transfer of less than all of a Member's Interest shall be effective without

each transferee of said partial Interest granting the transferor an irrevocable power of attorney, coupled with an interest, to execute documents and instruments in the name of said transferee in connection with said transferee's Interest in the Company.

13.2 First Right to Purchase.

(a) If at any time a Member (the "Offering Member") shall desire to transfer all or any portion of its Interest in the Company to a Person other than an Affiliate, the Offering Member shall give a Notice (an "Offering Notice") to the other Member (the "Non-Offering Member"), which Notice shall state the interest to be transferred, the price (which shall be a dollar sum), the identity of the proposed transferee and the true principals thereof, and all other terms of the proposed transfer, and shall be accompanied by a copy of the written agreement between the Offering Member and the proposed transferee evidencing such terms. The Non-Offering Member shall have the right, irrevocable for a period of thirty (30) days from the date of the receipt of the Offering Notice (the "Offer Period"), to (i) consent to the transfer to the transferee described in the Offering Notice and on the terms stated therein,

(ii) to elect to purchase all (but not a portion of) the Interest specified in the Offering Notice and at the price and on the terms set forth in the Offering Notice, or (iii) elect to sell all or a portion of its Interest at the same time, for the same price and terms, and in direct proportion, based upon Sharing Ratios, to the Interest being sold by the Offering Member. If the Non-Offering Member shall not notify the Offering Member of its election within such thirty

(30)-day period, the Non-Offering Member shall be conclusively deemed to have consented to the transfer described in the Offering Notice. If the Non-Offering Member consents (or is deemed to consent) to the transfer, the Offering Member may, subject to the restrictions of Section 10.6 hereof, require that its transferee be substituted as a Member and, if the transferor is the Manager, as the Manager hereunder.

(b) Election Notice. If the Non-Offering Member shall elect to exercise its right to purchase pursuant to Section 13.2(a)(ii) hereof, Notice of such election (an "Election Notice") shall be given to the Offering Member within the Offer Period, which Election Notice shall specify a closing date not less than thirty (30) or more than one hundred twenty (120) days after the giving thereof, and on the date so specified, the Offering Member shall sell, and the Non-Offering Member shall purchase, the interest specified in the Offering Notice at the price and upon the terms set forth in the Offering Notice. The Election Notice shall be accompanied by a deposit with the Escrow Agent of the amount, if any, which the proposed transferee has actually deposited with the Escrow Agent to secure its proposed purchase of the Offering Member's Interest. The provisions of Section 16.4(b), 16.6 and 16.9 shall apply to such transaction, and a failure to consummate such transaction shall be remedied as described in Section 16.7. If the Non-Offering Member shall elect to exercise its right to sell pursuant to Section 13(a)(iii) hereof, the Election Notice shall be given to the Offering Member within the Offer Period, and on the date set for closing under the Offering Notice, the Offering Member and the Non-Offering Member shall each sell the proportionate share of its Interest, based upon Sharing Ratios, required to meet the requirements of the Offering Notice.

(c) Time Period. If a right to purchase pursuant to this Section 13.2 shall not be exercised within the Offering Period, or shall be waived, and if, within one hundred fifty (150) days after the giving of the Offering Notice, the Offering Member (and, if applicable, the Non-Offering Member) shall not have sold the Interest specified in the Offering Notice to the transferee identified therein (at not less than the price and upon the terms set forth in the Offering Notice), then this Section 13.2 shall again be applicable to any subsequent sale of such Interest.

13.3 Transfers to Foreign Persons. If any Member ("Transferor") shall transfer an Interest to a "foreign person" under the International Investment Survey Act of 1976, the Agricultural Foreign Investment Disclosure Act of 1978, the Foreign Investment in Real Property Tax Act of 1980, the regulations pursuant to such Acts or any amendments to such Acts or regulations (such Acts, regulations and amendments are herein collectively referred to as the "Foreign Investment Acts and Regulations"), then, upon the occurrence of any of the foregoing events, Transferor shall promptly give Notice thereof to the other Members. Such Notice shall set forth detailed and sufficient information and data relative thereto. Transferor will undertake, at its sole expense, to file whatever records and reports are required or necessary pursuant to any Foreign Investment Acts and Regulations to report that the transfer has occurred (or will occur) and will agree to indemnify, defend and hold harmless the other Members and the Company for any losses, damages, liabilities, expenses, and costs any might sustain or incur as a result of Transferor not complying with the notice and reporting provisions of this Section 13.3. This indemnification shall in no event protect the Company from its failure to withhold appropriate income taxes, to comply with the Foreign Investment Acts and Regulations or its failure to file such other reports as may subsequent to the transfer be required by any such laws. Transferor, at no expense to the Company, shall prepare and file any and all reports, filings and submissions required under the Foreign Investment Acts and Regulations to provide notice that it has transferred all or part of its interest to a "foreign person" under the Foreign Investment Acts and Regulations.

13.4 Right of First Offer Upon Sale of a Property.

(a) It is mutually agreed and understood that, prior to the second (2nd/) anniversary of the closing under the Acquisition Agreement (the third (3rd/) anniversary of the closing under the Acquisition Agreement with respect to the Properties owned by the Orlando, Florida City Group Owner), the Manager shall not cause the Company to dispose of any of the Properties without the Approval of all of the Members. Thereafter, in the event of the determination by the Manager to cause the Company to dispose of any of the Properties, whether directly or by disposal of all of the Company's interest in the owner thereof (it being mutually agreed and understood that the Properties may be so disposed of individually or in any combination, including by entire City Group, but that all Properties (or all of the Company's ownership interests in the owner thereof) being disposed of pursuant to any single Notice from the Manager to HIW (collectively, the "Offered Property") must, unless otherwise mutually agreed, be disposed of as a unit for all purposes hereunder), the Manager shall provide Notice to HIW of such determination, which Notice shall include the gross purchase price (the "Gross Purchase Price") which the Manager would consider to be acceptable to the Company for the Offered Property, as well as the Manager's good-faith estimate of the net amount (the "Net Sales

Price") that the Company would be expected to derive after payment of applicable mortgage balances (including prepayment premiums), anticipated closing costs and anticipated commissions from the sale of the Offered Property; provided, however, that in the event and to the extent that HIW may, and elects to, assume the existing mortgage indebtedness on all or any portion the Offered Property, the Net Sales Price shall be increased by the amount of any prepayment premium thus avoided by the Company; otherwise, such existing mortgage indebtedness shall be satisfied at closing by HIW as hereinafter provided. The Manager, on behalf of the Company, shall reasonably cooperate with any HIW's acquisition structure which does not delay the closing or impose any risk or adverse economic impact on the Company or its other Members. At any time during the period ending thirty (30) days following the delivery of such Notice, HIW may notify the Manager in writing that it wishes to acquire the Offered Property, setting forth a proposed closing date that is not more than sixty (60) days after the delivery of such Notice by HIW, if the Gross Purchase Price is \$50,000,000 or less, or not more than one hundred twenty (120) days after the delivery of such Notice by HIW, if the Gross Purchase Price is more than \$50,000,000. Such Notice shall be accompanied by a cash deposit of five percent (5%) of the Gross Purchase Price, which deposit shall be placed with the Escrow Agent described in Section 16.5 below. At the closing of any sale to HIW pursuant to this Section 13.4, the Net Sales Price shall be treated and distributed as Net Sales Proceeds, and HIW shall be entitled to net out any Net Sales Proceeds it would otherwise receive pursuant to Section 8.2 hereof against the amount paid by HIW at the closing. HIW will assume or satisfy, at closing, all liabilities to which the Offered Property is subject (including, without limitation, all mortgage indebtedness), and will pay all closing costs of HIW and the Company, excepting only the Company's legal fees and disbursements. The provisions of Section 16.6 relating to casualty or condemnation of the Offered Property, Section 16.4(b) relating to the conduct of the closing and indemnification, Section 16.7 relating to remedies for failure to consummate such transaction, and Section 16.9 regarding the survival of such provisions, shall be applicable to such transaction, but the context of such provisions is limited as appropriate so that they are applicable to the Offered Property.

(b) If HIW fails to exercise its option described in Section 13.4(a) above within the thirty (30)-day period therein described, the Manager may unilaterally cause the Company to dispose of the Offered Property as a unit at a purchase price not less than ninety-four percent (94%) of the Gross Purchase Price stated in the Manager's Notice to HIW, so long as a binding contract for such disposal is entered into by the Company within two hundred seventy (270) days following the conclusion of such thirty (30)-day period. Absent the execution of a binding contract within such two hundred seventy (270)-day period, or if the Manager intends to reduce the purchase price offered to any third party to less than ninety-four percent (94%) of the Gross Purchase Price, or if the Manager wishes to sell the Offered Property other than as a single unit, the provisions of this Section 13.4 shall again be applicable to any determination by the Manager to dispose of such Property; provided, however, that if the Manager wishes only to reduce the purchase price offered to a third party to less than ninety-four percent (94%) of the Gross Purchase Price in order to avoid a new application of this Section 13.4, the Manager may give Notice of its desire to do so to HIW, which Notice shall state the revised Gross Purchase Price at which the Manager wishes to sell the Offered Property to such

third party, together with a revised Net Sales Price at which HIW may elect to purchase the Offered Property (which Net Sales Price shall be the revised Gross Purchase Price then offered to such third party, less applicable mortgage balances (including prepayment premiums, but subject to adjustment as described in Section 13.4(a) hereof if HIW assumes the existing mortgage indebtedness as described therein) and anticipated closing costs and commissions applicable to the proposed sale to such third party). HIW shall have three (3) business days in which to give the Manager Notice of its election to purchase the Offered Property at the revised Net Sales Price. If HIW fails timely to give such Notice or elects not to so purchase the Offered Property, the Manager may unilaterally cause the Company to dispose of the Offered Property as a unit to such third party, at the revised Gross Purchase Price hereinabove described.

13.5 Section 754 Election. In the event of a transfer of all or part of a Member's Interest in the Company, the Company shall elect, at the request of any existing Member or any person being admitted as a Member or the executor, administrator or other legal representative of a deceased Member, to adjust the basis of the Company's assets pursuant to section 754 of the Code or the corresponding provision of subsequent law. In the case of a newly-admitted Member, the election shall be filed by the Company as constituted prior to such admission. The transferee of the Company interest shall pay all costs of preparing and filing such election and for any increased accounting costs thereafter attributable to such election.

ARTICLE 14

WITHDRAWALS

Each of the Members hereby covenants and agrees that such Member will not withdraw or retire from the Company except as the result of a permitted transfer of such Member's entire Interest pursuant to Article 13 or 16 hereof, and that such Member will otherwise carry out such Member's duties and responsibilities hereunder until the Company is dissolved and liquidated pursuant to Article 15 hereof.

ARTICLE 15

DISSOLUTION AND LIQUIDATION OF COMPANY

15.1 Dissolving Events. The Company shall be dissolved and liquidated in the manner hereinafter provided upon the happening of any of the following events:

- (a) the agreement of all of the Members to dissolve the Company;
- (b) the sale of all of the Company's interest in all Properties, all Persons owned by the Company and all other assets or properties of the Company; or

(c) if not previously terminated, December 31, 2020.

15.2 Method of Liquidation. Upon the happening of any of the events specified in Section 15.1 hereof which require the Company to be dissolved and liquidated, the Company, unless otherwise required by the Act, shall apply and distribute any Liquidation Proceeds in the following manner and in the following order of priority:

(a) to the payment of the debts and liabilities of the Company (other than the Capital Accounts of the Members) and to the expenses of liquidation in the order of priority as provided by law; then

(b) to the establishment of any reserves deemed reasonably necessary by the Members for the payment of any contingent or unforeseen liabilities or obligations of the Company and, at the expiration of such period as the Members reasonably deem advisable, the balance of such reserves shall be applied and distributed in the manner hereinafter provided in this Section 15.2; then

(c) to the Members in proportion to, and in payment of, the remaining respective Capital Accounts of the Members as of the date of distribution, as adjusted and computed pursuant to Sections 8.1 and 8.2 and any other applicable provisions hereof as of the date of such distribution.

15.3 Reasonable Time for Liquidating. A reasonable time shall be allowed for the orderly liquidation of the Company's assets pursuant to Section 15.2 hereof in order to reduce the risk of losses which might be attendant upon such a liquidation.

15.4 Date of Liquidation. The Company shall be deemed liquidated and wound up when all of its assets shall have been applied and distributed in accordance with the provisions of Section 15.2 hereof. The establishment of any reserves in accordance with the provisions of Section 15.2 hereof shall not have the effect of extending the duration of the Company, but any such reserves shall be distributed in the manner provided in Section 15.2 hereof upon expiration of the period of such reserve.

15.5 Waiver of Right of Partition. Each of the Members does hereby agree to and does hereby waive any right such Member may otherwise have to cause any of the Company's assets to be partitioned among the Members or to file any complaint or to institute any proceeding at law or in equity seeking to have any such assets partitioned.

ARTICLE 16

BUY-SELL

16.1 Buy-Sell Option. At any time from and after the date hereof, with respect to City Group Owners other than the Orlando, Florida City Group Owner, and at any time after the third

(3/rd/) anniversary of the closing under the Acquisition Agreement, with respect to the Orlando, Florida City Group Owner, either HIW or MG may institute the following reciprocal redemption procedure (hereinafter referred to as the "Redemption Procedure") by giving a Notice (hereinafter referred to as the "Redemption Notice") to the other party. The party giving a Redemption Notice shall be referred to hereinafter in this Article 16 as the "Offeror" and the party receiving such notice shall be referred to hereinafter as the "Offeree." It is mutually acknowledged and agreed that each of the City Groups is owned by a separate City Group Owner, and that all of the ownership interests in each City Group Owner are owned by the Company. Thus, it is mutually agreed and understood that the Redemption Procedure may be exercised as to all of the ownership interests in any one (1) City Group Owner, simultaneously as to all of the ownership interests in more than one (1) City Group Owner, or simultaneously as to all of the ownership interests in all of the City Group Owners; provided, however, that if all of the ownership interests in more than one (1) City Group Owner are the subject of any Redemption Notice hereunder, the Redemption Notice must state separate Redemption Values (as hereinafter defined) for all of the ownership interests in each City Group Owner, and the Notice of Election (as hereinafter defined) must make separate elections to buy or sell all of the ownership interests in each City Group Owner being offered. Notwithstanding the fact that the Company owns all of the ownership interests in each City Group Owner, and thus, no Member has a direct ownership interest in a City Group Owner, the Redemption Procedure may be exercised hereunder as if each Member owned each City Group Owner in proportion to its Sharing Ratio, and upon the Redemption Closing Date for the sale of all of the ownership interests in any City Group Owner, the Manager, on behalf of the Company, shall transfer all of the ownership interests in such City Group Owner to the "Continuing Party" (as hereinafter defined), and the economic consequences of any such transfer shall be governed by Section 16.3 hereof. To be effective, the Redemption Notice shall be in writing and shall state therein, separately, the gross amount in U.S. cash (hereinafter referred to as the "Redemption Value"), as determined in the sole and absolute discretion of the Offeror, for all of the ownership interests of each City Group Owner being offered in the Redemption Notice, for use in determining Redemption Prices pursuant to Section 16.3 hereof. It is mutually agreed and understood that, in arriving at the Redemption Value, each Member should value each City Group Owner without deduction for existing mortgage indebtedness, any other liabilities of the City Group Owner or such City Group Owner's allocable share of all other liabilities of the Company, all of which shall hereafter be deducted from the Redemption Value in determining the Redemption Price (as hereinafter defined). The Redemption Notice shall constitute an irrevocable offer by the Offeror either to (a) sell the Offeror's City Group Interest (which, for purposes of this Article 16, shall be deemed to be the Offeror's imputed ownership interest in each City Group Owner, based upon its Sharing Ratio) in each City Group

Owner which is included in the Redemption Notice for the Redemption Price (as hereinafter defined) for each such City Group Owner, or (b) buy the Offeree's City Group Interest (which, for purposes of this Article 16, shall be deemed to be the Offeree's imputed ownership interest in each City Group Owner, based upon its Sharing Ratio) in each City Group Owner which is included in the Redemption Notice for the Redemption Price (as hereinafter defined). It is mutually acknowledged and agreed that, in responding to any Redemption Notice hereunder, the Offeree is entitled to make a separate election to buy the Offeror's City Group Interest or to sell the Offeree's City Group Interest in each City Group Owner which is the subject of a Redemption Notice, with the result that each of the Offeror and the Offeree may ultimately acquire certain City Group Owners pursuant to such Redemption Notice. Thus, by way of example, if the Offeror gives a Redemption Notice for all four (4) City Group Owners, the Offeree may elect to buy the Offeror's City Group Interest one (1), two (2), three (3) or four (4) City Group Owners, with the Offeror then obligated to purchase the Offeree's City Group Interest in as many City Group Owners as the Offeree does not elect to so purchase. In the event that all of the ownership interests in all four (4) City Group Owners are the subject of a single Redemption Notice hereunder, and either the Offeror or the Offeree ultimately acquires the ownership interests in all four (4) City Group Owners, the Continuing Party shall be deemed to have acquired the Withdrawing Party's Interest in the Company rather than all of the ownership interests in individual City Group Owners for the purposes hereof.

16.2 Election by Offeree To Sell or Cause Offeror To Sell. (a) As to the ownership interests of each City Group Owner being offered in the Redemption Notice, the Offeree shall elect either to sell its City Group Interest or to cause the Offeror to sell its City Group Interest in each City Group Owner in response to the Redemption Procedure instituted pursuant to Section 16.1 hereof. The Offeree shall give Notice of such elections (hereinafter referred to as a "Notice of Election") to the Offeror prior to the thirtieth (30th) day following the date upon which the Redemption Notice is given. The failure by the Offeree to give an effective and timely Notice of Election with respect to all of the ownership interests in any City Group Owner shall conclusively be deemed an election by the Offeree to sell its City Group Interest therein for the applicable Redemption Price (as hereinafter defined), payable in cash (U.S.), and the date of the Notice of Election with respect to such deemed election shall be the thirtieth (30th) day following the giving of the Redemption Notice. The party designated in accordance with the provisions of this Section 16.2 to sell its City Group Interest in any City Group Owner is hereinafter referred to as the "Withdrawing Party" and the other party is hereinafter referred to as the "Continuing Party".

(b) After receipt of any Redemption Notice, the Manager shall not enter into any contract of sale or other agreement to dispose of any of the Properties, unless the Redemption Notice involves less than all of the Offeror's Interest in the Company and such Property(ies) are owned by a City Group Owner whose ownership interests are not included in such Redemption Notice. In the event that any of the Properties is subject to a contract of sale or other disposition agreement at the time that a Redemption Notice is received by the Offeree, the Continuing Party shall, upon the Redemption Closing Date, be deemed to have assumed the Company's and/or the subject City Group Owner's rights and obligations thereunder. If the closing under any such contract of sale or other disposition agreement must occur before the Redemption Procedure can be completed pursuant to this Article 16, the net sales proceeds therefrom (not subject to reserves by the Manager as contemplated by the definition of "Net Sales Proceeds" herein) shall be retained on behalf of the subject City Group Owner and transferred to the Continuing Party on the Redemption Closing Date. The restrictions contained in this Section 16.2(b) shall cease upon the failure of either the Continuing Party or the Withdrawing Party to consummate the Redemption Procedure as required by Section 16.4 hereof, until such time as a new Redemption Notice is given hereunder.

16.3 Redemption Price. The "Redemption Price" payable to the Withdrawing Party shall be an amount in cash (U.S.) equal to the greater of \$10.00, or the amount which such Withdrawing Party would have received on the Redemption Closing Date (as hereinafter defined) if the Company had applied, as Liquidation Proceeds, in the order of priority set forth in Section 15.2 hereof, assuming the prior allocation of any Sale Gain or Sale Loss which would have been recognized by the Company in connection with any sale of the Company's assets for an amount equal to such Redemption Value, as so adjusted, an amount equal to the Redemption Value applicable to all of the ownership interests in the subject City Group Owner as stated in the Redemption Notice (or, if the Continuing Party acquires all of the Company's ownership interests in all four (4) City Group Owners, in liquidation of the Company) upon the sale of all of the Company's ownership interest in the applicable City Group Owner; provided, however, that if the Withdrawing Party owes any amount under any Contribution Loan made pursuant to Section 6.2 (b) hereof to the Continuing Party on the date of the Redemption Notice, the aggregate of the Redemption Prices payable to the Withdrawing Party shall be reduced by the amount, including accrued and unpaid interest, owed to the Continuing Party by the Withdrawing Party on the Redemption Closing Date. For the purposes of this Section 16.3, in determining the liabilities of any City Group Owner prior to the transfer of all of the ownership interests therein to the Continuing Party, the Company shall include all existing mortgage indebtedness of, or reasonably allocable to, the subject City Group Owner, as well as any other liabilities unique to such City Group Owner and any portion of other liabilities of the Company which are reasonably allocable to such City Group Owner, such that no liabilities properly allocable to such City Group Owner would have been retained by the Company following any such transfer prior to a liquidation of the Company.

16.4 Closing. (a) On the Redemption Closing Date, the Continuing Party, as to each City Group Owner which it is acquiring, shall assume the Withdrawing Party's share of such City Group Owner's liabilities and the Company's liabilities as to such City Group Owner as of the date of the Notice of Election, and the Withdrawing Party shall have no further obligations with respect thereto. In the event that, with respect to the City Group Interest of the Withdrawing Party being so redeemed, MG is designated as the Withdrawing Party by a Notice of Election, the Manager shall not take any action hereunder, other than ministerial actions required to avoid harm to the City Group Owner in question or the Properties owned by it, without the prior written consent of the Continuing Party. Such consent may be given or withheld in the Continuing Party's sole and absolute discretion, but if given, shall be given within five

(5) business days of the Manager's request therefor, but if no such consent is given within such time, the Manager may conclusively presume that such consent has been approved. Subsequent to the Redemption Closing Date, the Withdrawing Party shall have no further interest in the Company's capital, profits, losses, gains or distributions as to any City Group Owner being redeemed hereunder (or, if the Continuing Party acquires all four (4) of the Withdrawing Party's City Group Interests, as to the Withdrawing Party's Interest in the Company, whereupon the Withdrawing Party shall no longer be a Member of the Company) and the Continuing Party shall, with respect to the City Group Interest of the Withdrawing Party being so redeemed, assume all obligations and liabilities of the Withdrawing Party as to such City Group Owner

from and after the Redemption Closing Date. The Continuing Party shall also obtain, to the extent available, a release from liability for (or, if not available, on the Redemption Closing Date, a full indemnity from the Continuing Party and the MG Guarantor or the Highwoods Guarantor, as appropriate, of) the Withdrawing Party for any loan to the Company and/or the subject City Group Owner which relates to the subject City Group and is not paid in full on the Redemption Closing Date, and the Continuing Party and the Withdrawing Party shall enter into the Assignment of Ownership Interest and Indemnity described in Section 16.4 (b) hereof as to each City Group Owner. Within sixty (60) days of the date of the Notice of Election (the "Redemption Closing Date"), the Redemption Price shall be paid to the Withdrawing Party as to such City Group Owner in U.S. Federal funds, and the Members shall execute and deliver amendments to this Agreement and any necessary statement with regard to the Company filed in any public records, reflecting the foregoing; provided, however, that upon payment of an additional amount equal to five percent (5%) of the applicable Redemption Value on or before the originally scheduled Redemption Closing Date, the Continuing Party may extend the Redemption Closing Date for the Withdrawing Party's City Group Interest for an additional sixty (60) days. On or prior to the Redemption Closing Date, the Continuing Party shall contribute such amount to the capital of the Company as shall be necessary to enable the Company to pay the applicable Redemption Price to the Withdrawing Party on the Redemption Closing Date, or, at its option, may pay such amount directly to the Withdrawing Party. In the event that the Continuing Party should fail to make such required contribution or payment, the Continuing Party shall be in default hereunder, and the Withdrawing Party shall have the rights and remedies set forth in Section 16.7 hereof against the Continuing Party, and the Withdrawing Party shall have no obligation to sell its City Group Interest(s) to the Continuing Party. In the event that the Withdrawing Party fails to close the redemption of any such City Group Interest on the Redemption Closing Date, the Withdrawing Party shall be in default hereunder and the Continuing Party shall have the rights and remedies set forth in Section 16.7 hereof.

(b) The closing shall be held at the office of the Escrow Agent on the Redemption Closing Date at a mutually-agreed-upon time; provided, however, that the Continuing Party, if it so desires, may accelerate the date of closing by Notice to the Withdrawing Party given not less than ten (10) business days prior to the accelerated Redemption Closing Date. If there are any transfer taxes payable as an incident to the transfers at closing, such taxes shall be the expense of the Continuing Party. Additionally, the Withdrawing Party and the Continuing Party shall execute and deliver the Assignment of Ownership Interest and Indemnity, in the form attached hereto as Exhibit "D" and by this reference made a part hereof, as to each City Group Owner which is the of the subject Redemption Procedure then in effect.

16.5 Escrow Agent; Deposit. Within three (3) business days of the giving of the Notice of Election, the Continuing Party shall deposit with Chicago Title Insurance Company (the "Escrow Agent") a cash deposit equal to five percent (5%) of the Redemption Value multiplied by the Withdrawing Party's Sharing Ratio. If the Continuing Party elects to extend the Redemption Closing Date as and when contemplated by Section 16.4(a) hereof, the additional cash deposit equal to five percent (5%) of the Redemption Value multiplied by the Withdrawing Party's Sharing Ratio shall also be deposited with the Escrow Agent.

16.6 Casualty or Condemnation.

(a) If, at the time of the Redemption Notice, any improvements on any of the Properties which are indirectly the subject of the Redemption Notice have been damaged, or if there is a condemnation or other taking for a public purpose pending with respect to any one or more of such Properties, all of the insurance proceeds, except those used to effect any repairs, and all benefits from any condemnation award, shall accrue to the benefit of the Continuing Party.

(b) If following the delivery of any Redemption Notice and prior to the subject Redemption Closing Date, any of the Properties which are indirectly the subject of the Redemption Notice shall be damaged by a casualty to the extent of fifteen percent (15%) or more of the value of any such Property, or a condemnation proceeding shall be initiated with respect to fifteen percent (15%) or more of the value of any of such Properties, the Offeror may elect to withdraw the Redemption Notice, but only as to the City Group Owner which owns the affected Property, by giving the Offeree Notice within ten (10) days following such occurrence. If the Offeror does not withdraw the Redemption Notice, the Offeree shall have ten (10) days thereafter to notify the Offeror if it desires to modify its election pursuant to Section 16.2 above. If the Offer is not withdrawn, the closing shall take place on the Redemption Closing Date even if such Properties have not been completely repaired and restored, and all unused insurance proceeds, or all benefits from such condemnation, shall accrue to the benefit of the Continuing Party.

16.7 Failure to Consummate. If the Continuing Party fails to consummate the Redemption Procedure (other than on account of default of the Withdrawing Party) on the Redemption Closing Date, then the Withdrawing Party shall retain the escrow deposit(s) made pursuant to Section 16.5 as liquidated damages, and, in addition, may elect to purchase any or all of the Continuing Party's City Group Interest(s) at the applicable Redemption Price (as recalculated pursuant to Section 16.3 hereof) by delivering a Notice to such effect to the Continuing Party (i.e., the Member who was in default as a result of its failure to timely purchase) within thirty (30) days following the Redemption Closing Date. In such event, closing shall take place within thirty (30) days thereafter. If the Withdrawing Party fails to consummate the Redemption Procedure (other than on account of default of the Continuing Party), then, in addition to all other rights and remedies that the Continuing Party would have at law or in equity, the Continuing Party may maintain an action for specific performance of the Redemption Procedure. If the Continuing Party fails timely to make any deposit required by Section 16.5 hereof, the Continuing Party and the MG Guarantor or the Highwoods Guarantor, as appropriate, shall be personally liable to the Withdrawing Party for the amount of such deposit, which liability shall be treated as a demand obligation.

16.8 Tax Treatment. The Members hereby acknowledge and agree that, for Federal income tax purposes, all payments to a Withdrawing Party under Section 16.4 hereof shall be treated as distributions to a retired partner under section 736 of the Code and that the entire

Redemption Price payable to such Withdrawing Party shall be treated as paid in exchange for Company property (other than goodwill) under section 736(b) of the Code and any similar provision of any applicable state income tax statute.

16.9 Survival. The terms and provisions of this Article 16 shall survive the dissolution of the Company under Article 15 and shall continue to apply throughout the period of liquidation until final distribution has been made.

ARTICLE 17

NOTICES

17.1 Notices. Each notice, demand, request, election or other communication (a "Notice") provided for under this document must comply with the requirements of this Section 17.1. Each Notice shall be in writing. It shall be sent with all charges prepaid by depositing it with the United States Postal Service or any official successor thereto, certified or registered mail, return receipt requested, or by a nationally-recognized overnight courier service that obtains receipts. It shall be addressed to the appropriate party (and marked to a particular individual's attention, if so indicated) as hereinafter provided. Each Notice shall be effective upon being so deposited, but the time period in which a response to any Notice must be given or any action taken with respect thereto shall commence to run from the date of actual receipt of the Notice by the addressee thereof, as evidenced by the return receipt. Rejection or other refusal by the addressee to accept or the inability to deliver because of a changed address of which no Notice was given shall be deemed to be the receipt of the notice sent. Any Notice may also be given by facsimile transmission (in which case it shall be deemed received when received by the receiving facsimile machine), but in such case, only if it is followed by "hard" copy given by mail or courier service and receipted as hereinabove provided. Any party shall have the right from time to time to change the address or individual's attention to which Notices to it shall be sent and to specify up to two additional addresses to which copies of Notices to it shall be sent by giving to the other party at least ten (10) business days' prior Notice thereof. Notices on behalf of any party may be sent by such party's attorney. The addresses of the parties are as follows:

HIW, the Highwoods	c/o Highwoods Properties, Inc.
Guarantor and any HIW	3100 Smoketree Court
affiliate to whom this	Raleigh, North Carolina 27604
Section 17.1 may apply	Attention: Mr. Ronald P. Gibson
by reference:	Telephone: (919) 872-4924
	FAX: (919) 876-6929

with a copy to: c/o Highwoods Properties, Inc.
3100 Smoketree Court
Raleigh, North Carolina 27604
Attention: Mack D. Pridgen, III, Esq.
Telephone: (919) 872-4924
FAX: (919) 876-6929

and with a copy to: Alston & Bird LLP
605 Glenwood Avenue
Suite 310
Raleigh, North Carolina 27612
Attention: William R. Klapp, Jr., Esq.
Telephone: (919) 420-2206
FAX: (919) 420-2260

MG, the MG Guarantor c/o Miller Global Properties, LLC
and any other MG 4643 South Ulster Street, Suite 1500
affiliate to whom this Denver, Colorado 80237
Section 17.1 may apply Attention: Mr. James H. Miller and Mr. Donald E.
by reference (including, Spiegleman
without limitation, MGA Telephone: (303) 773-0369
Development Associates, FAX: (303) 694-0082
L.P.):

with a copy to:

Isaacson, Rosenbaum, Woods & Levy, P.C.
633 17th Street, Suite 2200
Denver, Colorado 80202
Attention: Samuel L. Levy, Esq.
Telephone: (303) 292-5656
FAX: (303) 292-3152

ARTICLE 18

GENERAL PROVISIONS

18.1 Computation of Time. In computing any period of time under this Agreement, the day of the act, event or default from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, Sunday or legal holiday, in which event the period shall run until the end of the next day which is not a Saturday, Sunday or legal holiday.

18.2. Amendment. This Agreement may not be amended except by instrument, in writing, executed by all of the Members, nor may any rights hereunder be waived except by an instrument in writing signed by the party sought to be charged with such amendment or waiver.

18.3 Pronouns. References to a Member, including by use of a pronoun, shall be deemed to include masculine, feminine, singular, plural, individuals, partnerships or corporations where applicable.

18.4 Counterparts. This instrument may be executed in any number of counterparts, each of which shall be deemed to be an original, and all of which, when taken together, shall constitute but one and the same instrument.

18.5 Binding Effect. This Agreement shall inure to the benefit of and shall be binding upon the Members, their legal representatives, permitted transferees, heirs, successors and permitted assigns.

18.6 Construction. This Agreement shall be governed by, and interpreted and construed in accordance with, the internal laws of the State of Delaware, without reference to conflicts of laws or choice of laws provisions thereof. The titles of the Articles and Sections herein have been inserted as a matter of convenience of reference only and shall not control or affect the meaning or construction of any of the terms or provisions herein.

18.7 Exhibits. All exhibits which are referenced herein and attached hereto are incorporated herein by this reference.

18.8 Sections. References herein to specific sections shall be deemed to refer to sections of this Agreement, unless otherwise provided.

18.9 Estoppels. Each Member shall, upon not less than ten (10) business days' written notice from the other Member, execute and deliver to the other Member a statement certifying that this Agreement is unmodified and in full force and effect (or, if modified, the nature of the modification) and whether or not there are, to such Member's actual knowledge, any uncured defaults on the part of the other Member, specifying such defaults if any are claimed. Any such statement may be relied upon by third parties.

18.10 No Payments of Individual Obligations. The Members shall use the Company's credit and assets solely for the benefit of the Company. No assets of the Company shall be transferred or encumbered for or in payment of any individual obligation of a Member.

18.11 Time of Essence. Time is of the essence of this Agreement and each and every provision hereof.

18.12 Additional Documents and Acts. In connection with this Agreement, as well as all transactions contemplated by this Agreement, each Member agrees to execute and deliver

such additional acts as may be necessary or appropriate to effectuate, carry out and perform all of the terms, provisions and conditions of this Agreement, and all such transactions.

18.13 Severability. If any provision of this Agreement or the application thereof to any person or circumstances shall be invalid or unenforceable to any extent, the remainder of this Agreement and the application of such provisions to other persons or circumstances shall not be affected thereby and shall be enforced to the greatest extent permitted by law.

18.14 No Third-Party Beneficiary. This Agreement is made solely and specifically between and for the benefit of the parties hereto, and their respective successors and permitted assigns, subject to the express provisions hereof relating to successors and assigns, and no other person whatsoever shall have any right, interest, or claim hereunder or be entitled to any benefits under or on account of this Agreement as a third-party beneficiary or otherwise.

18.15 Complete Agreement. This Agreement constitutes the complete and exclusive statement of the agreement between the Members with respect to the subject matter hereof. This Agreement supersedes all prior written and oral statements and no representation, statement, or condition or warranty not contained in this Agreement shall be binding on the Members or have any force or effect whatsoever. It is agreed that no Member has rendered any services to or on behalf of either the other Members or the Company and that no Member shall have any rights with respect to any services which might be alleged to have been rendered.

18.16 Confidentiality. The Members agree that the terms of this Agreement, any other agreements entered into in connection with the transactions contemplated hereby, the identities of the parties hereto and their owners or members and any other proprietary information shared by the Members pursuant hereto are confidential and shall not be disclosed to any third party without the other party's prior written consent; provided, however, that any party may disclose the existence and/or terms and conditions hereof if so required by law or to such party's attorneys, accountants, financial institutions, and other professionals and similar parties in order to pursue in good faith business objectives of the Company (subject to each Member advising such parties of the existence of this Section 18.16 and such Member's duty not to disclose such existence and/or terms and conditions unless permitted by law, except as provided herein), and it is mutually agreed and understood that the Manager may make customary and reasonable disclosures regarding the Properties to prospective purchasers and mortgagees of the Properties in question.

18.17 Dispute Resolution.

(a) Although the Members may agree from time to time to submit any dispute hereunder to mediation or to be bound by an arbitration thereof, except as provided in Section 18.17(b) below with respect to any Claim that the Claiming Member may elect to make thereunder, in its sole and absolute discretion (which, if so elected, shall be the sole and exclusive remedy for the Claim in question (but not otherwise)), they are not bound to

such procedures and may initiate legal action to enforce the provisions hereof without first resorting to such measures.

(b) Notwithstanding the foregoing, in the event that a Member determines that the Member, the MG Guarantor, the Highwoods Guarantor, the Company or a City Group Owner is entitled to a recovery pursuant to any Guaranty, Indemnity and Payment Agreement executed contemporaneously herewith, or that certain Contribution Agreement of even date herewith between the MG Guarantor and HIW, such Member (the "Claiming Member") may, if it elects, in its sole and absolute discretion, to employ the provisions of this Section 18.17(b), deliver to the other Member (the "Opposite Member") a Notice (given by any means other than facsimile transmission) (each a "Claim"), containing the claimed amount (which, although not required to be stated in the Claim, due to the uncertainty of the ultimate amount thereof, shall be deemed to include, for the purposes hereof, all interest, attorneys' fees and expenses and other costs and expenses awarded to the Claiming Member by the arbitrator and by the court in connection with the enforcement of the arbitrator's determination if and to the extent that the Claiming Member is successful) and setting forth in reasonable detail the basis therefor.

(i) If the Opposite Member does not dispute the Claim and so indicates by Notice to the Claiming Member, given within five (5) Business Days after the Opposite Member's receipt of the Claim, the Manager shall pay the amount of the Claim to the Claiming Member, at such time or times following the making of the Claim as distributions would otherwise be distributed to the Opposite Member pursuant to Sections 8.1 and/or 8.2 hereof, deducting the same from the amount otherwise distributable to the Opposite Member pursuant to Sections 8.1 and/or 8.2 hereof. If the Opposite Member disputes the Claim, it may deliver to the Claiming Member a Notice (given by any means other than facsimile transmission) (the "Response") so indicating, within five

(5) Business Days following the Opposite Member's receipt of the Claim. If the Response is delivered within such five (5)-Business Day period, the Claiming Member may direct the Manager to deposit with the Escrow Agent, in an interest-bearing account Approved by the Members, the amount set forth in the Claim from the amount which would have otherwise been distributable to the Opposite Member at the time of the Claim, and to the extent that no amount was then distributable to the Opposite Member, or the amount otherwise distributable to the Opposite Member at the time of the Claim was insufficient to satisfy the Opposite Member's obligations under the Claim, if the arbitration of the Claim is still pending or if the Claiming Member is successful in the arbitration hereinafter described, the Claiming Member may direct the Manager to continue to deposit subsequent amounts otherwise distributable to the Opposite Member pursuant to Sections 8.1 and/or 8.2 hereof unless, in the interim, the Claim has been resolved against the Claiming Member or, if resolved in favor of the Claiming Member in an amount less than the amount of the Claim, there are sufficient funds on deposit with the Escrow Agent

to satisfy such lesser amount. In the event that the Opposite Member does not deliver a Response within five (5) Business Days after its receipt of the Claim, the Claiming Member shall deliver a copy of the Claim previously delivered to the Opposite Member, together with proof of the Opposite Member's receipt of the Claim (each a "Second Notice"), to the Opposite Member. (It is mutually agreed and understood that no purported Second Notice delivered hereunder shall be effective unless delivered by any means permitted under Section 17.1 hereof other than facsimile transmission and unless and until it includes said proof of receipt, but also that there shall be no time limit within which the Claiming Member must deliver the Second Notice, to cover the eventuality, among others, that there could be a delay in obtaining said proof of receipt.) If, within five (5) Business Days following the Opposite Member's receipt of the Second Notice, the Opposite Member does not then dispute the Claim and so indicates by Notice to the Claiming Member, or if the Opposite Member does not deliver a Response within said five (5)-Business Day period, the Manager shall pay the amount of the Claim to the Claiming Member as described in the first sentence of this Section 18.17(b)(i). If a Response is timely given, the second and third sentences of this Section 18.17(b)(i) shall apply, and the amount of the Claim shall be escrowed with the Escrow Agent and the arbitration hereinafter described shall be joined as provided for herein.

(ii) If a Response is received, the dispute so joined shall be immediately submitted to final and binding arbitration before Judicial Arbitration and Mediation Services, Inc. ("JAMS"), or its successor, pursuant to the United States Arbitration Act, 9 U.S.C. Sec. 1 et seq., and any distributions to which the Opposite Member would otherwise be entitled pursuant to Sections 8.1 and/or 8.2 following the Claim shall remain on deposit with the Escrow Agent pending the conclusion of arbitration. The arbitration will be conducted in Denver, Colorado (if MG is the Claiming Member), or in Raleigh, North Carolina (if HIW is the Claiming Member), and in accordance with the provisions of JAMS Streamlined Arbitration Rules and Procedures (or the JAMS Comprehensive Arbitration Rules and Procedures, if the amount at issue is such that the Streamlined Arbitration Rules and Procedures may not be used) in effect at the time that the Claim is sent. The Members will cooperate with JAMS and with one another in selecting an arbitrator from JAMS panel of neutrals, and in scheduling the arbitration proceedings. If JAMS shall no longer exist or if JAMS fails or refuses to accept submission of the dispute, the dispute shall be resolved by binding arbitration before the American Arbitration Association ("AAA") under the AAA's commercial arbitration rules then in effect. The Members each covenant that they shall participate in the arbitration in good faith. It is the intention of the Members that, in any arbitration conducted pursuant hereto, the prevailing party be awarded reasonable attorneys' fees and expenses and the cost of the arbitration or, if the arbitrator finds for the Claiming Member in part and the Opposite Member in part, that all such costs be split between the Members as the arbitrator deems fair

and equitable. The provisions of this Section 18.17(b) and any award in any arbitration may be enforced by any court of competent jurisdiction, and the party seeking enforcement shall be entitled to an award of all costs, fees and expenses, including reasonable attorneys' fees and arbitration costs, to be paid by the party against whom enforcement is ordered. If the arbitrator finds for the Opposite Member or its Affiliate which is the subject of the Claim, or if the amount awarded is less than the balance on deposit with the Escrow Agent in connection with the Claim at issue, such balance or excess, as appropriate, shall be released to the Opposite Member or its Affiliate. Otherwise, the amount on deposit with the Escrow Agent in connection with the Claim at issue, or such lesser portion thereof as may be required to satisfy the Claim, shall be released by the Escrow Agent to the Claiming Member, and if said amount on deposit is insufficient to satisfy the Claim, the Claiming Member, in addition to any right it may have to enforce the court's order directly against the Opposite Member, may direct the Manager to pay any balance due to the Claiming Member from future distributable amounts pursuant to Sections 8.1 and/or 8.2 which would otherwise be distributed to the Opposite Member. Any failure on the part of MG, while it or any of its Affiliates is the Manager hereunder, to strictly comply with its directions from the Claiming Member as required hereby shall be deemed to be a breach of this Agreement and MG's fiduciary duty to HIW.

18.18 Attorneys' Fees. In any dispute hereunder that is not resolved pursuant to Section 18.17 hereof, reasonable attorneys' fees and expenses shall be awarded to the prevailing party, not to exceed the lesser of (a) actual attorneys' fees and expenses, and (b) twenty percent (20%) of the amount of the actual damages awarded to the prevailing party (specifically excluding any consequential or punitive damages); provided, however, that a prevailing defendant who did not seek an award of damages shall receive actual attorneys' fees and expenses.

IN WITNESS WHEREOF, each of the Members has caused this Agreement to be executed under seal by its duly authorized signatory, effective as of the date first set forth above.

HIW:

HIGHWOODS REALTY LIMITED PARTNERSHIP, a North
Carolina limited partnership

By: HIGHWOODS PROPERTIES, INC., a Maryland
corporation, its sole general partner

By: /s/ Mack D. Pridgen III

Name: Mack D. Pridgen III
Title: Vice President and General Counsel

MG:

MILLER GLOBAL HIW 20, LLC,

a Colorado limited liability company

By: /s/ Authorized Signatory

Each of the undersigned hereby joins in the Operating Agreement solely for the purpose of confirming the obligations for which it is expressly liable pursuant to the terms of the Operating Agreement.

"MG Guarantor"

MILLER GLOBAL FUND III, L.P. a Colorado limited partnership, its Manager

By: MG IV-GP, LLC, a Colorado limited liability company, its sole general partner

By: MILLER GLOBAL PROPERTIES, LLC, a Colorado
limited liability company, its sole member

By: /s/ Authorized Signatory

"Highwoods Guarantor"

HIGHWOODS PROPERTIES, INC.,
a Maryland corporation

By: /s/ Mack D. Pridgen
-----,
Its Vice President and General Counsel

EXHIBIT 10.1

CREDIT AGREEMENT

Dated as of December 13, 2000

among

**HIGHWOODS PROPERTIES, INC.,
HIGHWOODS SERVICES, INC.,
HIGHWOODS REALTY LIMITED PARTNERSHIP,
HIGHWOODS/TENNESSEE HOLDINGS, L.P.
AND
HIGHWOODS FINANCE, LLC**

as Borrowers,

**AND CERTAIN SUBSIDIARIES OF THE BORROWERS
FROM TIME TO TIME PARTY HERETO,**
as Guarantors,

**THE SEVERAL LENDERS
FROM TIME TO TIME PARTY HERETO**

BANK OF AMERICA, N.A.,
as Administrative Agent,

BANC OF AMERICA SECURITIES LLC
as Sole Lead Arranger and
as Sole Book Manager

WELLS FARGO BANK, NATIONAL ASSOCIATION,
as Syndication Agent, and

WACHOVIA BANK, N.A.,
as Documentation Agent

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CREDIT AGREEMENT

THIS CREDIT AGREEMENT dated as of December 13, 2000 (as amended, modified, restated or supplemented from time to time, the "Credit Agreement"), is by and among HIGHWOODS REALTY LIMITED PARTNERSHIP, a North Carolina limited partnership ("Highwoods Realty"), HIGHWOODS PROPERTIES, INC., a Maryland corporation ("Highwoods Properties"), HIGHWOODS FINANCE, LLC, a Delaware limited liability company ("Highwoods Finance"), HIGHWOODS SERVICES, INC., a North Carolina corporation ("Highwoods Services"), and HIGHWOODS/TENNESSEE HOLDINGS, L.P., a Tennessee limited partnership ("Highwoods Tennessee") (Highwoods Realty, Highwoods Properties, Highwoods Finance, Highwoods Services, and Highwoods Tennessee are hereinafter referred to individually as a "Borrower" and collectively as the "Borrowers"), the subsidiaries of the Borrowers identified on the signature pages hereto (such Subsidiaries are hereinafter referred to individually as a "Guarantor" and collectively as the "Guarantors"), the Lenders (as defined herein), BANK OF AMERICA, N.A., as Administrative Agent for the Lenders (in such capacity, the "Administrative Agent"), BANC OF AMERICA SECURITIES LLC, as Sole Lead Arranger (in such capacity, the "Sole Lead Arranger") and Sole Book Manager (in such capacity, the "Sole Book Manager").

WELLS FARGO BANK, NATIONAL ASSOCIATION, as Syndication Agent (in such capacity, the "Syndication Agent"), WACHOVIA BANK, N.A., as Documentation Agent (in such capacity, the "Documentation Agent") and the Lenders identified herein.

WITNESSETH

WHEREAS, Highwoods Realty and the Guarantors identified therein entered into (i) that certain Credit Agreement dated as of September 27, 1996 which provided a \$280,000,000 credit facility (the "1996 Credit Facility") to Highwoods Realty (as amended, modified, supplemented or restated from time to time, the "1996 Credit Agreement") and (ii) that certain Credit Agreement dated as of December 15, 1997 which provided a \$150,000,000 credit facility (the "1997

Credit Facility") to Highwoods Realty (as amended, modified, supplemented or restated from time to time, the "1997 Credit Agreement");

WHEREAS, the Borrowers and the Guarantors identified therein entered into that certain Credit Agreement dated as of July 3, 1998 which provided a \$600,000,000 credit facility (the "1998 Credit Facility") to the Borrowers for the purpose of refinancing the 1996 Credit Facility and the 1997 Credit Facility and for the other purposes set forth therein, which credit facility was amended as of December 10, 1999 to, among other things, reduce the amount of the credit facility to \$450,000,000 (as amended, the "1998 Credit Agreement");

WHEREAS, the Borrowers have requested that the Lenders provide a restructured \$300,000,000 credit facility for the purpose of refinancing the 1998 Credit Facility, replacing the 1998 Credit Agreement and for the other purposes set forth herein; and

WHEREAS, the Lenders have agreed to make the requested credit facility available to the Borrowers on the terms and conditions set forth herein and in the other Credit Documents (as amended as of the date hereof);

NOW, THEREFORE, IN CONSIDERATION of the premises and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

DEFINITIONS

1.1 Definitions.

As used in this Credit Agreement, the following terms shall have the meanings specified below unless the context otherwise requires:

"Acquired Properties" means, at any time, all interests in Properties purchased by any Borrower, any Consolidated Party or any unconsolidated affiliate thereof within the previous three (3) calendar months from any third party entity through an arms length transaction.

"Additional Credit Party" means each Person that becomes a Guarantor after the Closing Date by execution of a Joinder Agreement.

"Adjusted Base Rate" means the Base Rate plus the Applicable

Percentage.

"Adjusted EBITDA" means, for any period, the sum of (a) EBITDA for such period less (b) aggregate Capital Expenditure Reserves for all

Properties with respect to such period; provided, that such sum shall be exclusive of any adjustment for such period attributable to the Straight-Lining of Rents.

"Adjusted Eurodollar Rate" means the Eurodollar Rate plus the

Applicable Percentage.

"Adjusted Investment Value" means, as of any date, (a) with respect to the ratio specified in Section 7.11(l), the sum of (i) the total assets as of such date, as determined in accordance with GAAP, of Non-Wholly Owned Subsidiaries which are Credit Parties, less (ii) that portion thereof

attributable to the owners thereof other than the Borrowers or any Wholly Owned Subsidiary, and (b) with respect to the ratio specified in Section 7.11(m), the sum of (i) investments in any Minority Interest Entities as of such date of determination, plus (ii) (A) the total assets as of such date,

as determined in accordance with GAAP, of Non-Wholly Owned Subsidiaries which are not Credit Parties, less (B) that portion thereof attributable to

the owners thereof other than the Borrowers or any Wholly Owned Subsidiary, plus (iii) the aggregate outstanding principal balance of all loans made by

a Consolidated Party to a Person which is not a Credit Party to the extent such loans are not included in (i) or (ii) of this subsection (b), plus

(iv) the aggregate outstanding principal balance of all loans made by a third party to a Person which is not a Credit Party if such loans are guaranteed by a Consolidated Party to the extent such guaranteed loans are not included in (i), (ii) or (iii) of this subsection (b).

"Adjusted NOI" means, with respect to any applicable time period for any Property, (a) Net Operating Income for such period with respect to such Property less (b) the sum of (i) the Capital Expenditure Reserve amount for

such Property during such period, plus (ii) a management fee in the amount

of three percent (3%) of total revenues derived from the Property during such period; provided, that such amount shall be exclusive of any adjustment for such period attributable to the Straight-Lining of Rents; provided, further, that, in each case, (i) all amounts included in the above calculations (and not otherwise adjusted for interests in Minority Interest Entities) shall be adjusted to account for any amounts attributable to any interests held by any Consolidated Party in any Minority Interest Entity and (ii) all amounts included in the above calculations (and not otherwise adjusted to account for Outside Interests) shall be adjusted to deduct therefrom the pro rata share of such amounts allocable to Outside Interests..

"Administrative Agent" shall have the meaning assigned to such term in the heading hereof, together with any successors or assigns.

"Affiliate" means, with respect to any Person, any other Person (i) directly or indirectly controlling or controlled by or under direct or indirect common control with such Person or (ii) directly or indirectly owning or holding five percent (5%) or more of the equity interest in such Person. For purposes of this definition, "control" when used with respect to any Person means the power to direct the management and policies of

such Person, directly or indirectly, whether through the ownership of voting securities, by contract or otherwise; and the terms "controlling" and "controlled" have meanings correlative to the foregoing.

"Annualized Adjusted NOI" means (a) for each Property owned for 12 months or more, Adjusted NOI for such Property for the immediately preceding 12 month period and (b) for each Property owned for a period of less than 12 months, Adjusted NOI for such Property calculated by annualizing year-to-date Adjusted NOI for such Property and adjusting (through appropriate pro-rating, removal or other correction) for all annual or one-time lump sum payments or expenses with respect to the Property or for any extraordinary income or expense items with respect to such Property.

"Applicable Percentage" means, for any day, the rate per annum set forth below opposite the applicable Unsecured Long Term Debt Rating then in effect, it being understood that the Applicable Percentage for (i) Eurodollar Loans shall be the percentage set forth under column "Applicable Percentage for Eurodollar Loans", (ii) Base Rate Loans shall be the percentage set forth under the column "Applicable Percentage for Base Rate Loans", (iii) Facility Fees shall be the percentage set forth under the column "Applicable Percentage for Facility Fees" and (iv) Letter of Credit Fee shall be the percentage set forth under the column "Applicable Percentage for Letter of Credit Fee."

Pricing Level	S&P Rating	Moody's Rating	Third Debt Rating	Applicable Percentage for Eurodollar Loans	Applicable Percentage for Base Rate Loans	Applicable Percentage for Facility Fees	Applicable Percentage for Letter of Credit Fee
I	A- or higher	A3 or higher	A- /A3 equivalent or higher	0.70%	0.00%	0.15%	0.70%
II	BBB+	Baa1	BBB+/Baa1 equivalent	0.80%	0.00%	0.15%	0.80%
III	BBB	Baa2	BBB/Baa2 equivalent	0.85%	0.00%	0.20%	0.85%
IV	BBB-	Baa3	BBB-/Baa3 equivalent	0.95%	0.10%	0.20%	0.95%
V	BB+ or lower	Ba1 or lower	BB+/Ba1 equivalent	1.55%	0.25%	0.25%	1.55%

The Applicable Percentage shall be adjusted effective on the next Business Day following any change in the Unsecured Long Term Debt Rating. The Principal Borrower shall notify the Administrative Agent in writing promptly after becoming aware of any change in the Unsecured Long Term Debt Rating.

"Asset Disposition" means the disposition of any assets (including without limitation the Capital Stock of a Subsidiary) of any Consolidated Party whether by sale, lease (but excluding the lease of assets in the ordinary course of business), transfer or otherwise to a Person other than a Credit Party.

"Bank of America" means Bank of America, N.A., a successor in interest to NationsBank, N.A., and its successors.

"Bankruptcy Code" means the Bankruptcy Code in Title 11 of the United States Code, as amended, modified, succeeded or replaced from time to time.

"Bankruptcy Event" means, with respect to any Person, the occurrence of any of the following with respect to such Person: (i) a court or governmental agency having jurisdiction in the premises shall enter a decree or order for relief in respect of such Person in an involuntary case under any applicable bankruptcy, insolvency or other similar law now or hereafter in effect, or appointing a receiver, liquidator, assignee, custodian, trustee, sequestrator (or similar official) of such Person or for any substantial part of its property or ordering the winding up or liquidation of its affairs; or (ii) there shall be commenced against such Person an

involuntary case under any applicable bankruptcy, insolvency or other similar law now or hereafter in effect, or any case, proceeding or other action for the appointment of a receiver, liquidator, assignee, custodian, trustee, sequestrator (or similar official) of such Person or for any substantial part of its property or for the winding up or liquidation of its affairs, and such involuntary case or other case, proceeding or other action shall remain undismissed, undischarged or unbonded for a period of sixty (60) consecutive days; or (iii) such Person shall commence a voluntary case under any applicable bankruptcy, insolvency or other similar law now or hereafter in effect, or consent to the entry of an order for relief in an involuntary case under any such law, or consent to the appointment or taking possession by a receiver, liquidator, assignee, custodian, trustee, sequestrator (or similar official) of such Person or for any substantial part of its property or make any general assignment for the benefit of creditors; or (iv) such Person shall admit in writing its inability to pay its debts generally as they become due.

"Base Rate" means, for any day, the rate per annum equal to the higher of (a) the Federal Funds Rate for such day plus one-half of one percent (.5%) and (b) the Prime Rate for such day. Any change in the Base Rate due to a change in the Prime Rate or the Federal Funds Rate shall be effective on the effective date of such change in the Prime Rate or Federal Funds Rate.

"Base Rate Loan" means any Loan bearing interest at a rate determined by reference to the Base Rate.

"Borrowers" means the Persons identified as such in the heading hereof, together with any permitted successors and assigns.

"Budgeted Project Costs" means, with respect to Properties Under Development, the budgeted cost of construction and final completion of such Properties Under Development; provided that the Budgeted Project Costs shall include projected operating deficits through completion and the projected date of occupancy of eighty-five percent (85%) of the gross leasable space; provided further that, with respect to Properties Under Development by Minority Interest Entities, the Budgeted Project Costs shall be the applicable Consolidated Party's share of the budgeted costs of construction and final completion (based on the greater of (x) the Minority Interest of such Consolidated Party or (y) such Consolidated Party's obligation to provide funds to the Minority Interest Entity, which could include, for example, completion guaranties).

"Build To Suit Properties" means those Properties Under Development which have been 100% leased to tenants and have projected net operating income (based on projections approved by the Administrative Agent in its discretion) during its first year after final completion in an amount which results in no less than a 9.75% annual rate of return on all costs of construction of such Property Under Development, including, without limitation, financing costs and operating deficits.

"Business Day" means a day other than a Saturday, Sunday or other day on which commercial banks in Charlotte, North Carolina or New York, New York are authorized or required by law to close, except that, when used in connection with a Eurodollar Loan, such day shall also be a day on which dealings between banks are carried on in U.S. dollar deposits in London, England.

"Capital Expenditures" means all expenditures required for the leasing of space within Properties owned and previously leased by the Consolidated Parties, including upfit expenses and leasing commissions, together with expenses for renovation or improvement of existing properties that are classified as capital expenditures under GAAP. Leasing and tenant improvements expenditures with respect to space not previously leased shall not be included in any calculation of Capital Expenditures, but must be reported to the Administrative Agent on a quarterly basis as set forth in Section 7.1.

"Capital Expenditure Reserve" means, with respect to (a) any office, industrial or retail Property, a normalized annual reserve for replacement reserves, capital expenditures, tenant improvements, and leasing commissions in the amount of \$0.75 per year per square foot of net leaseable area contained in such Property, and (b) any multi-family Property, a normalized annual reserve for replacement reserves, capital expenditures, tenant improvements, and leasing commissions in the amount of \$250 per year per unit; in each case, less an amount equal to the aggregate

percentage ownership interests held by any entities that

are not affiliated with any of the Consolidated Parties multiplied by the total reserve required in (a) or (b) above for the subject Property. When the Capital Expenditure Reserve is used in computing an amount with respect to a period which is shorter than a year, said amount shall be appropriately pro rated.

"Capital Lease" means, as applied to any Person, any lease of any property (whether real, personal or mixed) by that Person as lessee which, in accordance with GAAP, is or should be accounted for as a capital lease on the balance sheet of that Person.

"Capital Stock" means (i) in the case of a corporation, capital stock, (ii) in the case of an association or business entity, any and all shares, interests, participations, rights or other equivalents (however designated) of capital stock, (iii) in the case of a partnership, partnership interests (whether general or limited), (iv) in the case of a limited liability company, membership interests and (v) any other interest or participation that confers on a Person the right to receive a share of the profits and losses of, or distributions of assets of, the issuing Person.

"Capitalization Rate" means nine and one half percent (9.50%) per annum.

"Cash Available for Distribution" means, for any given calculation date, all Funds from Operations (as defined as of the Closing Date by the Board of Governors of the National Association of Real Estate Investment Trusts) for the twelve (12) month period ending on the last day of the calendar month most recently preceding such calculation date less (a) Capital Expenditures over such period and (b) Scheduled Funded Debt Payments over such period.

"Cash Equivalents" means (a) securities issued or directly and fully guaranteed or insured by the United States of America or any agency or instrumentality thereof (provided that the full faith and credit of the United States of America is pledged in support thereof) having maturities of not more than twelve months from the date of acquisition, (b) U.S. dollar denominated time deposits and certificates of deposit of (i) any Lender, (ii) any domestic commercial bank of recognized standing having capital and surplus in excess of \$500,000,000 or (iii) any bank whose short-term commercial paper rating from S&P is at least A-1 or the equivalent thereof or from Moody's is at least P-1 or the equivalent thereof (any such bank being an "Approved Bank"), in each case with maturities of not more than 270 days from the date of acquisition, (c) commercial paper and variable or fixed rate notes issued by any Approved Bank (or by the parent company thereof) or any variable rate notes issued by, or guaranteed by, any domestic corporation rated A-1 (or the equivalent thereof) or better by S&P or P-1 (or the equivalent thereof) or better by Moody's and maturing within six months of the date of acquisition, (d) repurchase agreements with a bank or trust company (including any of the Lenders) or recognized securities dealer having capital and surplus in excess of \$500,000,000 for direct obligations issued by or fully guaranteed by the United States of America in which any Credit Party shall have a perfected first priority security interest (subject to no other Liens) and having, on the date of purchase thereof, a fair market value of at least 100% of the amount of the repurchase obligations and (e) Investments, classified in accordance with GAAP as current assets, in money market investment programs registered under the Investment Company Act of 1940, as amended, which are administered by reputable financial institutions having capital of at least \$500,000,000 and the portfolios of which are limited to Investments of the character described in the foregoing subdivisions (a) through (d).

"Change of Control" means the occurrence of any of the following events: (i) any Person or two or more Persons acting in concert shall have acquired beneficial ownership, directly or indirectly, of, or shall have acquired by contract or otherwise, or shall have entered into a contract or arrangement that, upon consummation, will result in its or their acquisition of, control over, Voting Stock of Highwoods Properties (or other securities convertible into such Voting Stock) representing 35% or more of the combined voting power of all Voting Stock of Highwoods Properties, or (ii) during any period of up to 24 consecutive months, commencing after the Closing Date, individuals who at the beginning of such 24 month period were directors of Highwoods Properties (together with any new director whose election by Highwoods Properties' Board of Directors or whose nomination for election by Highwoods Properties' shareholders was approved by a vote of at least two-thirds of the directors then still in office who either were directors at the beginning of such period or whose election or nomination for election was previously so approved) cease for any reason to constitute a majority of the directors of Highwoods Properties then in office, or (iii) Highwoods Properties or any Wholly

Owned Subsidiary which is a Credit Party shall fail to be the sole general partner of Highwoods Realty or own a majority of the Capital Stock of Highwoods Services or Highwoods Finance. As used herein, "beneficial ownership" shall have the meaning provided in Rule 13d-3 of the Securities and Exchange Commission under the Securities Exchange Act of 1934.

"CIP Properties" means, as of any given calculation date, a collective reference to all Properties Under Development the total contemplated space in which are less than 75% pre-leased at the time of such calculation.

"Closing Date" means the date hereof.

"Code" means the Internal Revenue Code of 1986, as amended, and any

successor statute thereto, as interpreted by the rules and regulations issued thereunder, in each case as in effect from time to time. References to sections of the Code shall be construed also to refer to any successor sections.

"Commitment" means (i) with respect to each Lender, the Revolving Commitment of such Lender, (ii) with respect to the Swingline Lender, the Swingline Commitment, and (iii) with respect to the Issuing Lender, the LOC Commitment.

"Commitment Percentage" means, for any Lender, the percentage identified as its Commitment Percentage on Schedule 2.1(a), as such percentage may be modified in connection with any assignment made in accordance with the provisions of Section 11.3.

"Competitive Bid" means an offer by a Lender to make a Competitive Loan pursuant to the terms of Section 2.2.

"Competitive Bid Rate" means, as to any Competitive Bid made by a Lender in accordance with the provisions of Section 2.2, the fixed rate of interest offered by the Lender making the Competitive Bid.

"Competitive Bid Request" means a request by one or more of the Borrowers for Competitive Bids in accordance with the provisions of Section 2.2(b) signed by a Responsible Officer.

"Competitive Bid Request Fee" means the Competitive Bid administration fee of \$1,500 paid to the Administrative Agent for its own account for each Competitive Bid Request.

"Competitive Loan" means a loan made by a Lender in its discretion pursuant to the provisions of Section 2.2.

"Competitive Loan Lenders" means, at any time, those Lenders which have Competitive Loans outstanding.

"Competitive Loan Maximum Amount" shall have the meaning assigned to such term in Section 2.2(a).

"Competitive Note" or "Competitive Notes" means the promissory notes of the Borrowers in favor of each of the Lenders evidencing the Competitive Loans provided pursuant to Section 2.2(i), individually or collectively, as appropriate, as such promissory notes may be amended, modified, restated, supplemented, extended, renewed or replaced from time to time.

"Consolidated Parties" means a collective reference to Highwoods Properties and its consolidated Subsidiaries, including Highwoods Realty, and "Consolidated Party" means any one of them.

"Credit Documents" means a collective reference to this Credit Agreement, the Notes, the LOC Documents, each Joinder Agreement and all other related agreements and documents issued or delivered hereunder or thereunder or pursuant hereto or thereto (in each case, as the same may be amended, modified,

restated, supplemented, extended, renewed or replaced from time to time) and "Credit Document" means any one of them.

"Credit Parties" means a collective reference to the Borrowers and the Guarantors, and "Credit Party" means any one of them.

"Credit Party Obligations" means, without duplication, (a) all of the obligations of the Credit Parties to the Lenders (including the Issuing Lender) and the Administrative Agent, whenever arising, under this Credit Agreement, the Notes or any of the other Credit Documents (including, but not limited to, any interest accruing after the occurrence of a Bankruptcy Event with respect to any Credit Party, regardless of whether such interest is an allowed claim under the Bankruptcy Code) and (b) all liabilities and obligations, whenever arising, owing from any of the Borrowers to any Lender, or any Affiliate of a Lender, arising under any Hedging Agreement related to the Credit Documents or the obligations created thereby. It is specifically understood and agreed that the Credit Party Obligations of each Guarantor include any and all obligations that such Guarantor may have as a Borrower hereunder or under any of the other Credit Documents and that the Credit Party Obligations shall include both the Guaranty Obligations and the LOC Obligations.

"Default" means any event, act or condition which with notice or lapse of time, or both, would constitute an Event of Default.

"Derivative Exposure" means the maximum liability (including costs, fees and expenses), based upon a liquidation or termination as of the date of the applicable covenant compliance test, of any Person under any interest rate swap, collar, cap or other interest rate protection agreements, treasury locks, equity forward contracts, foreign currency exchange agreements, commodity purchase or option agreements or other interest or exchange rate or commodity price hedging agreements.

"Documentation Agent" shall have the meaning assigned to such term in the heading hereof, together with any successors or assigns.

"Dollars" and "\$" means dollars in lawful currency of the United

States of America.

"Domestic Subsidiary" means, with respect to any Person, any Subsidiary of such Person which is incorporated or organized under the laws of any State of the United States or the District of Columbia.

"EBITDA" means, for any period, the sum of (i) aggregate Net Income during such period, plus (ii) an amount which, in the determination of Net

Income for such period, has been deducted for (A) Interest Expense, (B) total federal, state, local and foreign income, value added and similar taxes and (C) depreciation and amortization expense, with each of (A), (B) and (C) above determined in accordance with GAAP; provided, that, (i) each of the above calculations shall include, without duplication, any amounts attributable to any interests held by any Consolidated Party in any Minority Interest Entity and (ii) all amounts included in the above calculations (and not otherwise adjusted to account for Outside Interests) shall be adjusted to deduct therefrom the pro rata share of such amounts allocable to Outside Interests.

"Eligible Assignee" means (i) a Lender; (ii) an Affiliate of a Lender; and (iii) any other Person approved by the Administrative Agent (such approval not to be unreasonably withheld or delayed) and, unless an Event of Default has occurred and is continuing at the time any assignment is effected in accordance with Section 11.3, the Principal Borrower (such approval not to be unreasonably withheld or delayed by the Principal Borrower and such approval to be deemed given by the Principal Borrower if no objection is received by the assigning Lender and the Administrative Agent from the Principal Borrower within two Business Days after notice of such proposed assignment has been provided by the assigning Lender to the Principal Borrower); provided, however, that neither the Principal Borrower nor an Affiliate of the Principal Borrower shall qualify as an Eligible Assignee.

"Environmental Laws" means any and all lawful and applicable Federal, state, local and foreign statutes, laws, regulations, ordinances, rules, judgments, orders, decrees, permits, concessions, grants, franchises, licenses, agreements or other governmental restrictions relating to the environment or to emissions,

discharges, releases or threatened releases of pollutants, contaminants, chemicals, or industrial, toxic or hazardous substances or wastes into the environment including, without limitation, ambient air, surface water, ground water, or land, or otherwise relating to the manufacture, processing, distribution, use, treatment, storage, disposal, transport, or handling of pollutants, contaminants, chemicals, or industrial, toxic or hazardous substances or wastes.

"Equity Issuance" means any issuance by Highwoods Properties or Highwoods Realty to any Person which is not a Credit Party of (a) shares of its Capital Stock, (b) any shares of its Capital Stock pursuant to the exercise of options or warrants or (c) any shares of its Capital Stock pursuant to the conversion of any debt securities to equity.

"ERISA" means the Employee Retirement Income Security Act of 1974, as amended, and any successor statute thereto, as interpreted by the rules and regulations thereunder, all as the same may be in effect from time to time. References to sections of ERISA shall be construed also to refer to any successor sections.

"ERISA Affiliate" means an entity which is under common control with any Credit Party within the meaning of Section 4001(a)(14) of ERISA, or is a member of a group which includes any of the Borrowers and which is treated as a single employer under Sections 414(b) or (c) of the Code.

"ERISA Event" means (i) with respect to any Plan, the occurrence of a Reportable Event or the substantial cessation of operations (within the meaning of Section 4062(e) of ERISA); (ii) the withdrawal by Consolidated Party or any ERISA Affiliate from a Multiple Employer Plan during a plan year in which it was a substantial employer (as such term is defined in Section 4001(a)(2) of ERISA), or the termination of a Multiple Employer Plan; (iii) the distribution of a notice of intent to terminate or the actual termination of a Plan pursuant to Section 4041(a)(2) or 4041A of ERISA; (iv) the institution of proceedings to terminate or the actual termination of a Plan by the PBGC under Section 4042 of ERISA; (v) any event or condition which might constitute grounds under Section 4042 of ERISA for the termination of, or the appointment of a trustee to administer, any Plan; (vi) the complete or partial withdrawal of any Consolidated Party or any ERISA Affiliate from a Multiemployer Plan; (vii) the conditions for imposition of a lien under Section 302(f) of ERISA exist with respect to any Plan; or (viii) the adoption of an amendment to any Plan requiring the provision of security to such Plan pursuant to Section 307 of ERISA.

"Eurodollar Loan" means any Loan that bears interest at a rate based

upon the Eurodollar Rate.

"Eurodollar Rate" means, for any Eurodollar Loan for any Interest Period therefor, the rate per annum (rounded upwards, if necessary, to the nearest 1/100 of 1%) determined by the Administrative Agent to be equal to the quotient obtained by dividing (a) the Interbank Offered Rate for such Eurodollar Loan for such Interest Period by (b) 1 minus the Eurodollar Reserve Requirement for such Eurodollar Loan for such Interest Period.

"Eurodollar Reserve Requirement" means, at any time, the maximum rate at which reserves (including, without limitation, any marginal, special, supplemental, or emergency reserves) are required to be maintained under regulations issued from time to time by the Board of Governors of the Federal Reserve System (or any successor) by member banks of the Federal Reserve System against "Eurocurrency liabilities" (as such term is used in Regulation D). Without limiting the effect of the foregoing, the Eurodollar Reserve Requirement shall reflect any other reserves required to be maintained by such member banks with respect to (i) any category of liabilities which includes deposits by reference to which the Adjusted Eurodollar Rate is to be determined, or (ii) any category of extensions of credit or other assets which include Eurodollar Loans. The Adjusted Eurodollar Rate shall be adjusted automatically on and as of the effective date of any change in the Eurodollar Reserve Requirement.

"Event of Default" means such term as defined in Section 9.1.

"Existing Letters of Credit" means those Letters of Credit outstanding on the Closing Date and identified on Schedule 2.3(a) attached hereto.

"Extension Date" shall have the meaning assigned to such term in Section 2.5.

"Facility Fee" shall have the meaning assigned to such term in Section 3.5(a).

"Fees" means all fees payable pursuant to Section 3.5.

"Federal Funds Rate" means, for any day, the rate per annum (rounded upwards, if necessary, to the nearest 1/100 of 1%) equal to the weighted average of the rates on overnight Federal funds transactions with members of the Federal Reserve System arranged by 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 so published on such next succeeding Business Day, the Federal Funds Rate for such day shall be the average rate charged to the Administrative Agent (in its individual capacity) on such day on such transactions as determined by the Administrative Agent.

"Fixed Charge Coverage Ratio" means, as of the end of each fiscal quarter of the Consolidated Parties for the twelve month period ending on such date, the ratio of (a) Adjusted EBITDA for the applicable period to (b) the sum of (i) Interest Expense for the applicable period plus (ii)

preferred dividends permitted hereunder for the applicable period plus

(iii) Scheduled Funded Debt Payments for the applicable period.

"Foreign Subsidiary" means, with respect to any Person, any Subsidiary

of such Person which is not a Domestic Subsidiary of such Person.

"Funded Indebtedness" means, with respect to any Person, without duplication, (a) all Indebtedness of such Person other than Indebtedness of the types referred to in clause (e), (g) and (i) of the definition of "Indebtedness" set forth in this Section 1.1, (b) all Indebtedness of another Person of the type referred to in clause (a) above secured by (or for which the holder of such Funded Indebtedness has an existing right, contingent or otherwise, to be secured by) any Lien on, or payable out of the proceeds of production from, property owned or acquired by such Person, whether or not the obligations secured thereby have been assumed, (c) all Guaranty Obligations of such Person with respect to Indebtedness of the type referred to in clause (a) above of another Person and (d) Indebtedness of the type referred to in clause (a) above of any partnership or unincorporated joint venture in which such Person is a general partner or a joint venturer.

"GAAP" means generally accepted accounting principles in the United

States applied on a consistent basis and subject to the terms of Section 1.3.

"Governmental Authority" means any Federal, state, local or foreign court or governmental agency, authority, instrumentality or regulatory body.

"Guarantors" means a collective reference to each of the Persons identified as a "Guarantor" on the signature pages hereto and each Additional Credit Party which may hereafter execute a Joinder Agreement, together with their successors and permitted assigns, and "Guarantor" means any one of them.

"Guaranty Obligations" means, with respect to any Person, without duplication, any obligations of such Person (other than endorsements in the ordinary course of business of negotiable instruments for deposit or collection) guaranteeing or intended to guarantee any Indebtedness of any other Person in any manner, whether direct or indirect, and including without limitation any obligation, whether or not contingent, (i) to purchase any such Indebtedness or any property constituting security therefor, (ii) to advance or provide funds or other support for the payment or purchase of any such Indebtedness or to maintain working capital, solvency or other balance sheet condition of such other Person (including without limitation keep well agreements, maintenance agreements, comfort letters or similar agreements or arrangements) for the benefit of any holder of Indebtedness of such other Person, (iii) to lease or purchase property, securities or services primarily for the purpose of assuring the holder of such Indebtedness, (iv) to guaranty the completion of any Properties Under Development, whether or not specifically including costs associated therewith or (v) to

otherwise assure or hold harmless the holder of such Indebtedness against loss in respect thereof. The amount of any Guaranty Obligation hereunder shall (subject to any limitations set forth therein) be deemed to be an amount equal to the outstanding principal amount (or maximum principal amount, if larger) of the Indebtedness in respect of which such Guaranty Obligation is made. It is specifically understood and agreed that the Guaranty Obligations of each Guarantor include any and all obligations that such Guarantor may have as a Borrower hereunder or under any of the other Credit Documents.

"Hedging Agreement" means any interest rate protection agreement, rate swap transaction, basis swap, forward rate transaction, commodity swap, commodity option, equity or equity index option, bond option, interest rate option, foreign exchange transaction, short sale transaction, cap transaction, floor transaction, collar transaction, currency swap transaction, cross currency rate swap transaction, currency option, any other similar transaction (including any option with respect to any of these transactions) and any combination of the foregoing which directly hedges or offsets interest rate risk or other market risk with respect to any of the obligations of any Consolidated Party, in each case, entered into by and between a Consolidated Party and any Lender or any Affiliate of a Lender.

"Highwoods Realty Limited Partnership Agreement" means that certain limited partnership agreement of Highwoods Realty dated as of June 14, 1994, as amended or modified from time to time.

"Indebtedness" of any Person, without duplication, means, in each case whether direct or contingent and inclusive of all costs and fees associated with any Derivative Exposure, (a) all obligations of such Person for borrowed money, (b) all obligations of such Person evidenced by bonds, debentures, notes or similar instruments, or upon which interest payments are customarily made, (c) all obligations of such Person under conditional sale or other title retention agreements relating to property purchased by such Person (other than customary reservations or retentions of title under agreements with suppliers entered into in the ordinary course of business), (d) all obligations of such Person issued or assumed as the deferred purchase price of property or services purchased by such Person (other than trade debt incurred in the ordinary course of business and due within six months of the incurrence thereof) which would appear as liabilities on a balance sheet of such Person, (e) all obligations of such Person under take-or-pay or similar arrangements or under commodities agreements, (f) all Indebtedness of others secured by (or for which the holder of such Indebtedness has an existing right, contingent or otherwise, to be secured by) any Lien on, or payable out of the proceeds of production from, property owned or acquired by such Person, whether or not the obligations secured thereby have been assumed, (g) all Guaranty Obligations of such Person, (h) the principal portion of all obligations (whether direct or contingent and inclusive of all costs and fees associated with any Derivative Exposure) of such Person under Capital Leases, (i) all obligations of such Person in respect of interest rate swap, collar, cap or other interest rate protection agreements, treasury locks, equity forward contracts, foreign currency exchange agreements, commodity purchase or option agreements or other interest or exchange rate or commodity price hedging agreements (including, but not limited to, the Hedging Agreements), (j) all obligations of such Person to repurchase any securities which repurchase obligation is related to the issuance thereof, (k) the maximum amount of all standby letters of credit issued or bankers' acceptances facilities created for the account of such Person and, without duplication, all drafts drawn thereunder (to the extent unreimbursed), (l) all preferred Capital Stock issued by such Person and required by the terms thereof to be redeemed, or for which mandatory sinking fund payments are due, by a fixed date, (m) all other obligations of such Person under any arrangement or financing structure classified as debt (for tax purposes) by any nationally recognized rating agency, (n) the principal portion of all obligations of such Person for any Off Balance Sheet Liabilities and (o) the Indebtedness of any partnership or unincorporated joint venture in which such Person is a general partner or a joint venturer.

"Interbank Offered Rate" means, for any Eurodollar Loan for any Interest Period therefor, the rate per annum (rounded upwards, if necessary, to the nearest 1/100 of 1%) appearing on Telerate Page 3750 (or any successor page) as the London interbank offered rate for deposits in Dollars at approximately 11:00 a.m. (London time) two Business Days prior to the first day of such Interest Period for a term comparable to such Interest Period. If for any reason such rate is not available, the term "Interbank Offered Rate" shall mean, for any Eurodollar Loan for any Interest Period therefor, the rate per annum (rounded upwards, if necessary, to the nearest 1/100 of 1%) appearing on Reuters Screen LIBO Page as the London interbank offered rate for deposits in Dollars at approximately 11:00 a.m. (London time) two Business Days prior to the first day of such

Interest Period for a term comparable to such Interest Period; provided, however, if more than one rate is specified on Reuters Screen LIBO Page, the applicable rate shall be the arithmetic mean of all such rates (rounded upwards, if necessary, to the nearest 1/100 of 1%).

"Interest Coverage Ratio" means, with respect to the Consolidated Parties on a consolidated basis for the twelve month period ending on the last day of any fiscal quarter of the Consolidated Parties, the ratio of
(a) Adjusted EBITDA for such period to (b) Interest Expense for such period.

"Interest Expense" means, for any period, the sum of (a) interest expense (including the interest component under Capital Leases and with respect to Off Balance Sheet Liabilities) of the Consolidated Parties on a consolidated basis for such period, as determined in accordance with GAAP, plus (b) an amount equal to the aggregate of interest expense (including

the interest component under Capital Leases and with respect to any Off Balance Sheet Liabilities), as determined in accordance with GAAP, of each Minority Interest Entity multiplied by the respective Minority Interest in each such entity.

"Interest Payment Date" means (a) as to Base Rate Loans, the fifteenth day of each calendar month (as to interest through the end of the prior calendar month) and the Maturity Date, (b) as to Eurodollar Loans, the last day of each applicable Interest Period and the Maturity Date, and in addition where the applicable Interest Period for a Eurodollar Loan is greater than three months, then also the date three months from the beginning of the Interest Period and each three months thereafter, and (c) as to Competitive Loans, the last day of the Interest Period applicable to such Competitive Loan and the Maturity Date; provided, that if the Interest Period for a Competitive Loan is greater than 90 days, then also the last day of each fiscal quarter of the Principal Borrower.

"Interest Period" means (i) as to any Eurodollar Loan, a period of one, two, three, six, nine or twelve months' duration (provided that a period of twelve months shall be deemed, as used in connection with the term "Interest Period", to be equal to 364 days), commencing in each case, on the date of the borrowing (including continuations and conversions thereof), (ii) as to any Competitive Loan, a period commencing in each case on the date of the borrowing and ending on the date specified in the applicable Competitive Bid whereby the offer to make such Competitive Loan was extended (such ending date in any event to be not less than 7 nor more than 180 days from the date of the borrowing) and (iii) as to any Swingline Loan, a period commencing in each case on the date of the borrowing and ending on the date agreed to by one or more of the Borrowers and the Swingline Lender in accordance with the provisions of Section 2.4(b)(i) (such ending date in any event to be not more than three (3) Business Days from the date of borrowing); provided, however, (a) if any Interest Period would end on a day which is not a Business Day, such Interest Period shall be extended to the next succeeding Business Day (except that in the case of Eurodollar Loans where the next succeeding Business Day falls in the next succeeding calendar month, then on the next preceding Business Day), (b) no Interest Period shall extend beyond the Maturity Date and (c) in the case of Eurodollar Loans, where an Interest Period begins on a day for which there is no numerically corresponding day in the calendar month in which the Interest Period is to end, such Interest Period shall end on the last Business Day of such calendar month.

"Investment" means any investment made in cash or by delivery of property by any Consolidated Party (a) in any Person, whether by (i) acquisition of assets, shares of Capital Stock, Investment Security, bonds, notes, debentures, partnership, joint ventures or other ownership interests or other securities of any Person or (ii) any deposit with, or advance, loan or other extension of credit to, any Person (other than deposits made in connection with the purchase of equipment or other assets in the ordinary course of business) or (iii) any other capital contribution to or investment in such Person, including, without limitation, any Guaranty Obligations (including any support for a letter of credit issued on behalf of such Person) incurred for the benefit of such Person, or (b) in any property.

"Investment Security" means "security" as defined in Section 2(1) of the Securities Act of 1933, as amended.

"Issuing Lender" means Bank of America.

"Issuing Lender Fees" shall have the meaning assigned to such term in Section 3.5(b)(ii).

"Joinder Agreement" means a Joinder Agreement substantially in the form of Exhibit 7.12 hereto, executed and delivered by an Additional Credit Party in accordance with the provisions of Section 7.12.

"Lender" means any of the Persons identified as a "Lender" on the signature pages hereto, and any Person which may become a Lender by way of assignment in accordance with the terms hereof, together with their successors and permitted assigns.

"Letter of Credit" means the Existing Letters of Credit and any letter of credit issued by the Issuing Lender for the account of any Credit Party in accordance with the terms of Section 2.3.

"Letter of Credit Fee" shall have the meaning assigned to such term in Section 3.5(b)(i).

"Lien" means any mortgage, pledge, hypothecation, assignment, deposit

arrangement, security interest, encumbrance, lien (statutory or otherwise), preference, priority or charge of any kind (including any agreement to give any of the foregoing, any conditional sale or other title retention agreement, any financing or similar statement or notice filed under the Uniform Commercial Code as adopted and in effect in the relevant jurisdiction or other similar recording or notice statute, and any lease in the nature thereof).

"Loan" or "Loans" means the Revolving Loans (or a portion of any Revolving Loan bearing interest at the Adjusted Base Rate or the Adjusted Eurodollar Rate and referred to as a Base Rate Loan or a Eurodollar Loan), the Competitive Loans and/or the Swingline Loans, individually or collectively, as appropriate.

"LOC Commitment" means the commitment of the Issuing Lender to issue Letters of Credit in an aggregate face amount at any time outstanding (together with the amounts of any unreimbursed drawings thereon) of up to the LOC Committed Amount.

"LOC Committed Amount" shall have the meaning assigned to such term in Section 2.3.

"LOC Documents" means, with respect to any Letter of Credit, such Letter of Credit, any amendments thereto, any documents delivered in connection therewith, any application therefor, and any agreements, instruments, guarantees or other documents (whether general in application or applicable only to such Letter of Credit) governing or providing for (i) the rights and obligations of the parties concerned or at risk or (ii) any collateral security for such obligations.

"LOC Obligations" means, at any time, the sum of (i) the maximum amount which is, or at any time thereafter may become, available to be drawn under Letters of Credit then outstanding, assuming compliance with all requirements for drawings referred to in such Letters of Credit plus

(ii) the aggregate amount of all drawings under Letters of Credit honored by the Issuing Lender but not theretofore reimbursed by the Borrowers.

"Material Adverse Effect" means a material adverse effect on (i) the condition (financial or otherwise), operations, business, assets, liabilities or prospects of the Consolidated Parties, taken as a whole,

(ii) the ability of any Credit Party to perform any material obligation under the Credit Documents to which it is a party or (iii) the material rights and remedies of the Lenders under the Credit Documents.

"Materials of Environmental Concern" means any gasoline or petroleum (including crude oil or any fraction thereof) or petroleum products or any hazardous or toxic substances, materials or wastes, defined or regulated as such in or under any Environmental Laws, including, without limitation, asbestos, polychlorinated biphenyls and urea-formaldehyde insulation.

"Maturity Date" means the date which is three (3) years from the Closing Date, as such date may be extended pursuant to Section 2.5.

"Minority Interest" means the percentage of the Capital Stock or other equity interest owned by a Consolidated Party in a Minority Interest Entity accounted for pursuant to the equity method of accounting under GAAP.

"Minority Interest Entity" means any corporation, partnership, association, joint venture or other entity in each case which is not a Consolidated Party and in which a Consolidated Party owns, directly or indirectly, Capital Stock or any other equity interest.

"Moody's" means Moody's Investors Service, Inc., or any successor or assignee of the business of such company in the business of rating securities.

"Multiemployer Plan" means a Plan which is a multiemployer plan as defined in Sections 3(37) or 4001(a)(3) of ERISA.

"Multiple Employer Plan" means a Plan which any Consolidated Party or any ERISA Affiliate and at least one employer other than the Consolidated Parties or any ERISA Affiliate are contributing sponsors.

"Negative Pledge" means a provision of any agreement (other than this Credit Agreement or any other Credit Document) that prohibits the creation of any Lien on any assets of a Person; provided, however, that an agreement that establishes a maximum ratio of unsecured debt to unencumbered assets, or of secured debt to total assets, or that otherwise conditions a Person's ability to encumber its assets upon the maintenance of one or more specified ratios that limit such Person's ability to encumber its assets but that do not generally prohibit the encumbrance of its assets, or the encumbrance of specific assets, shall not constitute a "Negative Pledge" for purposes of this Credit Agreement.

"Net Asset Sales Proceeds" means, with respect to any Asset Disposition (other than an Asset Disposition qualifying as a like kind exchange under Section 1031 of the Code), the aggregate proceeds received by any Consolidated Party in cash or Cash Equivalents (including payments in respect of deferred payment obligations when received in the form of cash or Cash Equivalents and including any proceeds which are used by the applicable Consolidated Party to retire in whole or in part any Indebtedness encumbering the property sold) plus the aggregate principal

amount of any Indebtedness encumbering the property sold assumed by the purchaser of such property, net of (i) direct costs (including, without limitation, legal, accounting and investment banking fees, sales commissions, transfer and recording charges and taxes and other closing costs customarily allocated to sellers), and (ii) taxes paid or payable by the Consolidated Parties as a result thereof after taking into account any reduction in consolidated tax liability due to available tax credits, deductions or losses, any tax sharing arrangements and any distributions to shareholders or partners otherwise allowed pursuant to the terms hereof; it being understood that "Net Asset Sales Proceeds" shall include, without limitation and without duplication, any cash or Cash Equivalents received upon the sale or other disposition of any non-cash consideration received by any such Consolidated Party in any Asset Disposition.

"Net Cash Proceeds" means the aggregate cash proceeds received by the Consolidated Parties in respect of any Equity Issuance, net of (a) direct costs (including, without limitation, legal, accounting and investment banking fees and sales commissions) and (b) taxes paid or payable as a result thereof; it being understood that "Net Cash Proceeds" shall include, without limitation, any cash received upon the sale or other disposition of any non-cash consideration received by the Consolidated Parties in any Equity Issuance.

"Net Income" means, for any period, the sum of (i) net income (excluding extraordinary gains and losses and related tax effects thereof) after taxes for such period of the Consolidated Parties on a consolidated basis, as determined in accordance with GAAP, plus (ii) without

duplication, an amount equal to that portion attributable to Highwoods Realty of the line item "minority interests" relating to operating partnership units for such period, as shown on the consolidated income statements of the Consolidated Parties, plus (iii) without duplication, an

amount equal to the aggregate of net income (excluding extraordinary gains and losses and related tax effects thereof) after taxes for such period, as determined in accordance with GAAP, of each Minority Interest Entity multiplied by the respective Minority Interest of each such entity.

"Net Operating Income" means, for any given period and with respect to any given Property or Properties, the amount equal to:

(a) the sum of:

(i) gross revenues attributable to such Property or Properties for such period, less

(ii) to the extent otherwise included in gross revenues, interest income;

less

(b) an amount equal to:

(i) operating expenses allocable to such Property or Properties (excluding any management fees paid with respect to such Property or Properties), less

(ii) to the extent included in the calculation of operating expenses, (A) income taxes, (B) depreciation and amortization, and (C) Interest Expense;

in each case, provided, that, (i) all amounts included in the above calculations shall be adjusted to account for any amounts attributable to any interests held by any Consolidated Party in any Minority Interest Entity and (ii) all amounts included in the above calculations and not otherwise adjusted to account for Outside Interests shall be adjusted to deduct therefrom the pro rata share of such amounts allocable to Outside Interests.

"Nichols Documents" means those mortgages with the mortgagees identified on Schedule 1.1(b) attached hereto, such mortgages dated as of the dates set forth on such Schedule.

"Nichols Entities" means J.C. Nichols Iowa Partners, Village Court Associates, Fountain One, Fountain Two, Fountain Three, Dallas County Partners, Dallas County Partners II, Dallas Partners III, L.C., Neptune Building Partners, L.P., Corporate Center Associates, L.P. and Terrace Place Partners.

"Non-Guarantor Subsidiaries" means AP Southeast Portfolio Partners, L.P., a Delaware limited partnership, AP-GP Southeast Portfolio Partners, L.P., a Delaware limited partnership, Highwoods Realty GP Corp., a Delaware corporation and each of the Nichols Entities and "Non-Guarantor Subsidiary" means any one of them.

"Non-Wholly-Owned Subsidiary" means a Subsidiary of Highwoods

Properties which is not a Wholly Owned Subsidiary.

"Note" or "Notes" means the Revolving Notes, the Competitive Notes and/or the Swingline Note, individually or collectively, as appropriate.

"Notes Receivable" means, all promissory notes or other similar obligations to pay money, whether secured or unsecured, that are not over thirty (30) days past due in which any Borrower, any Consolidated Party or any unconsolidated affiliate has an interest.

"Notice of Borrowing" means a written notice of borrowing as required by Section 2.1(b)(i) or Section 2.4(b)(i) signed by a Responsible Officer and substantially in the form of Exhibit 2.1(b)(i) or Exhibit 2.4(b)(i), as applicable.

"Notice of Extension/Conversion" means the written notice of extension or conversion in substantially the form of Exhibit 3.2, as required by Section 3.2 signed by a Responsible Officer.

"Off Balance Sheet Liabilities" means, with respect to any Person, (a) any repurchase obligation or liability, contingent or otherwise, of such Person with respect to any accounts or notes receivable sold, transferred or otherwise disposed of by such Person, (b) any repurchase obligation or liability, contingent or otherwise, of such Person with respect to property or assets leased by such Person as lessee and (c) all obligations, contingent or otherwise, of such Person under any Synthetic Lease, tax retention operating lease, off balance sheet loan or similar off balance sheet financing, in each case, if the transaction giving rise to such obligation (i) is considered Indebtedness for borrowed money for tax purposes but is classified as an Operating Lease, (ii) does not (and is not required pursuant to GAAP to) appear as a liability on the balance sheet of such Person, (iii) is a transaction pursuant to which a tenant does not take possession of the leased property, or (iv) is a lease treated as a financing for GAAP or tax purposes, but excluding from the forgoing provisions of this definition any obligations or liabilities of any such Person as lessee under any Operating Lease so long as the terms of such Operating Lease do not require any payment by or on behalf of such Person at the scheduled termination date of such Operating Lease, pursuant to a required purchase by or on behalf of such Person of the property or assets subject to such Operating Lease, or under any arrangements pursuant to which such Person guarantees or otherwise assures any other Person of the value of the property or assets subject to such Operating Lease.

"Operating Lease" means, as applied to any Person, any lease (including, without limitation, leases which may be terminated by the lessee at any time) of any property (whether real, personal or mixed) which is not a Capital Lease other than any such lease in which that Person is the lessor.

"Other Taxes" means such term as is defined in Section 3.11.

"Outside Interests" means, at any time, interests in the Properties (and, as applicable, the cost thereof, Notes Receivable with respect thereto, Cash and Cash Equivalents held in connection therewith, the income, revenues, interest expense, taxes, depreciation and amortization attributable thereto) owned by entities that are not Consolidated Parties.

"Participation Interest" means, a purchase by a Lender of a participation in any Letters of Credit or LOC Obligations as provided in Section 2.3(c), in Swingline Loans as provided in Section 2.4(b)(iii) or in any Loans as provided in Section 3.14.

"PBGC" means the Pension Benefit Guaranty Corporation established

pursuant to Subtitle A of Title IV of ERISA and any successor thereof.

"Permitted Investments" means Investments which are (i) cash and Cash Equivalents; (ii) Investments existing on the Closing Date and set forth on Schedule 1.1(a); (iii) Investments by any Credit Party in any Wholly Owned Subsidiary that is a Credit Party; (iv) Investments in any Wholly Owned Subsidiary which is to become a Credit Party pursuant to the terms of Section 7.12 so long as such Wholly Owned Subsidiary becomes a Credit Party in accordance with the requirements of Section 7.12; (v) Investments by any Credit Party in any Preferred Stock Subsidiary or any wholly owned Subsidiary of a Preferred Stock Subsidiary; (vi) Investments by any Credit Party in any Property owned by such Credit Party and in any personal property incidental to such Property; (vii) Investments in vehicles, furniture, fixtures and other personal property including supplies and other similar inventory purchased by any Credit Party and used in such Consolidated Party's ordinary course of business; and (viii) Investments permitted by Sections 7.11(j), (l) and (m).

"Person" means any individual, partnership, joint venture, firm, corporation, limited liability company, association, trust or other enterprise (whether or not incorporated) or any Governmental Authority.

"Plan" means any employee benefit plan (as defined in Section 3(3) of

ERISA) which is covered by ERISA and with respect to which any Consolidated Party or any ERISA Affiliate is (or, if such plan were terminated at such time, would under Section 4069 of ERISA be deemed to be) an "employer" within the meaning of Section 3(5) of ERISA.

"Preferred Stock Subsidiary" any entity (i) in which a Credit Party owns at least 90% of the Capital Stock but less than 10% of the Voting Stock and (ii) with respect to which the Principal Borrower certifies in writing to the Administrative Agent that such entity was formed with such an ownership structure such that its income would not adversely affect the qualification of Highwoods Properties status as a REIT.

"Prime Rate" means the per annum rate of interest established from time to time by Bank of America as its prime rate, which rate may not be the lowest rate of interest charged by Bank of America to its customers.

"Principal Borrower" means Highwoods Properties.

"Pro Forma Compliance Certificate" means a certificate of an officer of the Principal Borrower delivered to the Administrative Agent in connection with an Asset Disposition and containing reasonably detailed calculations, upon giving effect to the applicable transaction on a pro forma basis, of the financial covenants set forth in Section 7.11.

"Properties" means all interests in real property (direct or indirect), together with all improvements thereon, owned by the Borrower, any Consolidated Party or any unconsolidated affiliates thereof and "Property" means any one of them.

"Properties Under Development" means Properties, the primary purpose of which is to be leased in the ordinary course of business and on which any Borrower, any Consolidated Party or any unconsolidated affiliate thereof has commenced construction of a building or other improvements; provided that any such Property will no longer be considered a Property Under Development when, (i) seventy-five percent (75%) of the gross leasable space to be contained therein upon completion in accordance with then existing plans and specifications with respect to such Property is occupied by tenants under fully executed leases, in which case such Property shall be considered a Transition Property or (ii) construction work with respect to property has ceased for a period of 30 days, in which case such Property shall be considered Speculative Land until such time as construction has resumed.

"Quarterly Stock Repurchase/Joinder Statement" means a certificate, prepared on a quarterly basis by the Principal Borrower, setting forth (a) the classes, number and value of any shares or other evidences of Capital Stock of the Principal Borrower purchased, redeemed, retired or otherwise acquired for value by the Principal Borrower during the immediately preceding fiscal quarter, and the total amount paid for such Capital Stock,

(b) detailed calculations for (i) gross asset sales proceeds and Net Asset Sales Proceeds from (A) Asset Dispositions not involving Speculative Land and (B) Asset Dispositions of Speculative Land, in each case for the immediately preceding fiscal quarter, and (ii) the amounts available, based on the calculations done in connection with clause (i), for the purchase, redemption, retirement or acquisition of Capital Stock of the Principal Borrower for such quarter pursuant to Section 7.11(k) hereof, (iii) a list of assets sold during the preceding quarter to the extent that the proceeds from the sale of such assets are used in the calculations made in clause (ii) hereof, (iv) a projection of expected Asset Dispositions for the four fiscal quarters following the quarter referenced in clauses (i) through (iii) on a quarter by quarter basis, and (v) a list of all Subsidiaries acquired or created during the immediately preceding fiscal quarter, together with a schedule of the assets owned by each such Subsidiary.

"Register" shall have the meaning given such term in Section 11.3(c).

"Regulation O, T, U, or X" means Regulation O, T, U or X, respectively, of the Board of Governors of the Federal Reserve System as from time to time in effect and any successor to all or a portion thereof.

"REIT" means a real estate investment trust as defined in Sections

856-860 of the Code.

"Release" means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping or disposing into the environment (including the abandonment or discarding of barrels, containers and other closed receptacles containing any Materials of Environmental Concern).

"Reportable Event" means any of the events set forth in Section 4043(c) of ERISA, other than those events as to which the notice requirement has been waived by regulation.

"Required Lenders" means, at any time, Lenders which are then in compliance with their obligations hereunder (as determined by the Administrative Agent) and holding in the aggregate at least sixty-six and two-thirds percent (66 2/3%) of (i) the Revolving Commitments (and Participation Interests therein) or (ii) if the Commitments have been terminated, the outstanding Loans and Participation Interests (including the Participation Interests of the Issuing Lender in any Letters of Credit).

"Requirement of Law" means, as to any Person, the certificate of incorporation and by-laws or other organizational 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 material property is subject.

"Responsible Officer" means, (i) with respect to Highwoods Properties, Carman J. Liuzzo, Mack D. Pridgen, III, Ronald P. Gibson and Edward J. Fritsch, and any other person certified by one of the foregoing individuals or by corporate resolution of Highwoods Properties to the Administrative Agent as authorized to sign the forms and notices required herein of Highwoods Properties and (ii) with respect to the other Credit Parties, the general partner, president, chief operating officer, chief financial officer, secretary and each vice president thereof.

"Restricted Payment" means (i) any dividend or other distribution, direct or indirect, on account of any shares of any class of Capital Stock of any Consolidated Party, now or hereafter outstanding, (ii) any redemption, retirement, sinking fund or similar payment, purchase or other acquisition for value, direct or indirect, of any shares of any class of Capital Stock of any Consolidated Party, now or hereafter outstanding and (iii) any payment made to retire, or to obtain the surrender of, any outstanding warrants, options or other rights to acquire shares of any class of Capital Stock of any Consolidated Party, now or hereafter outstanding; provided, however, that none of the following shall be deemed

to be a Restricted Payment:

(A) any distribution by Highwoods Properties to the holders of its Capital Stock consisting of shares of Capital Stock or rights to acquire its Capital Stock;

(B) the redemption by Highwoods Realty of the Capital Stock of Highwoods Realty upon the demand of a holder thereof as required by the Highwoods Realty Limited Partnership Agreement;

(C) the purchase by Highwoods Realty or Highwoods Properties of the Capital Stock of either of them in connection with the net or "cashless exercise" of warrants or options;

(D) any distribution by a Consolidated Party to a Wholly Owned Subsidiary other than a Non-Guarantor Subsidiary;

(E) (1) the payment of dividends by Highwoods Properties to the extent necessary to retain its status as a REIT or to meet the distribution requirements of Section 857 of the Code and (2) in addition to any amounts distributed pursuant to subclause (1) above, an aggregate amount not to exceed \$5,000,000 during the term of this Credit Agreement,

(F) any distribution by a Subsidiary of Highwoods Realty to its parent or to Highwoods Realty;

(G) (1) distributions by Highwoods Realty to Highwoods Properties to the extent necessary to allow Highwoods Properties to maintain its status as a REIT or to meet the distribution requirements of Section 857 of the Code and (2) in addition to any amounts

distributed pursuant to subclause (1) above, an aggregate amount not to exceed \$5,000,000 during the term of this Credit Agreement;

(H) amounts distributed in compliance with Section 7.14.

"Revolving Commitment" means, with respect to each Lender, the commitment of such Lender in an aggregate principal amount at any time outstanding of up to such Lender's Commitment Percentage of the Revolving Committed Amount, (i) to make Revolving Loans in accordance with the provisions of Section 2.1(a), (ii) to purchase Participation Interests in Letters of Credit in accordance with the provisions of Section 2.3(c), and (iii) to purchase Participation Interests in the Swingline Loans in accordance with the provisions of Section 2.4(b)(iii).

"Revolving Committed Amount" shall have the meaning assigned to such term in Section 2.1(a).

"Revolving Loans" shall have the meaning assigned to such term in Section 2.1(a).

"Revolving Note" or "Revolving Notes" means the promissory notes of the Borrowers in favor of each of the Lenders evidencing the Revolving Loans provided pursuant to Section 2.1(e), individually or collectively, as appropriate, as such promissory notes may be amended, modified, restated, supplemented, extended, renewed or replaced from time to time.

"S&P" means Standard & Poor's Ratings Group, a division of McGraw

Hill, Inc., or any successor or assignee of the business of such division in the business of rating securities.

"Scheduled Funded Debt Payments" means, as of the end of each fiscal quarter of the Consolidated Parties, the sum of (a) all scheduled payments of principal on Funded Indebtedness for the Consolidated Parties on a consolidated basis for the applicable period ending on such date (including the principal component of payments due on Capital Leases during the applicable period ending on such date) plus (b) an amount equal to the

aggregate of all scheduled payments of principal on Funded Indebtedness for each Minority Interest Entity for the applicable period ending on such date (including the principal component of payments due on Capital Leases during the applicable period ending on such date) multiplied by the respective Minority Interest of each such entity; it being understood that Scheduled Funded Debt Payments shall not include any one-time "bullet", "lump sum" or "balloon" payments due on the maturity date of Funded Indebtedness.

"Secured Debt" means, for any given calculation date, the total aggregate principal amount of any Indebtedness (other than Indebtedness incurred hereunder) of the Consolidated Parties, on a consolidated basis, that is (a) secured in any manner by any Lien or (b) entitled to the benefit of a Negative Pledge. Indebtedness in respect of obligations under any Capitalized Lease shall not be deemed to be Secured Debt. For clarification purposes, (i) any unsecured guaranty given by any Consolidated Party of secured indebtedness of a Person who is not a Consolidated Party constitutes Unsecured Debt of such Consolidated Party giving the guaranty, (ii) any unsecured guaranty given by any Consolidated Party of the secured indebtedness of another Consolidated Party constitutes the Secured Debt of the Consolidated Party directly incurring the secured indebtedness and shall not be calculated as part of the Indebtedness (either Secured or Unsecured) of such Consolidated Party giving the guaranty (except to the extent that the relevant calculation does not otherwise account for the Indebtedness of the Consolidated Party directly incurring the underlying secured indebtedness, in which case it shall constitute the Unsecured Debt of the Consolidated Party giving the guaranty), (iii) any unsecured guaranty given by any Consolidated Party of the unsecured indebtedness of a Person who is not a Consolidated Party constitutes the Unsecured Debt of such Consolidated Party giving the guaranty, (iv) any unsecured guaranty given by any Consolidated Party of the unsecured Indebtedness of another Consolidated Party constitutes the Unsecured Debt of the Consolidated Party directly incurring such Indebtedness and shall not be calculated as part of the Indebtedness (either Secured or Unsecured) of such Consolidated Party giving the guaranty (except to the extent that the relevant calculation does not otherwise account for the Indebtedness of the Consolidated Party directly incurring the underlying unsecured indebtedness, in which case it shall constitute the Unsecured Debt of the Consolidated Party giving the guaranty), (v) any secured guaranty given by any

Consolidated Party of secured indebtedness of a Person who is not a Consolidated Party constitutes Secured Debt of such Consolidated Party giving the guaranty, (vi) any secured guaranty given by any Consolidated Party of the secured indebtedness of another Consolidated Party constitutes the Secured Debt of the Consolidated Party directly incurring the secured indebtedness and shall not be calculated as part of the Indebtedness (either Secured or Unsecured) of such Consolidated Party giving the guaranty (except to the extent that the relevant calculation does not otherwise account for the Indebtedness of the Consolidated Party directly incurring the underlying secured indebtedness, in which case it shall constitute the Secured Debt of the Consolidated Party giving the guaranty), (vii) any secured guaranty given by any Consolidated Party of the unsecured indebtedness of a Person who is not a Consolidated Party constitutes the Secured Debt of such Consolidated Party giving the guaranty, and (viii) any secured guaranty given by any Consolidated Party of the unsecured Indebtedness of another Consolidated Party constitutes the Secured Debt of such Consolidated Party giving the guaranty and shall not be calculated as part of the Indebtedness (either Secured or Unsecured) of the Consolidated Party directly incurring such Indebtedness (except to the extent that the relevant calculation does not otherwise account for the Indebtedness of such Consolidated Party giving the guaranty, in which case it shall constitute the Unsecured Debt of the Consolidated Party directly incurring the underlying unsecured indebtedness).

"Single Employer Plan" means any Plan which is covered by Title IV of

ERISA, but which is not a Multiemployer Plan or a Multiple Employer Plan.

"Sole Book Manager" shall have the meaning assigned to such term in the heading hereof, together with any successors or assigns.

"Sole Lead Arranger" shall have the meaning assigned to such term in the heading hereof, together with any successors or assigns.

"Solvent" or "Solvency" means, with respect to any Person as of a particular date, that on such date (i) such Person is able to realize upon its assets and pay its debts and other liabilities, contingent obligations and other commitments as they mature in the normal course of business, (ii) such Person does not intend to, and does not believe that it will, incur debts or liabilities beyond such Person's ability to pay as such debts and liabilities mature in their ordinary course, (iii) such Person is not engaged in a business or a transaction, and is not about to engage in a business or a transaction, for which such Person's property would constitute unreasonably small capital after giving due consideration to the prevailing practice in the industry in which such Person is engaged or is to engage, (iv) the fair value of the property of such Person is greater than the total amount of liabilities, including, without limitation, contingent liabilities, of such Person and (v) the present fair salable value of the assets of such Person is not less than the amount that will be required to pay the probable liability of such Person on its debts as they become absolute and matured. In computing the amount of contingent liabilities at any time, it is intended that such liabilities will be computed at the amount which, in light of all the facts and circumstances existing at such time, represents the amount that can reasonably be expected to become an actual or matured liability.

"Speculative Land" means, at any given time, all land owned by any Borrower, any Consolidated Party or any unconsolidated affiliate thereof that has not been developed and is not currently being developed.

"Straight-Lining of Rents" means, with respect to any lease, the method by which rent received with respect to such lease is considered earned equally over the term of such lease despite the existence of (i) any free rent periods under such lease and (ii) any rent step-up provisions under such lease.

"Subsidiary" means, as to any Person, (a) any corporation more than 50% of whose Capital Stock of any class or classes having by the terms thereof ordinary voting power to elect a majority of the directors of such corporation (irrespective of whether or not at the time, any class or classes of such corporation shall have or might have voting power by reason of the happening of any contingency) is at the time owned by such Person directly or indirectly through Subsidiaries, and (b) any partnership, association, joint venture or other entity in which such Person directly or indirectly through Subsidiaries has more than 50% equity interest at any time.

"Supermajority Lenders" means at any time, Lenders which are then in compliance with their obligations hereunder (as determined by the Administrative Agent) and holding in the aggregate at least seventy-five percent (75%) of (i) the Revolving Commitments (and Participation Interests therein) or (ii) if the Commitments have been terminated, the outstanding Loans and Participation Interests (including the Participation Interests of the Issuing Lender in any Letters of Credit).

"Swingline Commitment" means the commitment of the Swingline Lender to make Swingline Loans in an aggregate principal amount at any time outstanding of up to the Swingline Committed Amount.

"Swingline Committed Amount" shall have the meaning assigned to such term in Section 2.4(a).

"Swingline Lender" means Bank of America.

"Swingline Loan" shall have the meaning assigned to such term in Section 2.4(a).

"Swingline Note" means the promissory note of the Borrowers in favor of the Swingline Lender evidencing the Swingline Loans provided pursuant to Section 2.4(d), as such promissory note may be amended, modified, restated, supplemented, extended, renewed or replaced from time to time.

"Syndication Agent" shall have the meaning assigned to such term in the heading hereof, together with any successors or assigns.

"Synthetic Lease" means any synthetic lease, tax retention operating lease, off-balance sheet loan or similar off-balance sheet financing product where such transaction is considered borrowed money indebtedness for tax purposes but is classified as an Operating Lease for GAAP purposes.

"Tangible Net Worth" means, as of any date, the sum of (i) shareholders' equity or net worth of the Consolidated Parties on a consolidated basis, plus (ii) an amount equal to that portion attributable to Highwoods Realty of the line item "minority interests", as shown on the consolidated balance sheet of Highwoods Properties, less (iii) all intangible assets of the Consolidated Parties on a consolidated basis, in each case as determined in accordance with GAAP.

"Taxes" means such term as is defined in Section 3.11.

"Third Debt Rating" means the unsecured long term debt rating from a

Third Rating Agency.

"Third Rating Agency" means a nationally recognized rating agency (other than S&P or Moody's) reasonably satisfactory to the Administrative Agent.

"Total Assets" means the sum of, without duplication, (a) the aggregate Annualized Adjusted NOI of all Properties except Properties that are Speculative Land, Acquired Properties, Properties Under Development or Transition Properties, divided by the Capitalization Rate; plus (b) the aggregate value of all Acquired Properties at cost; plus (c) the aggregate value of all Speculative Land at cost; plus (d) the aggregate value of all Properties Under Development at cost; plus (e) the aggregate value of all Transition Properties at cost; plus (f) cash and Cash Equivalents held by the Borrower or any Consolidated Party (including, without duplication, the pro rata share of any cash and Cash Equivalents held by any Minority Interest Entity which are attributable to any Minority Interests); and plus (g) Notes Receivable; provided, that, in each case, all of the above amounts not otherwise adjusted to account for Outside Interests shall be adjusted to deduct therefrom the pro rata share of such amounts allocable to the Outside Interests.

"Total Liabilities" means the sum of (i) total liabilities of the Consolidated Parties on a consolidated basis, as determined in accordance with GAAP, plus (ii) an amount equal to the aggregate of total liabilities, as determined in accordance with GAAP, of each Minority Interest Entity multiplied by the respective Minority Interest of each such entity plus (iii) without duplication, the Indebtedness of the Consolidated Parties on a consolidated basis plus (iv) without duplication, the aggregate of Indebtedness of each Minority Interest Entity

multiplied by the respective Minority Interest of each such entity; provided, that in each case, all of the above amounts not otherwise adjusted to account for Outside Interests shall be adjusted to deduct therefrom the pro rata share of such amounts allocable to the Outside Interests (except to the extent any Credit Party would be legally liable for the full amount of such liabilities).

"Transition Property" means a Property which has ceased to be a Property Under Development pursuant to subsection (i) of the definition thereof; provided that such Property shall be considered a Transition Property until such time as (i) seventy-five percent (75%) of the gross leasable space to be contained therein has been occupied by tenants under fully executed leases for an entire calendar quarter, in which case such Property shall thereafter at all times be considered only a "Property" (and not a Transition Property, Property Under Development, CIP Property, Speculative Land or Acquired Property) or (ii) less than seventy-five percent (75%) of the gross leasable space to be contained therein is occupied by tenants under fully executed leases, in which case such Property shall be considered a Property Under Development and shall again be subject to the provisions set forth in the definition of such term.

"Unencumbered Assets" means the sum of, without duplication:

- (a) the aggregate Annualized Adjusted NOI of all Properties wholly owned directly by the Borrowers or any Wholly Owned Subsidiary which is a Credit Party except Properties that are Speculative Land, Acquired Properties, Properties Under Development or Transition Properties, (i) that are operating and generate revenues from third parties and (ii) that are not subject to any Liens; divided by the Capitalization Rate; plus
- (b) the aggregate value at cost of all Acquired Properties wholly owned directly by the Borrowers or any Wholly Owned Subsidiary which is a Credit Party (i) that are operating and generate revenues from third parties and (ii) that are not subject to any Liens; plus
- (c) the aggregate value at cost of all Properties Under Development wholly owned directly by the Borrowers or any Wholly Owned Subsidiary which is a Credit Party that do not qualify as CIP Properties that are not subject to any Liens; plus
- (d) the aggregate value at cost of all Transition Properties wholly owned directly by the Borrowers or any Wholly Owned Subsidiary which is a Credit Party that are not subject to any Liens; plus
- (e) the aggregate value at cost of all CIP Properties wholly owned directly by the Borrowers or any Wholly Owned Subsidiary which is a Credit Party that are not subject to any Liens; provided, however, that if the aggregate value of such CIP Properties exceeds five percent (5%) of the aggregate amount calculated under subsections (a), (b), (c) and (d) of this definition, the value of such CIP Properties in excess of five percent (5%) of the aggregate amount calculated under such subsections (a), (b), (c) and (d) of this definition shall be excluded in the determination of Unencumbered Assets hereunder; plus
- (f) cash and Cash Equivalents held directly by the Borrowers or any Wholly Owned Subsidiary which is a Credit Party.

"Unsecured Debt" means, for any given calculation date, the total aggregate principal amount of Indebtedness of the Consolidated Parties, on a consolidated basis, that is not Secured Debt, including all Indebtedness in respect of obligations under any Capitalized Leases; it being understood that Unsecured Debt shall not include principal amounts available to be drawn (but not drawn) under outstanding commitments. For clarification purposes, (i) any unsecured guaranty given by any Consolidated Party of secured indebtedness of a Person who is not a Consolidated Party constitutes Unsecured Debt of such Consolidated Party giving the guaranty, (ii) any unsecured guaranty given by any Consolidated Party of the secured indebtedness of another Consolidated Party constitutes the Secured Debt of the Consolidated Party

directly incurring the secured indebtedness and shall not be calculated as part of the Indebtedness (either Secured or Unsecured) of such Consolidated Party giving the guaranty (except to the extent that the relevant calculation does not otherwise account for the Indebtedness of the Consolidated Party directly incurring the underlying secured indebtedness, in which case it shall constitute the Unsecured Debt of the Consolidated Party giving the guaranty), (iii) any unsecured guaranty given by any Consolidated Party of the unsecured indebtedness of a Person who is not a Consolidated Party constitutes the Unsecured Debt of such Consolidated Party giving the guaranty, (iv) any unsecured guaranty given by any Consolidated Party of the unsecured Indebtedness of another Consolidated Party constitutes the Unsecured Debt of the Consolidated Party directly incurring such Indebtedness and shall not be calculated as part of the Indebtedness (either Secured or Unsecured) of such Consolidated Party giving the guaranty (except to the extent that the relevant calculation does not otherwise account for the Indebtedness of the Consolidated Party directly incurring the underlying unsecured indebtedness, in which case it shall constitute the Unsecured Debt of the Consolidated Party giving the guaranty), (v) any secured guaranty given by any Consolidated Party of secured indebtedness of a Person who is not a Consolidated Party constitutes Secured Debt of such Consolidated Party giving the guaranty, (vi) any secured guaranty given by any Consolidated Party of the secured indebtedness of another Consolidated Party constitutes the Secured Debt of the Consolidated Party directly incurring the secured indebtedness and shall not be calculated as part of the Indebtedness (either Secured or Unsecured) of such Consolidated Party giving the guaranty (except to the extent that the relevant calculation does not otherwise account for the Indebtedness of the Consolidated Party directly incurring the underlying secured indebtedness, in which case it shall constitute the Secured Debt of the Consolidated Party giving the guaranty), (vii) any secured guaranty given by any Consolidated Party of the unsecured indebtedness of a Person who is not a Consolidated Party constitutes the Secured Debt of such Consolidated Party giving the guaranty, and (viii) any secured guaranty given by any Consolidated Party of the unsecured Indebtedness of another Consolidated Party constitutes the Secured Debt of such Consolidated Party giving the guaranty and shall not be calculated as part of the Indebtedness (either Secured or Unsecured) of the Consolidated Party directly incurring such Indebtedness (except to the extent that the relevant calculation does not otherwise account for the Indebtedness of such Consolidated Party giving the guaranty, in which case it shall constitute the Unsecured Debt of the Consolidated Party directly incurring the underlying unsecured indebtedness). For purposes of calculating the financial covenants contained herein, obligations of any Consolidated Party pursuant to the terms of any Letter of Credit shall be treated in the same manner as a guaranty to the extent the purpose of such Letter of Credit is to credit enhance other debt of any Consolidated Party.

"Unsecured Long Term Debt Rating" means with respect to Highwoods Properties (i) at such time that Highwoods Properties maintains an unsecured long term debt rating from each of Moody's, S&P and the Third Rating Agency, the lower of the two highest of such publicly announced ratings for the unsecured long term debt rating of Highwoods Properties, (ii) at such time that Highwoods Properties maintains an unsecured long term debt rating from only two (2) of the above-referenced agencies (one of which must be Moody's or S&P), the lower of the publicly announced ratings from each such agency for the unsecured long term debt rating of Highwoods Properties or (iii) at such time that Highwoods Properties fails to maintain an unsecured long term debt rating from at least two (2) of the above-referenced agencies (one of which must be Moody's or S&P), the unsecured long term debt rating equivalent to BB+ from S&P and Ba1 from Moody's.

"Voting Stock" means, with respect to any Person, Capital Stock issued by such Person the holders of which are ordinarily, in the absence of contingencies, entitled to vote for the election of directors (or persons performing similar functions) of such Person, even though the right so to vote has been suspended by the happening of such a contingency.

"Wholly Owned Subsidiary" means, (a) with respect to Highwoods Realty, any direct or indirect Subsidiary of Highwoods Realty 100% of whose Voting Stock is owned by (i) Highwoods Realty, (ii) Highwoods Realty and Highwoods Properties, or (iii) Highwoods Realty and one or more of Highwoods Properties or another Wholly Owned Subsidiary of Highwoods Realty and (b) with respect to Highwoods Properties, (i) Highwoods Realty, (ii) any Wholly Owned Subsidiary of Highwoods Realty, or (iii) any direct or indirect Subsidiary of Highwoods Properties 100% of whose Voting Stock is owned by Highwoods Properties or by one or more of Highwoods Realty and a Wholly Owned Subsidiary of Highwoods Realty.

"1996 Credit Agreement" shall have the meaning assigned to such term in the Recitals hereof.

"1997 Credit Agreement" shall have the meaning assigned to such term in the Recitals hereof.

"1998 Credit Agreement" shall have the meaning assigned to such term in the Recitals hereof.

"1996 Credit Facility" shall have the meaning assigned to such term in the Recitals hereof.

"1997 Credit Facility" shall have the meaning assigned to such term in the Recitals hereof.

"1998 Credit Facility" shall have the meaning assigned to such term in the Recitals hereof.

1.2 Computation of Time Periods.

For purposes of computation of periods of time hereunder, the word "from" means "from and including" and the words "to" and "until" each mean "to but excluding."

1.3 Accounting Terms.

Except as otherwise expressly provided herein, all accounting terms used herein shall be interpreted, and all financial statements and certificates and reports as to financial matters required to be delivered to the Lenders hereunder shall be prepared, in accordance with GAAP applied on a consistent basis. All calculations made for the purposes of determining compliance with this Credit Agreement shall (except as otherwise expressly provided herein) be made by application of GAAP applied on a basis consistent with the most recent annual or quarterly financial statements delivered pursuant to Section 7.1 (or, prior to the delivery of the first financial statements pursuant to Section 7.1, consistent with the financial statements delivered as of September 30, 2000); provided, however, if (a) the Principal Borrower shall object to determining such compliance on such basis at the time of delivery of such financial statements due to any change in GAAP or the rules promulgated with respect thereto or (b) the Administrative Agent or the Required Lenders shall so object in writing within 30 days after delivery of such financial statements, then such calculations shall be made on a basis consistent with the most recent financial statements delivered by the Principal Borrower to the Lenders as to which no such objection shall have been made.

SECTION 2

CREDIT FACILITIES

2.1 Revolving Loans.

(a) Revolving Commitment. Subject to the terms and conditions hereof and in reliance upon the representations and warranties set forth herein, each Lender severally agrees to make available to the Borrowers such Lender's Commitment Percentage of revolving credit loans requested by the Borrowers in Dollars ("Revolving Loans") from time to time from the Closing Date until the Maturity Date, or such earlier date as the Revolving Commitments shall have been terminated as provided herein for the purposes hereinafter set forth; provided, however, that the sum of the aggregate principal amount of outstanding Revolving Loans shall not exceed THREE HUNDRED MILLION DOLLARS (\$300,000,000) (as such aggregate maximum amount may be reduced from time to time as provided in Section 3.4, the "Revolving Committed Amount"); provided, further, (i) with regard to each Lender individually, such Lender's outstanding Revolving Loans shall not exceed such Lender's Commitment Percentage of the Revolving Committed Amount, and (ii) with regard to the Lenders collectively, the aggregate principal amount of outstanding Revolving Loans plus the aggregate principal amount

of outstanding Competitive Loans plus the aggregate principal amount of

outstanding Swingline Loans plus LOC Obligations outstanding shall not

exceed the Revolving Committed Amount. Revolving Loans may consist of Base Rate Loans or Eurodollar Loans, or a combination thereof, as the Borrowers may request, and may be repaid and reborrowed in accordance with the provisions hereof; provided, however, that no more than ten (10) Eurodollar Loans shall

be outstanding hereunder at any time. For purposes hereof, Eurodollar Loans with different Interest Periods shall be considered as separate Eurodollar Loans, even if they begin on the same date, although borrowings, extensions and conversions may, in accordance with the provisions hereof, be combined at the end of existing Interest Periods to constitute a new Eurodollar Loan with a single Interest Period. Revolving Loans hereunder may be repaid and reborrowed in accordance with the provisions hereof.

(b) Revolving Loan Borrowings.

(i) Notice of Borrowing. One or more of the Borrowers shall request a Revolving Loan borrowing by delivery of a Notice of Borrowing, together with the officer's certificate required by Section 5.2(e), to the Administrative Agent not later than 11:00 A.M. (Charlotte, North Carolina time) on the Business Day prior to the date of the requested borrowing in the case of Base Rate Loans, and on the third Business Day prior to the date of the requested borrowing in the case of Eurodollar Loans. Each such request for borrowing shall be irrevocable and shall specify (A) that a Revolving Loan is requested, (B) the date of the requested borrowing (which shall be a Business Day), (C) the aggregate principal amount to be borrowed, (D) whether the borrowing shall be comprised of Base Rate Loans, Eurodollar Loans or a combination thereof, and if Eurodollar Loans are requested, the Interest Period(s) therefor and (E) the purpose for which the requested Revolving Loans will be used by the applicable Borrower. If the applicable Borrower shall fail to specify in any such Notice of Borrowing the type of Revolving Loan requested, then such notice shall be deemed to be a request for a Base Rate Loan hereunder. The Administrative Agent shall give notice to each Lender promptly upon receipt of each Notice of Borrowing pursuant to this Section 2.1(b)(i), the contents thereof and each such Lender's share of any borrowing to be made pursuant thereto.

(ii) Minimum Amounts. Except as provided in Sections 2.3(d) and 2.3(e), each Eurodollar Loan that is a Revolving Loan shall be in a minimum aggregate principal amount of \$5,000,000 and integral multiples of \$500,000 in excess thereof (or the remaining amount of the Revolving Committed Amount, if less), and each Base Rate Loan that in a Revolving Loan shall be in a minimum aggregate principal amount of \$1,000,000 and integral multiples of \$500,000 in excess thereof (or the remaining amount of the Revolving Committed Amount, if less).

(iii) Advances. Each Lender will make its Commitment Percentage of each Revolving Loan borrowing available to the Administrative Agent for the account of one or more of the Borrowers as specified in Section 3.15(a), or in such other manner as the Administrative Agent may specify in writing, by 1:00 P.M. (Charlotte, North Carolina time) on the date specified in the applicable Notice of Borrowing in Dollars and in funds immediately available to the Administrative Agent. Such borrowing will then be made available to one or more of the Borrowers by the Administrative Agent by crediting the account of the applicable Borrower on the books of such office with the aggregate of the amounts made available to the Administrative Agent by the Lenders and in like funds as received by the Administrative Agent.

(c) Repayment. The principal amount of all Revolving Loans shall be due and payable in full on the Maturity Date, unless accelerated sooner pursuant to Section 9.2.

(d) Interest. Subject to the provisions of Section 3.1,

(i) Base Rate Loans. During such periods as Revolving Loans shall be comprised in whole or in part of Base Rate Loans, such Base Rate Loans shall bear interest at a per annum rate equal to the Adjusted Base Rate;

(ii) Eurodollar Loans. During such periods as Revolving Loans shall be comprised in whole or in part of Eurodollar Loans, such Eurodollar Loans shall bear interest at a per annum rate equal to the Adjusted Eurodollar Rate.

Interest on Revolving Loans shall be payable in arrears on each applicable Interest Payment Date (or at such other times as may be specified herein).

(e) Revolving Notes. The Revolving Loans made by each Lender shall be evidenced by a duly executed promissory note of the Borrowers to such Lender in substantially the form of Exhibit 2.1(e).

2.2 Competitive Loan Subfacility.

(a) Competitive Loans. So long as Highwoods Realty maintains an unsecured long term debt rating of at least BBB- from S&P and Baa3 from Moody's, subject to the terms and conditions hereof and in reliance upon the representations and warranties set forth herein, one or more of the Borrowers may, from time to time from the Closing Date until the Maturity Date, request and each Lender may, in its sole discretion, agree to make, Competitive Loans in Dollars to one or more of the Borrowers; provided, however, that (i) the aggregate principal amount of outstanding Competitive Loans shall not at any time exceed the lesser of (a) ONE HUNDRED FIFTY MILLION DOLLARS (\$150,000,000) and (b) fifty percent (50%) of the Revolving Committed Amount (the "Competitive Loan Maximum Amount") and (ii) the sum of the aggregate principal amount of outstanding Revolving Loans plus the

aggregate principal amount of outstanding Competitive Loans plus the

aggregate principal amount of outstanding Swingline Loans plus LOC

Obligations outstanding shall not at any time exceed the Revolving Committed Amount. Each Competitive Loan shall be not less than \$10,000,000 in the aggregate and integral multiples of \$1,000,000 in excess thereof (or the remaining portion of the Competitive Loan Maximum Amount, if less).

(b) Competitive Bid Requests. One or more of the Borrowers may solicit Competitive Bids by delivery of a Competitive Bid Request substantially in the form of Exhibit 2.2(b), together with the officer's certificate required by Section 5.2(e), to the Administrative Agent by 12:00 Noon (Charlotte, North Carolina time) on a Business Day four (4) Business Days prior to the date of a requested Competitive Loan borrowing. A Competitive Bid Request shall specify:

- (i) the date of the requested Competitive Loan borrowing (which shall be a Business Day);
- (ii) the amount of the requested Competitive Loan borrowing;
- (iii) the purpose for which the Competitive Loans will be used by the applicable Borrower; and
- (iv) the applicable Interest Periods requested and shall be accompanied by payment of the Competitive Bid Request Fee.

The Administrative Agent shall notify the Lenders of its receipt of a Competitive Bid Request and the contents thereof and invite the Lenders to submit Competitive Bids in response thereto. The Borrowers may not request a Competitive Bid for more than three different Interest Periods per Competitive Bid Request, and Competitive Bid Requests may be made no more frequently than once every five Business Days; provided, that no more than three (3) Competitive Bid Requests may be made by all of the Borrowers in any thirty (30) day period.

(c) Competitive Bid Procedure. Each Lender may, in its sole discretion, make one or more Competitive Bids to the applicable Borrower in response to a Competitive Bid Request. Each Competitive Bid must be received by the Administrative Agent not later than 10:00 A.M. (Charlotte, North Carolina time) on the Business Day next succeeding the date of receipt by the Administrative Agent of the related Competitive Bid Request; provided, however, that should the Administrative Agent, in its capacity as Lender, desire to submit a Competitive Bid it shall notify the applicable Borrower of its Competitive Bid and the terms thereof no later than 9:30 A.M. on such date. A Lender may offer to make all or part of the requested Competitive Loan borrowing and may submit multiple Competitive Bids in response to a Competitive Bid Request. The Competitive Bid shall specify:

- (i) the particular Competitive Bid Request as to which the Competitive Bid is submitted;

(ii) the minimum (which shall be not less than \$5,000,000 and integral multiples of \$1,000,000 in excess thereof) and maximum principal amounts of the requested Competitive Loan or Loans as to which the Lender is willing to make; and

(iii) the applicable interest rate or rates and Interest Period or Periods therefor.

A form of such Competitive Bid is provided in Exhibit 2.2(c). A Competitive Bid submitted by a Lender in accordance with the provisions hereof shall be irrevocable. The Administrative Agent shall promptly notify the applicable Borrower of all Competitive Bids made and the terms thereof. The Administrative Agent shall send a copy of each of the Competitive Bids to the applicable Borrower for its records as soon as practicable.

(d) Acceptance of Competitive Bids. The applicable Borrower may, in its sole and absolute discretion, subject only to the provisions of this subsection (d), accept or refuse any Competitive Bid offered to it. To accept a Competitive Bid, the applicable Borrower shall give written notification (or telephonic notice promptly confirmed in writing) substantially in the form of Exhibit 2.2(d) (which shall be signed by a Responsible Officer) of its acceptance of any or all such Competitive Bids to the Administrative Agent by 11:00 A.M. (Charlotte, North Carolina time) on the date on which notice of election to make a Competitive Bid is to be given to the Administrative Agent by the Lenders; provided, however, (i) the failure by the applicable Borrower to give timely notice of its acceptance of a Competitive Bid shall be deemed to be a refusal thereof,

(ii) the applicable Borrower may accept Competitive Bids only in ascending order of rates (and where two or more Lenders submit a Competitive Bid at the same Competitive Bid Rate, then pro rata between or among such Lenders, unless such pro rata allocation would result in a Lender making a Competitive Loan in a principal amount of less than \$1,000,000, in which case the applicable Borrower may accept any one of such Competitive Bids),

(iii) the aggregate amount of Competitive Bids accepted by the applicable Borrower shall not exceed the principal amount specified in the Competitive Bid Request, (iv) the applicable Borrower may accept a portion of a Competitive Bid in the event, and to the extent, acceptance of the entire amount thereof would cause the applicable Borrower to exceed the principal amount specified in the Competitive Bid Request, subject however to the minimum amounts provided herein and (v) no Competitive Bid shall be accepted unless such Competitive Loan is in a minimum principal amount of \$5,000,000 and integral multiples of \$1,000,000 in excess thereof, except that where a portion of a Competitive Bid is accepted in accordance with the provisions of subsection (iv) hereof, then in a minimum principal amount of \$1,000,000 and integral multiples of \$500,000 in excess thereof (but not in any event less than the minimum amount specified in the Competitive Bid), and in calculating the pro rata allocation of acceptances of portions of multiple bids at a particular Competitive Bid Rate pursuant to subsection (iv) hereof, the amounts shall be rounded to integral multiples of \$500,000 in a manner which shall be in the discretion of the applicable Borrower.

A notice of acceptance of a Competitive Bid given by the applicable Borrower in accordance with the provisions hereof shall be irrevocable. The Administrative Agent shall, not later than 12:00 Noon (Charlotte, North Carolina time) on the date of receipt by the Administrative Agent of a notification from the applicable Borrower of its acceptance and/or refusal of Competitive Bids, notify each affected Lender of its receipt and the contents thereof. Upon its receipt from the Administrative Agent of notification of the applicable Borrower's acceptance of its Competitive Bid in accordance with the terms of this subsection (d), each successful bidding Lender will thereupon become bound, subject to the other applicable conditions hereof, to make the Competitive Loan in respect of which its bid has been accepted. The Administrative Agent agrees to provide each Lender which has made a Competitive Bid in response to a particular Competitive Bid Request, with information with respect to the range of the Competitive Bids made in connection with such Competitive Bid Request, together with a description of the range of Competitive Bid(s) accepted by the applicable Borrower.

(e) Funding of Competitive Loans. Each Lender which is to make a Competitive Loan shall make its Competitive Loan borrowing available to the Administrative Agent for the account of the applicable Borrower at the office of the Administrative Agent specified in Schedule 2.1(a), or at such other office as the Administrative Agent may designate in writing, by 12:00 Noon (Charlotte, North Carolina time) on the date specified in the Competitive Bid Request in Dollars and in funds immediately available to the Administrative Agent. Such borrowing will then be made available to the applicable Borrower by crediting the account of the applicable Borrower on the books of such office with the aggregate of the amount made available to the

Administrative Agent by the applicable Competitive Loan Lenders and in like funds as received by the Administrative Agent.

(f) Maturity of Competitive Loans. Each Competitive Loan shall mature and be due and payable in full on the last day of the Interest Period applicable thereto, unless accelerated sooner pursuant to Section 9.2. Unless the applicable Borrower shall give notice to the Administrative Agent otherwise and provided no Default or Event of Default then exists, the applicable Borrower shall be deemed to have requested a Revolving Loan borrowing (which deemed request for a Revolving Loan borrowing shall constitute a representation and warranty by the Credit Parties of the correctness of the matters specified in subsections (b), (c), (d), (f) and

(g) of Section 5.2) in the amount of the maturing Competitive Loan, the proceeds of which will be used to repay such Competitive Loan.

(g) Interest on Competitive Loans. Subject to the provisions of Section 3.1, Competitive Loans shall bear interest in each case at the Competitive Bid Rate applicable thereto. Interest on Competitive Loans shall be payable in arrears on each Interest Payment Date.

(h) Competitive Loan Notes. The Competitive Loans made by each Lender shall be evidenced by a duly executed promissory note of the Borrowers to such Lender in an original principal amount equal to the Competitive Loan Maximum Amount and substantially in the form of Exhibit 2.2(h).

2.3 Letter of Credit Subfacility.

(a) Issuance. Subject to the terms and conditions hereof and of the LOC Documents, if any, and any other terms and conditions which the Issuing Lender may reasonably require and in reliance upon the representations and warranties set forth herein, the Issuing Lender agrees to issue, and each Lender severally agrees to participate in the issuance by the Issuing Lender of, Letters of Credit in Dollars from time to time from the Closing Date until the Maturity Date as a Borrower may request, in a written form acceptable to the Issuing Lender (such form must be signed by a Responsible Officer and must include a representation and warranty of the correctness of the matters specified in subsections (b), (c), (d), (f) and (g) of Sections 5.2); provided, however, that (i) the LOC Obligations outstanding shall not at any time exceed TWENTY MILLION DOLLARS (\$20,000,000) (the "LOC

Committed Amount") and (ii) the sum of the aggregate principal amount of outstanding Revolving Loans plus the aggregate principal amount of

outstanding Competitive Loans plus the aggregate principal amount of

outstanding Swingline Loans plus LOC Obligations outstanding shall not at

any time exceed the aggregate Revolving Committed Amount. No Letter of Credit shall (x) have an original expiry date more than one year from the date of issuance or (y) as originally issued or as extended, have an expiry date extending beyond the Maturity Date. Each Letter of Credit shall comply with the related LOC Documents. The issuance and expiry dates of each Letter of Credit shall be a Business Day.

(b) Notice and Reports. The request for the issuance of a Letter of Credit shall be submitted by a Borrower to the Issuing Lender at least five (5) Business Days prior to the requested date of issuance and shall be accompanied by the officer's certificate required by Section 5.2(e). The Issuing Lender will upon the issuance of a Letter of Credit and at least quarterly and more frequently upon request, disseminate to each of the Lenders a detailed report specifying the Letters of Credit which are then issued and outstanding and any activity with respect thereto which may have occurred since the date of the prior report, and including therein, among other things, the beneficiary, the face amount and the expiry date, as well as any payment or expirations which may have occurred.

(c) Participation. Each Lender, with respect to the Existing Letters of Credit, hereby purchases a Participation Interest in such Existing Letters of Credit, and with respect to the Letters of Credit issued on or after the Closing Date, upon issuance of a Letter of Credit, shall be deemed to have purchased without recourse a Participation Interest from the Issuing Lender in such Letter of Credit and the obligations arising thereunder and any collateral relating thereto, in each case in an amount equal to its pro rata share of the obligations under such Letter of Credit (based on the respective Commitment Percentages of the Lenders) and shall absolutely, unconditionally and irrevocably assume and be obligated to pay to the Issuing Lender and discharge when due, its pro rata share of the obligations arising under such Letter of Credit. Notwithstanding

the preceding sentence, in the event that the Issuing Lender issues a Letter of Credit hereunder when the officers of the Issuing Lender directly involved with the credit facilities available to the Borrowers under this Credit Agreement have actual knowledge that a monetary Event of Default or material Event of Default (which, for the avoidance of doubt shall include any violation of any provisions of Section 7.11) has occurred and is continuing, the Lenders shall have the option but not the obligation to pay to the Issuing Lender their pro rata share of the obligations arising under such Letter of Credit as contemplated herein. Without limiting the scope and nature of each Lender's Participation Interest in any Letter of Credit, to the extent that the Issuing Lender has not been reimbursed as required hereunder or under any such Letter of Credit, each such Lender shall pay to the Issuing Lender its pro rata share of such unreimbursed drawing in same day funds on the day of notification by the Issuing Lender of an unreimbursed drawing pursuant to the provisions of subsection (d) below. The obligation of each Lender to so reimburse the Issuing Lender shall be absolute and unconditional and shall not be affected by the occurrence of a Default, an Event of Default or any other occurrence or event. Any such reimbursement shall not relieve or otherwise impair the obligation of the Borrowers to reimburse the Issuing Lender under any Letter of Credit, together with interest as hereinafter provided.

(d) Reimbursement. In the event of any drawing under any Letter of Credit, the Issuing Lender will promptly notify the Borrower that was the applicant for such Letter of Credit. Unless such Borrower shall immediately notify the Issuing Lender that such Borrower intends to otherwise reimburse the Issuing Lender for such drawing, such Borrower shall be deemed to have requested that the Lenders make a Revolving Loan in the amount of the drawing as provided in subsection (e) below on the related Letter of Credit, the proceeds of which will be used to satisfy the related reimbursement obligations. Each Borrower that is an applicant under a Letter of Credit promises to reimburse the Issuing Lender on the day of drawing under any Letter of Credit (either with the proceeds of a Revolving Loan obtained hereunder or otherwise) in same day funds. If such Borrower shall fail to reimburse the Issuing Lender as provided hereinabove, the unreimbursed amount of such drawing shall bear interest at a per annum rate equal to the Adjusted Base Rate plus 2%. Such Borrower's reimbursement obligations hereunder shall be absolute and unconditional under all circumstances irrespective of any rights of setoff, counterclaim or defense to payment such Borrower may claim or have against the Issuing Lender, the Administrative Agent, the Lenders, the beneficiary of the Letter of Credit drawn upon or any other Person, including without limitation any defense based on any failure of such Borrower or any other Credit Party to receive consideration or the legality, validity, regularity or unenforceability of the Letter of Credit. The Issuing Lender will promptly notify the other Lenders of the amount of any unreimbursed drawing and each Lender shall promptly pay to the Administrative Agent for the account of the Issuing Lender in Dollars and in immediately available funds, the amount of such Lender's pro rata share of such unreimbursed drawing. Such payment shall be made on the day such notice is received by such Lender from the Issuing Lender if such notice is received at or before 2:00 P.M. (Charlotte, North Carolina time) otherwise such payment shall be made at or before 12:00 Noon (Charlotte, North Carolina time) on the Business Day next succeeding the day such notice is received. If such Lender does not pay such amount to the Issuing Lender in full upon such request, such Lender shall, on demand, pay to the Administrative Agent for the account of the Issuing Lender interest on the unpaid amount during the period from the date of such drawing until such Lender pays such amount to the Issuing Lender in full at a rate per annum equal to, if paid within two (2) Business Days of the date that such Lender is required to make payments of such amount pursuant to the preceding sentence, the Federal Funds Rate and thereafter at a rate equal to the Base Rate. Each Lender's obligation to make such payment to the Issuing Lender, and the right of the Issuing Lender to receive the same, shall be absolute and unconditional, shall not be affected by any circumstance whatsoever and without regard to the termination of this Credit Agreement or the Commitments hereunder, the existence of a Default or Event of Default or the acceleration of the obligations of any Borrower hereunder and shall be made without any offset, abatement, withholding or reduction whatsoever. Simultaneously with the making of each such payment by a Lender to the Issuing Lender, such Lender shall, automatically and without any further action on the part of the Issuing Lender or such Lender, acquire a Participation Interest in an amount equal to such payment (excluding the portion of such payment constituting interest owing to the Issuing Lender) in the related unreimbursed drawing portion of the LOC Obligation and in the interest thereon and in the related LOC Documents, and shall have a claim against such Borrower and the other Credit Parties with respect thereto.

(e) Repayment with Revolving Loans. On any day on which any Borrower shall have requested, or been deemed to have requested, a Revolving Loan advance to reimburse a drawing under a Letter of Credit, the Administrative Agent shall give notice to the Lenders that a Revolving Loan has been requested or deemed requested by such Borrower to be made in connection with a drawing under a Letter of Credit, in which case a Revolving Loan advance comprised of Base Rate Loans (or Eurodollar Loans to the extent such Borrower has complied with the procedures of Section 2.1(b)(i) with respect thereto) shall be immediately made to such Borrower by all Lenders (notwithstanding any termination of the Commitments pursuant to Section 9.2) pro rata based on the respective Commitment Percentages of the Lenders

(determined before giving effect to any termination of the Commitments pursuant to Section 9.2) and the proceeds thereof shall be paid directly to the Issuing Lender for application to the respective LOC Obligations. Each such Lender hereby irrevocably agrees to make its pro rata share of each such Revolving Loan immediately upon any such request or deemed request in the amount, in the manner and on the date specified in the preceding sentence notwithstanding (i) the amount of such borrowing may not comply with the minimum amount for advances of Revolving Loans otherwise required hereunder, (ii) whether any conditions specified in Section 5.2 are then satisfied, (iii) whether a Default or an Event of Default then exists, (iv) failure for any such request or deemed request for Revolving Loan to be made by the time otherwise required hereunder, (v) whether the date of such borrowing is a date on which Revolving Loans are otherwise permitted to be made hereunder or (vi) any termination of the Commitments relating thereto immediately prior to or contemporaneously with such borrowing. In the event that any Revolving Loan cannot for any reason be made on the date otherwise required above (including, without limitation, as a result of the commencement of a proceeding under the Bankruptcy Code with respect to any one of the Borrowers or any Credit Party), then each such Lender hereby agrees that it shall forthwith purchase (as of the date such borrowing would otherwise have occurred, but adjusted for any payments received from the Borrowers on or after such date and prior to such purchase) from the Issuing Lender such Participation Interests in the outstanding LOC Obligations as shall be necessary to cause each such Lender to share in such LOC Obligations ratably (based upon the respective Commitment Percentages of the Lenders (determined before giving effect to any termination of the Commitments pursuant to Section 9.2)), provided that at the time any purchase of Participation Interests pursuant to this sentence is actually made, the purchasing Lender shall be required to pay to the Issuing Lender, to the extent not paid to the Issuer by the Borrowers in accordance with the terms of subsection (d) above, interest on the principal amount of Participation Interests purchased for each day from and including the day upon which such borrowing would otherwise have occurred to but excluding the date of payment for such Participation Interests, at the rate equal to, if paid within two (2) Business Days of the date of the Revolving Loan advance, the Federal Funds Rate, and thereafter at a rate equal to the Base Rate.

(f) Renewal, Extension. The renewal or extension of any Letter of Credit shall, for purposes hereof, be treated in all respects the same as the issuance of a new Letter of Credit hereunder.

(g) Uniform Customs and Practices. The Issuing Lender may have the Letters of Credit be subject to The Uniform Customs and Practice for Documentary Credits, as published as of the date of issue by the International Chamber of Commerce (the "UCP"), in which case the UCP may be

incorporated therein and deemed in all respects to be a part thereof.

(h) Indemnification; Nature of Issuing Lender's Duties.

(i) In addition to its other obligations under this Section 2.3, each Borrower that is an applicant with respect to a Letter of Credit hereby agrees to pay, and protect, indemnify and save each Lender harmless from and against, any and all claims, demands, liabilities, damages, losses, costs, charges and expenses (including reasonable attorneys' fees) that such Lender may incur or be subject to as a consequence, direct or indirect, of (A) the issuance of any Letter of Credit or (B) the failure of such Lender to honor a drawing under a Letter of Credit as a result of any act or omission, whether rightful or wrongful, of any present or future de jure or de facto government or Governmental Authority (all such acts or omissions, herein called "Government Acts").

(ii) As between the Borrower that is the applicant for a Letter of Credit and the Lenders (including the Issuing Lender), such Borrower shall assume all risks of the acts, omissions or misuse of any Letter of Credit by the beneficiary thereof. No Lender (including the Issuing Lender)

shall be responsible: (A) for the form, validity, sufficiency, accuracy, genuineness or legal effect of any document submitted by any party in connection with the application for and issuance of any Letter of Credit, even if it should in fact prove to be in any or all respects invalid, insufficient, inaccurate, fraudulent or forged; (B) for the validity or sufficiency of any instrument transferring or assigning or purporting to transfer or assign any Letter of Credit or the rights or benefits thereunder or proceeds thereof, in whole or in part, that may prove to be invalid or ineffective for any reason; (C) for errors, omissions, interruptions or delays in transmission or delivery of any messages, by mail, cable, telegraph, telex or otherwise, whether or not they be in cipher; (D) for any loss or delay in the transmission or otherwise of any document required in order to make a drawing under a Letter of Credit or of the proceeds thereof; and (E) for any consequences arising from causes beyond the control of such Lender, including, without limitation, any Government Acts. None of the above shall affect, impair, or prevent the vesting of the Issuing Lender's rights or powers hereunder.

(iii) In furtherance and extension and not in limitation of the specific provisions hereinabove set forth, any action taken or omitted by any Lender (including the Issuing Lender), under or in connection with any Letter of Credit or the related certificates, if taken or omitted in good faith, shall not put such Lender under any resulting liability to such Borrower or any other Credit Party. It is the intention of the parties that this Credit Agreement shall be construed and applied to protect and indemnify each Lender (including the Issuing Lender) against any and all risks involved in the issuance of the Letters of Credit, all of which risks are hereby assumed by the Borrowers (on behalf of itself and each of the other Credit Parties), including, without limitation, any and all Government Acts. No Lender (including the Issuing Lender) shall, in any way, be liable for any failure by such Lender or anyone else to pay any drawing under any Letter of Credit as a result of any Government Acts or any other cause beyond the control of such Lender.

(iv) Nothing in this subsection (h) is intended to limit the reimbursement obligations of the Borrowers contained in subsection (d) above. The obligations of the Borrowers under this subsection (h) shall survive the termination of this Credit Agreement. No act or omissions of any current or prior beneficiary of a Letter of Credit shall in any way affect or impair the rights of the Lenders (including the Issuing Lender) to enforce any right, power or benefit under this Credit Agreement.

(v) Notwithstanding anything to the contrary contained in this subsection (h), the Borrowers shall have no obligation to indemnify any Lender (including the Issuing Lender) in respect of any liability incurred by such Lender (A) arising solely out of the gross negligence or willful misconduct of such Lender, as determined by a court of competent jurisdiction, or (B) caused by such Lender's failure to pay under any Letter of Credit after presentation to it of a request strictly complying with the terms and conditions of such Letter of Credit, as determined by a court of competent jurisdiction, unless such payment is prohibited by any law, regulation, court order or decree.

(i) Responsibility of Issuing Lender. It is expressly understood and agreed that the obligations of the Issuing Lender hereunder to the Lenders are only those expressly set forth in this Credit Agreement and that the Issuing Lender shall be entitled to assume that the conditions precedent set forth in Section 5.2 have been satisfied unless it shall have acquired actual knowledge that any such condition precedent has not been satisfied; provided, however, that nothing set forth in this Section 2.3 shall be deemed to prejudice the right of any Lender to recover from the Issuing Lender any amounts made available by such Lender to the Issuing Lender pursuant to this Section 2.3 in the event that it is determined by a court of competent jurisdiction that the payment with respect to a Letter of Credit constituted gross negligence or willful misconduct on the part of the Issuing Lender.

(j) Conflict with LOC Documents. In the event of any conflict between this Credit Agreement and any LOC Document (including any letter of credit application), this Credit Agreement shall control.

2.4 Swingline Loan Subfacility.

(a) Swingline Commitment. Subject to the terms and conditions hereof and in reliance upon the representations and warranties set forth herein, the Swingline Lender, in its individual capacity, agrees to make certain revolving credit loans requested by the Borrowers in Dollars to the Borrowers (each a "Swingline Loan" and, collectively, the "Swingline Loans") from time to time from the Closing Date until the Maturity Date for the purposes hereinafter set forth; provided, however, (i) the aggregate principal amount of Swingline Loans outstanding at any time shall not exceed TWENTY-FIVE MILLION DOLLARS (\$25,000,000) (the "Swingline Committed Amount"), and (ii) the aggregate principal amount of outstanding Revolving Loans plus the aggregate principal amount of outstanding Competitive Loans

plus the aggregate principal amount of outstanding Swingline Loans plus LOC

Obligations outstanding shall not exceed the Revolving Committed Amount. Swingline Loans hereunder shall be made as Base Rate Loans and may be repaid and reborrowed in accordance with the provisions hereof.

(b) Swingline Loan Advances.

(i) Notices; Disbursement. Whenever one or more of the Borrowers desires a Swingline Loan advance hereunder it shall deliver a Notice of Borrowing, together with the officer's certificate required by Section 5.2(e), to the Swingline Lender not later than 11:00 A.M. (Charlotte, North Carolina time) on the Business Day of the requested Swingline Loan advance. Each such notice shall be irrevocable and shall specify (A) that a Swingline Loan advance is requested, (B) the date of the requested Swingline Loan advance (which shall be a Business Day), (C) the principal amount of the Swingline Loan advance requested, (D) the purpose for which the requested Swingline Loan will be used by the applicable Borrower and (E) that the representations and warranties made by the Credit Parties in any Credit Document are true and correct in all material respects at and as if made on the date hereof except to the extent they expressly relate to an earlier date. Each Swingline Loan shall be made as a Base Rate Loan and shall have such maturity date (which maturity date shall not be a date more than three (3) Business Days from the date of advance thereof) as the Swingline Lender and the applicable Borrower shall agree upon receipt by the Swingline Lender of any such notice from the applicable Borrower. The Swingline Lender shall initiate the transfer of funds representing the Swingline Loan advance to the applicable Borrower by 3:00 P.M. (Charlotte, North Carolina time) on the Business Day of the requested borrowing.

(ii) Minimum Amounts. Each Swingline Loan advance shall be in a minimum principal amount of \$1,000,000 and in integral multiples of \$500,000 in excess thereof (or the remaining amount of the Swingline Committed Amount, if less).

(iii) Repayment of Swingline Loans. The principal amount of all Swingline Loans shall be due and payable on the earlier of (A) the maturity date agreed to by the Swingline Lender and the applicable Borrower with respect to such Loan (which maturity date shall not be a date more than three (3) Business Days from the date of advance thereof) and (B) the Maturity Date, at which time the Borrowers shall be deemed to have requested a Revolving Loan borrowing (which deemed request for a Revolving Loan borrowing shall constitute a representation and warranty by the Credit Parties of the correctness of the matters specified in subsections (b), (c), (d), (f) and (g) of Section 5.2) in the amount of the maturing Swingline Loan, the proceeds of which will be used to repay such Swingline Loan. The Swingline Lender may, at any time, in its sole discretion, by written notice to the Principal Borrower and the Lenders, demand repayment of its Swingline Loans by way of a Revolving Loan advance, in which case the Borrowers shall be deemed to have requested a Revolving Loan advance (which deemed request for a Revolving Loan borrowing shall constitute a representation and warranty by the Credit Parties of the correctness of the matters specified in subsections (b), (c), (d), (f) and (g) of Section 5.2) comprised solely of Base Rate Loans in the amount of such Swingline Loans; provided, however, that any such demand shall be deemed to have been given one Business Day prior to the Maturity Date and on the date of the occurrence of any Event of Default described in Section 9.1 and upon acceleration of the indebtedness hereunder and the exercise of remedies in accordance with the provisions of Section 9.2. Each Lender hereby irrevocably agrees to make its pro rata share of each such Revolving Loan in the amount, in the manner and on the date specified in the preceding sentence notwithstanding (I) the amount of such

borrowing may not comply with the minimum amount for advances of Revolving Loans otherwise required hereunder, (II) whether any conditions specified in Section 5.2 are then satisfied, (III) whether a Default or an Event of Default then exists, (IV) failure of any such request or deemed request for Revolving Loan to be made by the time otherwise required hereunder, (V) whether the date of such borrowing is a date on which Revolving Loans are otherwise permitted to be made hereunder or (VI) any termination of the Commitments relating thereto immediately prior to or contemporaneously with such borrowing. Notwithstanding the preceding sentence, in the event that the Swingline Lender funds a Swingline Loan hereunder when the officers of the Swingline Lender directly involved with the credit facilities available to the Borrowers under this Credit Agreement have actual knowledge that a monetary Event of Default or material Event of Default (which, for the avoidance of doubt shall include any violation of any provisions of Section 7.11) has occurred and is continuing, the Lenders shall have the option but not the obligation to make Revolving Loans to fund their ratable shares of such Swingline Loan as contemplated herein. In the event that any Revolving Loan cannot for any reason be made on the date otherwise required above (including, without limitation, as a result of the commencement of a proceeding under the Bankruptcy Code with respect to any one of the Borrowers or any other Credit Party), then each Lender hereby agrees that it shall forthwith purchase (as of the date such borrowing would otherwise have occurred, but adjusted for any payments received from the Borrowers on or after such date and prior to such purchase) from the Swingline Lender such Participations Interest in the outstanding Swingline Loans as shall be necessary to cause each such Lender to share in such Swingline Loans ratably based upon its Commitment Percentage of the Revolving Committed Amount (determined before giving effect to any termination of the Commitments pursuant to Section 3.4), provided that (A) all interest payable on the Swingline Loans shall be for the account of the Swingline Lender until the date as of which the respective Participation Interest is purchased and (B) at the time any purchase of Participation Interests pursuant to this sentence is actually made, the purchasing Lender shall be required to pay to the Swingline Lender, to the extent not paid to the Swingline Lender by the Borrowers in accordance with the terms of subsection (c)(ii) below, interest on the principal amount of Participation Interests purchased for each day from and including the day upon which such borrowing would otherwise have occurred to but excluding the date of payment for such Participation Interests, at the rate equal to the Federal Funds Rate.

(c) Interest on Swingline Loans.

(i) Interest. Subject to the provisions of Section 3.1, each Swingline Loan shall bear interest at a per annum rate (computed on the basis of the actual number of days elapsed over a year of 365 days or 366 days, as appropriate) equal to the Adjusted Base Rate.

(ii) Payment of Interest. Interest on Swingline Loans shall be payable in arrears on each applicable Interest Payment Date (or at such other times as may be specified herein), unless accelerated sooner pursuant to Section 9.2.

(d) Swingline Note. The Swingline Loans shall be evidenced by a duly executed promissory note of the Borrowers to the Swingline Lender in an original principal amount equal to the Swingline Committed Amount substantially in the form of Exhibit 2.4(d).

2.5 Extension of Maturity Date.

Not more than 180 days and not less than 120 days prior to the date occurring three years from the Closing Date (the "Extension Date"), the Principal Borrower may request in writing that the Lenders extend the Maturity Date for an additional one year period. Each Lender shall provide the Administrative Agent and the Principal Borrower, not less than 30 days prior to the Extension Date, with written notice regarding whether it agrees to extend the Maturity Date. Each decision by a Lender shall be in its sole discretion and failure by a Lender to give timely written notice hereunder shall be deemed a decision by such Lender not to extend the Maturity Date. If all of the Lenders timely agree in writing to extend the Maturity Date, then the Maturity Date shall be extended for an additional one year period pursuant to a duly executed written amendment to this Credit Agreement so long as (i) no Default or Event of Default exists and (ii) the Borrowers pay a fee equal to 0.25% of the Revolving Committed Amount to the Administrative

Agent for the pro rata benefit of the Lenders (based on each Lender's Commitment Percentage of the Revolving Committed Amount). If any Lender fails to agree to extend the Maturity Date, then the Borrowers shall, on or before the Maturity Date, pay all outstanding Credit Party Obligations in full, together with accrued and unpaid interest thereon and all other sums with respect thereto.

2.6 Joint and Several Liability of the Borrowers.

(a) Each of the Borrowers is accepting joint and several liability hereunder in consideration of the financial accommodation to be provided by the Lenders under this Credit Agreement, for the mutual benefit, directly and indirectly, of each of the Borrowers and in consideration of the undertakings of each of the Borrowers to accept joint and several liability for the obligations of each of them.

(b) Each of the Borrowers jointly and severally hereby irrevocably and unconditionally accepts, not merely as a surety but also as a co-debtor, joint and several liability with the other Borrowers with respect to the payment and performance of all of the Credit Party Obligations arising under this Credit Agreement and the other Credit Documents, it being the intention of the parties hereto that all the Credit Party Obligations shall be the joint and several obligations of each of the Borrowers without preferences or distinction among them.

(c) If and to the extent that any of the Borrowers shall fail to make any payment with respect to any of the obligations hereunder as and when due or to perform any of such obligations in accordance with the terms thereof, then in each such event, the other Borrowers will make such payment with respect to, or perform, such obligation.

(d) The obligations of each Borrower under the provisions of this

Section 2.6 constitute full recourse obligations of such Borrower, enforceable against it to the full extent of its properties and assets, irrespective of the validity, regularity or enforceability of this Credit Agreement or any other circumstances whatsoever.

(e) Except as otherwise expressly provided herein, each Borrower hereby waives notice of acceptance of its joint and several liability, notice of occurrence of any Default or Event of Default (except to the extent notice is expressly required to be given pursuant to the terms of this Credit Agreement), or of any demand for any payment under this Credit Agreement, notice of any action at any time taken or omitted by the Lender under or in respect of any of the Credit Party Obligations hereunder, any requirement of diligence and, generally, all demands, notices and other formalities of every kind in connection with this Credit Agreement. Each Borrower hereby assents to, and waives notice of, any extension or postponement of the time for the payment of any of the Credit Party Obligations hereunder, the acceptance of any partial payment thereon, any waiver, consent or other action or acquiescence by the Lenders at any time or times in respect of any default by any Borrower in the performance or satisfaction of any term, covenant, condition or provision of this Credit Agreement, any and all other indulgences whatsoever by the Lenders in respect of any of the Credit Party Obligations hereunder, and the taking, addition, substitution or release, in whole or in part, at any time or times, of any security for any of such Credit Party Obligations or the addition, substitution or release, in whole or in part, of any Borrower. Without limiting the generality of the foregoing, each Borrower assents to any other action or delay in acting or any failure to act on the part of the Lender, including, without limitation, any failure strictly or diligently to assert any right or to pursue any remedy or to comply fully with applicable laws or regulations thereunder which might, but for the provisions of this Section 2.6, afford grounds for terminating, discharging or relieving such Borrower, in whole or in part, from any of its obligations under this Section 2.6, it being the intention of each Borrower that, so long as any of the Credit Party Obligations hereunder remain unsatisfied, the obligations of such Borrower under this Section 2.6 shall not be discharged except by performance and then only to the extent of such performance. The obligations of each Borrower under this Section 2.6 shall not be diminished or rendered unenforceable by any winding up, reorganization, arrangement, liquidation, reconstruction or similar proceeding with respect to any reconstruction or similar proceeding with respect to any Borrower or any Lender. The joint and several liability of the Borrowers

hereunder shall continue in full force and effect notwithstanding any absorption, merger, amalgamation or any other change whatsoever in the name, membership, constitution or place of formation of any Borrower or any Lender.

(f) The provisions of this Section 2.6 are made for the benefit of the Administrative Agent and the Lenders and their respective successors and assigns, and may be enforced by any such Person from time to time against any of the Borrowers as often as occasion therefor may arise and without requirement on the part of any Lender first to marshal any of its claims or to exercise any of its rights against any of the other Borrowers or to exhaust any remedies available to it against any of the other Borrowers or to resort to any other source or means of obtaining payment of any of the Credit Party Obligations or to elect any other remedy. Without limiting the generality of the foregoing, each Borrower hereby specifically waives the benefits of N.C. Gen. Stat. (S)(S)26-7 through 26-9, inclusive, to the extent applicable. The provisions of this Section 2.6 shall remain in effect until all the Credit Party Obligations hereunder shall have been paid in full or otherwise fully satisfied. If at any time, any payment, or any part thereof, made in respect of any of the Credit Party Obligations, is rescinded or must otherwise be restored or returned by the Lenders upon the insolvency, bankruptcy or reorganization of any of the Borrowers, or otherwise, the provisions of this Section 2.6 will forthwith be reinstated and in effect as though such payment had not been made.

(g) Notwithstanding any provision to the contrary contained herein or in any other of the Credit Documents or Hedging Agreements, the obligations of each Borrower hereunder shall be limited to an aggregate amount equal to the largest amount that would not render its obligations hereunder subject to avoidance under Section 548 of the Bankruptcy Code or any comparable provisions of any applicable state law.

2.7 Appointment of Principal Borrower as Agent for Borrowers.

Each of the Borrowers hereby appoints the Principal Borrower to act as its exclusive agent for all purposes under this Credit Agreement and the other Credit Documents (including, without limitation, with respect to all matters related to the borrowing and repayment of loans as described in Section 2 and

Section 3 hereof). Each of the Borrowers acknowledges and agrees that (a) the Principal Borrower may execute such documents on behalf of all the Borrowers as the Principal Borrower deems appropriate in its sole discretion and each Borrower shall be bound by and obligated by all of the terms of any such document executed by the Principal Borrower on its behalf, (b) any notice or other communication delivered by the Administrative Agent or any Lender hereunder to the Principal Borrower shall be deemed to have been delivered to each of the Borrowers and (c) the Administrative Agent and each of the Lenders shall accept (and shall be permitted to rely on) any document or agreement executed by the Principal Borrower on behalf of the Borrowers (or any of them). The Borrowers must act through the Principal Borrower for all purposes under this Credit Agreement and the other Credit Documents. Notwithstanding anything contained herein to the contrary, to the extent any provision in this Credit Agreement requires any Borrower to interact in any manner with the Administrative Agent or the Lenders, such Borrower shall do so through the Principal Borrower.

SECTION 3

OTHER PROVISIONS RELATING TO CREDIT FACILITIES

3.1 Default Rate.

Upon the occurrence, and during the continuance, of an Event of Default, the principal of and, to the extent permitted by law, interest on the Loans and any other amounts owing hereunder or under the other Credit Documents shall bear interest, payable on demand, at a per annum rate 4% greater than the rate which would otherwise be applicable (or if no rate is applicable, whether in respect of interest, fees or other amounts, then the Adjusted Base Rate plus 4%).

3.2 Extension and Conversion.

Subject to the terms of Section 5.2, the Borrowers shall have the option, on any Business Day, to extend existing Loans into a subsequent permissible Interest Period or to convert Loans into Loans of another interest rate type; provided, however, that (a) except as provided in Section 3.8, Eurodollar Loans may be converted into Base Rate Loans only (i) on the last day of the Interest Period applicable thereto or (ii) upon payment of all amounts due pursuant to the terms of Section 3.12, (b) Eurodollar Loans may be extended, and Base Rate Loans may be converted into Eurodollar Loans, only if no Default or Event of Default is in existence on the date of extension or conversion, (c) Loans extended as, or converted into, Eurodollar Loans shall be subject to the terms of the definition of "Interest Period" set forth in Section 1.1 and shall be in such minimum amounts as provided in, with respect to Revolving Loans, Section 2.1(b)(ii), (d) no more than ten (10) Eurodollar Loans shall be outstanding hereunder at any time (it being understood that, for purposes hereof, Eurodollar Loans with different Interest Periods shall be considered as separate Eurodollar Loans, even if they begin on the same date, although borrowings, extensions and conversions may, in accordance with the provisions hereof, be combined at the end of existing Interest Periods to constitute a new Eurodollar Loan with a single Interest Period) and (e) Competitive Loans and Swingline Loans may not be extended or converted pursuant to this Section 3.2. Each such extension or conversion shall be effected by the Borrowers by delivery of a Notice of Extension/Conversion, together with the officer's certificate required by

Section 5.2(e), to the office of the Administrative Agent specified in specified in Schedule 2.1(a), or at such other office as the Administrative Agent may designate in writing, prior to 11:00 A.M. (Charlotte, North Carolina time) on the Business Day of, in the case of the conversion of a Eurodollar Loan into a Base Rate Loan, and on the third Business Day prior to, in the case of the extension of a Eurodollar Loan as, or conversion of a Base Rate Loan into, a Eurodollar Loan, the date of the proposed extension or conversion, specifying the date of the proposed extension or conversion and the Loans to be so extended or converted, the types of Loans into which such Loans are to be converted. Each request for extension or conversion shall be irrevocable and shall constitute a representation and warranty by the Borrowers of the matters specified in subsections (b), (c), (d), (f) and (g) of Section 5.2. In the event the Borrowers fail to request extension or conversion of any Eurodollar Loan in accordance with this Section, or any such conversion or extension is not permitted or required by this Section, then such Eurodollar Loan shall be automatically converted into a Base Rate Loan at the end of the Interest Period applicable thereto. The Administrative Agent shall give each Lender notice as promptly as practicable of any such proposed extension or conversion affecting any Loan.

3.3 Prepayments.

(a) Voluntary Prepayments. The Borrowers shall have the right to prepay Loans (other than the Swingline Loans and Competitive Loans) in whole or in part from time to time; provided, however, that each partial prepayment of Loans shall be in a minimum principal amount of \$1,000,000 and integral multiples of \$1,000,000. Subject to the foregoing terms, amounts prepaid under this Section 3.3(a) shall be applied as the Borrowers may elect; provided that if the Borrowers fail to specify a voluntary prepayment then such prepayment shall be applied first to Revolving Loans that are Base Rate Loans and then to Eurodollar Loans in direct order of Interest Period maturities starting with the earliest maturity date. All prepayments under this Section 3.3(a) shall be subject to Section 3.12, but otherwise without premium or penalty.

(b) Mandatory Prepayments.

(i) If at any time, (A) the sum of the aggregate principal amount of outstanding Revolving Loans plus the aggregate principal amount of

outstanding Competitive Loans plus the aggregate principal amount of

outstanding Swingline Loans plus LOC Obligations outstanding shall

exceed the Revolving Committed Amount, (B) the aggregate principal amount of outstanding Competitive Loans shall exceed the Competitive Loan Maximum Amount, (C) the aggregate amount of outstanding Swingline Loans exceeds the Swingline Committed Amount or (D) the aggregate amount of LOC Obligations outstanding exceeds the LOC Committed Amount, the Borrowers shall immediately make payment on the Loans and/or to a cash collateral account in respect of the LOC Obligations, in an amount sufficient to eliminate such excess.

(ii) Application of Mandatory Prepayments. All amounts required to be paid pursuant to this Section 3.3(b) (i) shall be applied first, to Revolving Loans (and after all Revolving Loans have been paid),

second, to Swingline Loans, third, to a cash collateral account in respect of LOC

Obligations and fourth, to Competitive Loans pro rata among the Lenders holding same. Within the parameters of the applications set forth above, prepayments shall be applied first to Base Rate Loans and then to Eurodollar Loans in direct order of Interest Period maturities starting with the earliest maturity date. All prepayments under this Section 3.3(b) shall be subject to Section 3.12.

3.4 Termination and Reduction of Revolving Committed Amount.

(a) Voluntary Reductions. The Borrowers may from time to time permanently reduce or terminate the Revolving Committed Amount in whole or in part (in minimum aggregate amounts of \$5,000,000 or in integral multiples of \$1,000,000 in excess thereof (or, if less, the full remaining amount of the then applicable Revolving Committed Amount)) upon five Business Days' prior written notice to the Administrative Agent; provided, however, no such termination or reduction shall be made which would cause the aggregate principal amount of outstanding Revolving Loans plus the

aggregate principal amount of outstanding Competitive Loans plus the

aggregate principal amount of outstanding Swingline Loans plus LOC

Obligations outstanding to exceed the Revolving Committed Amount unless, concurrently with such termination or reduction, the Revolving Loans are repaid or payments are made to a cash collateral account as security for the LOC Obligations for the benefit of the Lenders, in each case in an amount sufficient to eliminate such excess. The Administrative Agent shall promptly notify each affected Lender of receipt by the Administrative Agent of any notice from the Borrowers pursuant to this Section 3.4(a).

(b) General. The Borrowers shall pay to the Administrative Agent for the account of the Lenders in accordance with the terms of Section 3.5(a), on the date of each termination or reduction of the Revolving Committed Amount, the Facility Fee accrued through the date of such termination or reduction on the amount of the Revolving Committed Amount so terminated or reduced.

3.5 Fees.

(a) Facility Fee. In consideration of the Revolving Committed Amount being made available by the Lenders hereunder, the Borrowers agree to pay to the Administrative Agent for the pro rata benefit of the Lenders (based on each Lender's Commitment Percentage of the Revolving Committed Amount) a fee (the "Facility Fee") on the last business day of each calendar quarter of the Principal Borrower following the Closing Date (as well as on the Maturity Date and on any date that the Revolving Committed Amount is reduced as provided in Section 3.4(a)) for the immediately preceding quarter (or portion thereof), beginning with the first of such dates to occur after the Closing Date. The Facility Fee shall be equal to (i) the Applicable Percentage as of the last day of the calendar quarter for which such fee is being calculated multiplied by (ii)(A) if the Facility Fee is being calculated as a result of the reduction of the Revolving Committed Amount, the Revolving Committed Amount as of the day immediately prior to the day on which such reduction occurs; (B) if the Facility Fee is being calculated for a calendar quarter in which no reduction in the Revolving Committed Amount has taken place, the Revolving Committed Amount as of the first day of such calendar quarter; or (C) if the Facility Fee is being calculated for a calendar quarter in which a Facility Fee has been paid as a result of a reduction in the Revolving Committed Amount, the Revolving Committed Amount as of the date of such reduction. The Facility Fee shall commence to accrue on the Closing Date and shall be due and payable in arrears.

(b) Letter of Credit Fees.

(i) Letter of Credit Fee. In consideration of the issuance of Letters of Credit hereunder, the Borrowers promise to pay to the Administrative Agent for the account of each Lender a fee (the "Letter of Credit Fee") on such Lender's Commitment Percentage of the average daily maximum amount available to be drawn under each such Letter of Credit computed for each day from the date of issuance to the date of expiration at a rate equal to the Applicable Percentage. The Letter of Credit Fee will be payable quarterly in arrears on the last Business Day of each March, June, September and December for the immediately preceding quarter (or a portion thereof) including the date of payment.

(ii) Issuing Lender Fees. In addition to the Letter of Credit Fee payable pursuant to clause (i) above, the Borrowers promise to pay to the Issuing Lender for its own account without sharing by

the other Lenders (A) a fee equal to one-fourth of one percent (.25%) per annum on the total sum of all Letters of Credit issued by the Issuing Lender and (B) customary charges from time to time of the Issuing Lender with respect to the issuance, amendment, transfer, administration, cancellation and conversion of, and drawings under, such Letters of Credit (collectively, the "Issuing Lender Fees").

3.6 Capital Adequacy.

If any Lender has determined, after the date hereof, that the adoption or the becoming effective of, or any change in, or any change by any Governmental Authority, central bank or comparable agency charged with the interpretation or administration thereof in the interpretation or administration of, any applicable law, rule or regulation regarding capital adequacy, or compliance by such Lender with any request or directive regarding capital adequacy (whether or not having the force of law) of any such authority, central bank or comparable agency, has or would have the effect of reducing the rate of return on such Lender's capital or assets as a consequence of its commitments or obligations hereunder to a level below that which such Lender could have achieved but for such adoption, effectiveness, change or compliance (taking into consideration such Lender's policies with respect to capital adequacy), then, upon notice from such Lender to the Principal Borrower and delivery by such Lender of a statement setting forth the reduction in the rate of return experienced by such Lender and the amount necessary to compensate the Lender under this Section 3.6, the Borrowers shall be obligated to pay to such Lender such additional amount or amounts as will compensate such Lender for such reduction. Each determination by any such Lender of amounts owing under this Section shall, absent manifest error, be conclusive and binding on the parties hereto.

3.7 Limitation on Eurodollar Loans.

If on or prior to the first day of any Interest Period for any Eurodollar Loan:

(a) the Administrative Agent determines (which determination shall be conclusive) that by reason of circumstances affecting the relevant market, adequate and reasonable means do not exist for ascertaining the Eurodollar Rate for such Interest Period; or

(b) the Required Lenders determine (which determination shall be conclusive) and notify the Administrative Agent that the Eurodollar Rate will not adequately and fairly reflect the cost to the Lenders of funding Eurodollar Loans for such Interest Period;

then the Administrative Agent shall give the Principal Borrower prompt notice thereof, and so long as such condition remains in effect, the Lenders shall be under no obligation to make additional Eurodollar Loans, continue Eurodollar Loans, or to convert Base Rate Loans into Eurodollar Loans and the Borrowers shall, on the last day(s) of the then current Interest Period(s) for the outstanding Eurodollar Loans, either prepay such Eurodollar Loans or convert such Eurodollar Loans into Base Rate Loans in accordance with the terms of this Credit Agreement.

3.8 Illegality.

Notwithstanding any other provision of this Credit Agreement, in the event that it becomes unlawful for any Lender to make, maintain, or fund Eurodollar Loans hereunder, then such Lender shall promptly notify the Principal Borrower thereof and such Lender's obligation to make or continue Eurodollar Loans and to convert Base Rate Loans into Eurodollar Loans shall be suspended until such time as such Lender may again make, maintain, and fund Eurodollar Loans (in which case the provisions of Section 3.10 shall be applicable).

3.9 Requirements of Law.

(a) If, after the date hereof, the adoption of any applicable law, rule, or regulation, or any change in any applicable law, rule, or regulation, or any change in the interpretation or administration thereof by any Governmental Authority, central bank, or comparable agency charged with the interpretation or administration thereof, or compliance by any Lender with any request or directive (whether or not having the force of law) of any such Governmental Authority, central bank, or comparable agency:

(i) shall subject such Lender to any tax, duty, or other charge with respect to any Eurodollar Loans, its Notes, or its obligation to make Eurodollar Loans, or change the basis of taxation of any amounts payable to such Lender under this Credit Agreement or its Notes in respect of any Eurodollar Loans (other than taxes imposed on the overall net income of such Lender by the jurisdiction in which such Lender has its principal office);

(ii) shall impose, modify, or deem applicable any reserve, special deposit, assessment, or similar requirement (other than the Eurodollar Reserve Requirement utilized in the determination of the Adjusted Eurodollar Rate) relating to any extensions of credit or other assets of, or any deposits with or other liabilities or commitments of, such Lender, including the Commitment of such Lender hereunder; or

(iii) shall impose on such Lender or on the United States market for certificates of deposit or the London interbank market any other condition affecting this Credit Agreement or its Notes or any of such extensions of credit or liabilities or commitments;

and the result of any of the foregoing is to increase the cost to such Lender of making, converting into, continuing, or maintaining any Eurodollar Loans or to reduce any sum received or receivable by such Lender under this Credit Agreement or its Notes with respect to any Eurodollar Loans, then the Borrowers shall pay to such Lender on demand such amount or amounts as will compensate such Lender for such increased cost or reduction. If any Lender requests compensation by the Borrowers under this Section 3.9(a), the Borrowers may, by notice to such Lender (with a copy to the Administrative Agent), suspend the obligation of such Lender to make or continue Eurodollar Loans, or to convert Base Rate Loans into Eurodollar Loans, until the event or condition giving rise to such request ceases to be in effect (in which case the provisions of Section 3.10 shall be applicable); provided that such suspension shall not affect the right of such Lender to receive the compensation so requested.

(b) Each Lender shall promptly notify the Principal Borrower and the Administrative Agent of any event of which it has knowledge, occurring after the date hereof, which will entitle such Lender to compensation pursuant to this Section 3.9 and will designate a different Applicable Lending Office if such designation will avoid the need for, or reduce the amount of, such compensation and will not, in the judgment of such Lender, be otherwise disadvantageous to it. Any Lender claiming compensation under this Section 3.9 shall furnish to the Principal Borrower and the Administrative Agent a statement setting forth the additional amount or amounts to be paid to it hereunder which shall, absent manifest error, be conclusive and binding on the parties hereto. In determining such amount, such Lender may use any reasonable averaging and attribution methods.

3.10 Treatment of Affected Loans.

If the obligation of any Lender to make any Eurodollar Loan or to continue, or to convert Base Rate Loans into, Eurodollar Loans shall be suspended pursuant to Section 3.8 or 3.9 hereof, such Lender's Eurodollar Loans shall be automatically converted into Base Rate Loans on the last day(s) of the then current Interest Period(s) for such Eurodollar Loans (or, in the case of a conversion required by Section 3.8 hereof, on such earlier date as such Lender may specify to the Principal Borrower with a copy to the Administrative Agent) and, unless and until such Lender gives notice as provided below that the circumstances specified in Section 3.8 or 3.9 hereof that gave rise to such conversion no longer exist:

(a) to the extent that such Lender's Eurodollar Loans have been so converted, all payments and prepayments of principal that would otherwise be applied to such Lender's Eurodollar Loans shall be applied instead to its Base Rate Loans; and

(b) all Loans that would otherwise be made or continued by such Lender as Eurodollar Loans shall be made or continued instead as Base Rate Loans, and all Base Rate Loans of such Lender that would otherwise be converted into Eurodollar Loans shall remain as Base Rate Loans.

If such Lender gives notice to the Principal Borrower (with a copy to the Administrative Agent) that the circumstances specified in Section 3.8 or 3.9 hereof that gave rise to the conversion of such Lender's Eurodollar Loans pursuant to this Section 3.10 no longer exist (which such Lender agrees to do promptly upon such circumstances ceasing to exist) at a time when Eurodollar Loans made by other Lenders are outstanding, such Lender's Base Rate Loans shall be automatically converted, on the first day(s) of the next succeeding Interest Period(s) for such outstanding Eurodollar Loans, to the extent necessary so that, after giving effect thereto, all Loans held by the Lenders holding Eurodollar Loans and by such Lender are held pro rata (as to principal amounts, interest rate basis, and Interest Periods) in accordance with their respective Commitments.

3.11 Taxes.

(a) Any and all payments by the Borrowers to or for the account of any Lender or the Administrative Agent hereunder or under any other Credit Document shall be made free and clear of and without deduction for any and all present or future taxes, duties, levies, imposts, deductions, charges or withholdings, and all liabilities with respect thereto, excluding, in the case of each Lender and the Administrative Agent, taxes imposed on its income, and franchise taxes imposed on it, by the jurisdiction under the laws of which such Lender (or its Applicable Lending Office) or the Administrative Agent (as the case may be) is organized or any political subdivision thereof (all such non-excluded taxes, duties, levies, imposts, deductions, charges, withholdings, and liabilities being hereinafter referred to as "Taxes"). If the Borrowers shall be required by law to deduct any Taxes from or in respect of any sum payable under this Credit Agreement or any other Credit Document to any Lender or the Administrative Agent, (i) the sum payable shall be increased as necessary so that after making all required deductions (including deductions applicable to additional sums payable under this Section 3.11) such Lender or the Administrative Agent receives an amount equal to the sum it would have received had no such deductions been made, (ii) the Borrowers shall make such deductions, (iii) the Borrowers shall pay the full amount deducted to the relevant taxation authority or other authority in accordance with applicable law, and (iv) the Borrowers shall furnish to the Administrative Agent, at its address referred to in Section 11.1, the original or a certified copy of a receipt evidencing payment thereof.

(b) In addition, the Borrowers agree to pay any and all present or future stamp or documentary taxes and any other excise or property taxes or charges or similar levies which arise from any payment made under this Credit Agreement or any other Credit Document or from the execution or delivery of, or otherwise with respect to, this Credit Agreement or any other Credit Document (hereinafter referred to as "Other Taxes").

(c) The Borrowers agree to indemnify each Lender and the Administrative Agent for the full amount of Taxes and Other Taxes (including, without limitation, any Taxes or Other Taxes imposed or asserted by any jurisdiction on amounts payable under this Section 3.11) paid by such Lender or the Administrative Agent (as the case may be) and any liability (including penalties, interest, and expenses) arising therefrom or with respect thereto.

(d) Each Lender organized under the laws of a jurisdiction outside the United States, on or prior to the date of its execution and delivery of this Credit Agreement in the case of each Lender listed on the signature pages hereof and on or prior to the date on which it becomes a Lender in the case of each other Lender, and from time to time thereafter if requested in writing by the Principal Borrower or the Administrative Agent (but only so long as such Lender remains lawfully able to do so), shall provide the Principal Borrower and the Administrative Agent with (i) Internal Revenue Service Form W-8ECI or W-8BEN, as appropriate, or any successor form prescribed by the Internal Revenue Service, certifying that such Lender is entitled to benefits under an income tax treaty to which the United States is a party which reduces the rate of withholding tax on payments of interest or certifying that the income receivable pursuant to this Credit Agreement is effectively connected with the conduct of a trade or business in the United States, (ii) Internal Revenue Service Form W-8 or W-9, as appropriate, or any successor form prescribed by the Internal Revenue Service, and (iii) any other form or certificate required by any taxing authority (including any certificate required by Sections 871(h) and 881(c) of the Internal Revenue Code), certifying that such Lender is entitled to an exemption from or a reduced rate of tax on payments pursuant to this Credit Agreement or any of the other Credit Documents.

(e) For any period with respect to which a Lender has failed to provide the Principal Borrower and the Administrative Agent with the appropriate form pursuant to Section 3.11(d) (unless such failure is due to a change in treaty, law, or regulation occurring subsequent to the date on which a form originally was required to be provided), such Lender shall not be entitled to indemnification under Section 3.11(a) or 3.11(b) with respect to Taxes imposed by the United States; provided, however, that should a Lender, which is otherwise exempt from or subject to a reduced rate of withholding tax, become subject to Taxes because of its failure to deliver a form required hereunder, the Borrowers shall take such steps as such Lender shall reasonably request to assist such Lender to recover such Taxes.

(f) If the Borrowers are required to pay additional amounts to or for the account of any Lender pursuant to this Section 3.11, then such Lender will agree to use reasonable efforts to change the jurisdiction of its applicable lending office so as to eliminate or reduce any such additional payment which may thereafter accrue if such change, in the judgment of such Lender, is not otherwise disadvantageous to such Lender.

(g) Within thirty (30) days after the date of any payment of Taxes, the Borrowers shall furnish to the Administrative Agent the original or a certified copy of a receipt evidencing such payment.

(h) Without prejudice to the survival of any other agreement of the Borrowers hereunder, the agreements and obligations of the Borrowers contained in this Section 3.11 shall survive the repayment of the Loans, LOC Obligations and other obligations under the Credit Documents and the termination of the Commitments hereunder.

3.12 Compensation.

Upon the request of the Administrative Agent, the Borrowers shall pay to the Administrative Agent, for the pro rata benefit of the Lenders, such amount or amounts as shall be sufficient (in the reasonable opinion of the Administrative Agent) to compensate the Lenders for any loss, cost, or expense (including loss of anticipated profits) incurred by the Lenders as a result of:

(a) any payment, prepayment, or conversion of a Eurodollar Loan for any reason (including, without limitation, the acceleration of the Loans pursuant to Section 9.2) on a date other than the last day of the Interest Period for such Loan; or

(b) any failure by the Borrowers for any reason (including, without limitation, the failure of any condition precedent specified in Section 5 to be satisfied) to borrow, convert, continue, or prepay a Eurodollar Loan on the date for such borrowing, conversion, continuation, or prepayment specified in the relevant notice of borrowing, prepayment, continuation, or conversion under this Credit Agreement.

With respect to Eurodollar Loans, such indemnification may include an amount equal to the excess, if any, of (a) the amount of interest which would have accrued on the amount so prepaid, or not so borrowed, converted or continued, for the period from the date of such prepayment or of such failure to borrow, convert or continue to the last day of the applicable Interest Period (or, in the case of a failure to borrow, convert or continue, the Interest Period that would have commenced on the date of such failure) in each case at the applicable rate of interest for such Eurodollar Loans provided for herein (excluding, however, the Applicable Percentage included therein, if any) over (b) the amount of interest (as reasonably determined by the Administrative Agent) which would have accrued to the Administrative Agent on such amount by placing such amount on deposit for a comparable period with leading banks in the interbank Eurodollar market. The covenants of the Borrowers set forth in this Section 3.12 shall survive the repayment of the Loans, LOC Obligations and other obligations under the Credit Documents and the termination of the Commitments hereunder.

3.13 Pro Rata Treatment.

Except to the extent otherwise provided herein:

(a) Loans. Each Loan, each payment or (subject to the terms of Section 3.3) prepayment of principal of any Loan or reimbursement obligations arising from drawings under Letters of Credit, each payment of interest on the Loans or reimbursement obligations arising from drawings under Letters of Credit, each payment of Fees, each payment of the Letter of Credit Fee, each reduction of the Revolving Committed Amount and each conversion or extension of any Loan, shall be allocated pro rata among the Lenders in accordance with the respective principal amounts of their outstanding Loans and Participation Interests. With respect to Competitive Loans, if the Borrowers fail to specify the particular Competitive Loan or Loans as to which any payment or other amount should be applied and it is not otherwise clear as to the particular Competitive Loan or Loans to which such payment or other amounts relate, or any such payment or other amount is to be applied to Competitive Loans without regard to any such direction by the Borrowers, then each payment or prepayment of principal on Competitive Loans and each payment of interest or other amount on or in respect of Competitive Loans, shall be allocated pro rata among the relevant Competitive Loan Lenders in accordance with the then outstanding amounts of their respective Competitive Loans.

(b) Advances. No Lender shall be responsible for the failure or delay by any other Lender in its obligation to make its ratable share of a borrowing hereunder; provided, however, that the failure of any Lender to obligations hereunder. Unless the Administrative Agent shall have been notified by any Lender prior to the date of any requested borrowing that such Lender does not intend to make available to the Administrative Agent its ratable share of such borrowing to be made on such date, the Administrative Agent may assume that such Lender has made such amount available to the Administrative Agent on the date of such borrowing, and the Administrative Agent in reliance upon such assumption, may (in its sole discretion but without any obligation to do so) make available to the Borrowers a corresponding amount. If such corresponding amount is not in fact made available to the Administrative Agent, the Administrative Agent shall be able to recover such corresponding amount from such Lender. If such Lender does not pay such corresponding amount forthwith upon the Administrative Agent's demand therefor, the Administrative Agent will promptly notify the Principal Borrower, and the Borrowers shall immediately pay such corresponding amount to the Administrative Agent. The Administrative Agent shall also be entitled to recover from the Lender or the Borrowers, as the case may be, interest on such corresponding amount in respect of each day from the date such corresponding amount was made available by the Administrative Agent to the Borrowers to the date such corresponding amount is recovered by the Administrative Agent at a per annum rate equal to (i) from the Borrowers at the applicable rate for the applicable borrowing pursuant to the Notice of Borrowing and (ii) from a Lender at the Federal Funds Rate.

3.14 Sharing of Payments.

The Lenders agree among themselves that, in the event that any Lender shall obtain payment in respect of any Loan, LOC Obligations or any other obligation owing to such Lender under this Credit Agreement through the exercise of a right of setoff, banker's lien or counterclaim, or pursuant to a secured claim under

Section 506 of Title 11 of the United States Code or other security or interest arising from, or in lieu of, such secured claim, received by such Lender under any applicable bankruptcy, insolvency or other similar law or otherwise, or by any other means, in excess of its pro rata share of such payment as provided for in this Credit Agreement, such Lender shall promptly purchase from the other Lenders a Participation Interest in such Loans, LOC Obligations and other obligations in such amounts, and make such other adjustments from time to time, as shall be equitable to the end that all Lenders share such payment in accordance with their respective ratable shares as provided for in this Credit Agreement. The Lenders further agree among themselves that if payment to a Lender obtained by such Lender through the exercise of a right of setoff, banker's lien, counterclaim or other event as aforesaid shall be rescinded or must otherwise be restored, each Lender which shall have shared the benefit of such payment shall, by repurchase of a Participation Interest theretofore sold, return its share of that benefit (together with its share of any accrued interest payable with respect thereto) to each Lender whose payment shall have been rescinded or otherwise restored. The Borrowers agree that any Lender so purchasing such a Participation Interest may, to the fullest extent permitted by law, exercise all rights of payment, including setoff, banker's lien or counterclaim, with respect to such Participation Interest as fully as if such Lender were a holder of such Loan, LOC Obligations or other obligation in the amount of such Participation Interest. Except as otherwise expressly provided in this Credit Agreement, if any Lender or the Administrative Agent shall fail to remit to the Administrative Agent or any other Lender an amount payable by such Lender or the Administrative Agent to the Administrative Agent or such other Lender pursuant to this Credit Agreement on the date when such amount is due,

such payments shall be made together with interest thereon for each date from the date such amount is due until the date such amount is paid to the Administrative Agent or such other Lender at a rate per annum equal to the Federal Funds Rate. If under any applicable bankruptcy, insolvency or other similar law, any Lender receives a secured claim in lieu of a setoff to which this Section 3.14 applies, such Lender shall, to the extent practicable, exercise its rights in respect of such secured claim in a manner consistent with the rights of the Lenders under this Section 3.14 to share in the benefits of any recovery on such secured claim.

3.15 Payments, Computations, Etc.

(a) Except as otherwise specifically provided herein, all payments hereunder shall be made to the Administrative Agent in Dollars in immediately available funds, without setoff, deduction, counterclaim or withholding of any kind, at the Administrative Agent's office specified in Schedule 2.1(a) not later than 12:00 Noon (Charlotte, North Carolina time) on the date when due. Payments received after such time shall be deemed to have been received on the next succeeding Business Day. The Administrative Agent may (but shall not be obligated to) debit the amount of any such payment which is not made by such time to any ordinary deposit account of any of the Borrowers maintained with the Administrative Agent (with notice to the Principal Borrower). The Borrowers (or any one of them) shall, at the time it makes any payment under this Credit Agreement, specify to the Administrative Agent the Loans, LOC Obligations, Fees, interest or other amounts payable by the Borrowers hereunder to which such payment is to be applied (and in the event that it fails so to specify, or if such application would be inconsistent with the terms hereof, the Administrative Agent shall distribute such payment to the Lenders in such manner as the Administrative Agent may determine to be appropriate in respect of obligations owing by the Borrowers hereunder, subject to the terms of Section 3.13(a)). The Administrative Agent will distribute such payments to such Lenders, if any such payment is received prior to 12:00 Noon (Charlotte, North Carolina time) on a Business Day in like funds as received prior to the end of such Business Day and otherwise the Administrative Agent will distribute such payment to such Lenders on the next succeeding Business Day. Whenever any payment hereunder shall be stated to be due on a day which is not a Business Day, the due date thereof shall be extended to the next succeeding Business Day (subject to accrual of interest and for the period of such extension), except that in the case of Eurodollar Loans, if the extension would cause the payment to be made in the next following calendar month, then such payment shall instead be made on the next preceding Business Day. Except as expressly provided otherwise herein, all computations of interest and fees shall be made on the basis of actual number of days elapsed over a year of 360 days, except with respect to computation of interest on Base Rate Loans which (unless the Base Rate is determined by reference to the Federal Funds Rate) shall be calculated based on a year of 365 or 366 days, as appropriate. Interest shall accrue from and include the date of borrowing, but exclude the date of payment. If the Administrative Agent fails to distribute such payment to such Lenders on the day required by the foregoing sentence, the Administrative Agent shall pay to such Lenders interest on the undistributed amount from and including the day such amount was required to be distributed to but excluding the date such amount is distributed at a per annum rate equal to the Federal Funds Rate.

(b) Allocation of Payments After Event of Default. Notwithstanding any other provisions of this Credit Agreement to the contrary, after the occurrence and during the continuance of an Event of Default, all amounts collected or received by the Administrative Agent or any Lender on account of the Credit Party Obligations or any other amounts outstanding under any of the Credit Documents shall be paid over or delivered as follows:

FIRST, to the payment of all reasonable out-of-pocket costs and expenses (including without limitation reasonable attorneys' fees actually incurred) of the Administrative Agent in connection with enforcing the rights of the Lenders under the Credit Documents;

SECOND, to payment of any fees owed to the Administrative Agent;

THIRD, to the payment of all reasonable out-of-pocket costs and expenses (including without limitation, reasonable attorneys' fees actually incurred) of each of the Lenders in connection with enforcing its rights under the Credit Documents or otherwise with respect to the Credit Party Obligations owing to such Lender;

FOURTH, to the payment of all of the Credit Party Obligations consisting of accrued fees and interest;

FIFTH, to the payment of the outstanding principal amount of the Credit Party Obligations (including the payment or cash collateralization of the outstanding LOC Obligations);

SIXTH, to all other Credit Party Obligations and other obligations which shall have become due and payable under the Credit Documents or otherwise and not repaid pursuant to clauses "FIRST" through "FIFTH" above; and

SEVENTH, to the payment of the surplus, if any, to whoever may be lawfully entitled to receive such surplus.

In carrying out the foregoing, (i) amounts received shall be applied in the numerical order provided until exhausted prior to application to the next succeeding category; (ii) each of the Lenders shall receive an amount equal to its pro rata share (based on the proportion that the then outstanding Loans and LOC Obligations held by such Lender bears to the aggregate then outstanding Loans and LOC Obligations) of amounts available to be applied pursuant to clauses "THIRD", "FOURTH", "FIFTH" and "SIXTH" above; and (iii) to the extent that any amounts available for distribution pursuant to clause "FIFTH" above are attributable to the issued but undrawn amount of outstanding Letters of Credit, such amounts shall be held by the Administrative Agent in a cash collateral account and applied (A) first, to reimburse the Issuing Lender from time to time for any drawings under such Letters of Credit and (B) then, following the expiration of all Letters of Credit, to all other obligations of the types described in clauses "FIFTH" and "SIXTH" above in the manner provided in this Section 3.15(b).

3.16 Evidence of Debt.

Each Lender shall maintain an account or accounts evidencing each Loan made by such Lender to the Borrowers from time to time, including the amounts of principal and interest payable and paid to such Lender from time to time under this Credit Agreement. Each Lender will make reasonable efforts to maintain the accuracy of its account or accounts and to promptly update its account or accounts from time to time, as necessary.

SECTION 4

GUARANTY

4.1 The Guarantee.

Each of the Guarantors hereby jointly and severally guarantees to each Lender, each Affiliate of a Lender that enters into a Hedging Agreement, and the Administrative Agent, as hereinafter provided, the prompt payment of the Credit Party Obligations in full when due (whether at stated maturity, as a mandatory prepayment, by acceleration or otherwise) strictly in accordance with the terms thereof. The Guarantors hereby further agree that if any of the Credit Party Obligations are not paid in full when due (whether at stated maturity, as a mandatory prepayment, by acceleration or otherwise), the Guarantors will, jointly and severally, promptly pay the same, without any demand or notice whatsoever, and that in the case of any extension of time of payment or renewal of any of the Credit Party Obligations, the same will be promptly paid in full when due (whether at extended maturity, as a mandatory prepayment, by acceleration or otherwise) in accordance with the terms of such extension or renewal.

Notwithstanding any provision to the contrary contained herein or in any other of the Credit Documents or Hedging Agreements, the obligations of each Guarantor hereunder shall be limited to an aggregate amount equal to the largest amount that would not render its obligations hereunder subject to avoidance under Section 548 of the Bankruptcy Code or any comparable provisions of any applicable state law.

4.2 Obligations Unconditional.

The obligations of the Guarantors under Section 4.1 are joint and several, absolute and unconditional, irrespective of the value, genuineness, validity, regularity or enforceability of any of the Credit Documents or Hedging Agreements, or any other agreement or instrument referred to therein, or any substitution, release, impairment or exchange of any other guarantee of or security for any of the Credit Party Obligations, and, to the fullest extent permitted by applicable law, irrespective of any other circumstance whatsoever which might otherwise constitute a legal or equitable discharge or defense of a surety or guarantor, it being the intent of this Section 4.2 that the obligations of the Guarantors hereunder shall be absolute and unconditional under any and all circumstances. Each Guarantor agrees that such Guarantor shall have no right of subrogation, indemnity, reimbursement or contribution against any of the Borrowers or any other Guarantor of the Credit Party Obligations for amounts paid under this Section 4 until such time as the Lenders (and any Affiliates of Lenders entering into Hedging Agreements) have been paid in full, all Commitments under this Credit Agreement have been terminated and no Person or Governmental Authority shall have any right to request any return or reimbursement of funds from the Lenders in connection with monies received under the Credit Documents or Hedging Agreements. Without limiting the generality of the foregoing, it is agreed that, to the fullest extent permitted by law, the occurrence of any one or more of the following shall not alter or impair the liability of any Guarantor hereunder which shall remain absolute and unconditional as described above:

(a) at any time or from time to time, without notice to any Guarantor, the time for any performance of or compliance with any of the Credit Party Obligations shall be extended, or such performance or compliance shall be waived;

(b) any of the acts mentioned in any of the provisions of any of the Credit Documents, any Hedging Agreement or any other agreement or instrument referred to in the Credit Documents or Hedging Agreements shall be done or omitted;

(c) the maturity of any of the Credit Party Obligations shall be accelerated, or any of the Credit Party Obligations shall be modified, supplemented or amended in any respect, or any right under any of the Credit Documents, any Hedging Agreement or any other agreement or instrument referred to in the Credit Documents or Hedging Agreements shall be waived or any other guarantee of any of the Credit Party Obligations or any security therefor shall be released, impaired or exchanged in whole or in part or otherwise dealt with;

(d) any Lien granted to, or in favor of, the Administrative Agent or any Lender or Lenders as security for any of the Credit Party Obligations shall fail to attach or be perfected; or

(e) any of the Credit Party Obligations shall be determined to be void or voidable (including, without limitation, for the benefit of any creditor of any Guarantor) or shall be subordinated to the claims of any Person (including, without limitation, any creditor of any Guarantor).

With respect to its obligations hereunder, each Guarantor hereby expressly waives diligence, presentment, demand of payment, protest and all notices whatsoever, and any requirement that the Administrative Agent or any Lender exhaust any right, power or remedy or proceed against any Person under any of the Credit Documents, any Hedging Agreement or any other agreement or instrument referred to in the Credit Documents or Hedging Agreements, or against any other Person under any other guarantee of, or security for, any of the Credit Party Obligations.

4.3 Reinstatement.

The obligations of the Guarantors under this Section 4 shall be automatically reinstated if and to the extent that for any reason any payment by or on behalf of any Person in respect of the Credit Party Obligations is rescinded or must be otherwise restored by any holder of any of the Credit Party Obligations, whether as a result of any proceedings in bankruptcy or reorganization or otherwise, and each Guarantor agrees that it will indemnify the Administrative Agent and each Lender on demand for all reasonable costs and expenses (including, without limitation, fees and expenses of counsel) incurred by the Administrative Agent or such Lender in connection with such rescission or restoration, including any such costs and expenses incurred in defending against any claim alleging that such payment constituted a preference, fraudulent transfer or similar payment under any bankruptcy, insolvency or similar law.

4.4 Certain Additional Waivers.

Without limiting the generality of the provisions of this Section 4, each Guarantor hereby specifically waives the benefits of N.C. Gen. Stat. (S) 26-7 through 26-9, inclusive, to the extent applicable. Each Guarantor further agrees that such Guarantor shall have no right of recourse to security for the Credit Party Obligations, except through the exercise of the rights of subrogation pursuant to Section 4.2 and through the exercise of rights of contribution pursuant to Section 4.6.

4.5 Remedies.

The Guarantors agree that, to the fullest extent permitted by law, as between the Guarantors, on the one hand, and the Administrative Agent and the Lenders, on the other hand, the Credit Party Obligations may be declared to be forthwith due and payable as provided in Section 9.2 (and shall be deemed to have become automatically due and payable in the circumstances provided in said Section 9.2) for purposes of Section 4.1 notwithstanding any stay, injunction or other prohibition preventing such declaration (or preventing the Credit Party Obligations from becoming automatically due and payable) as against any other Person and that, in the event of such declaration (or the Credit Party Obligations being deemed to have become automatically due and payable), the Credit Party Obligations (whether or not due and payable by any other Person) shall forthwith become due and payable by the Guarantors for purposes of Section 4.1.

4.6 Rights of Contribution.

The Guarantors and the Borrowers hereby agree as among themselves that, if any Guarantor shall make an Excess Payment (as defined below), such Guarantor shall have a right of contribution from each other Guarantor and each other Borrower in an amount equal to such other Guarantor's Contribution Share (as defined below) of such Excess Payment. The payment obligations of any Guarantor under this Section 4.6 shall be subordinate and subject in right of payment to the prior payment in full to the Administrative Agent and the Lenders of the Guaranteed Obligations, and none of the Guarantors shall exercise any right or remedy under this Section 4.6 against any other Guarantor or any Borrower until payment and satisfaction in full of all of any Guaranteed Obligations. For purposes of this Section 4.6, (a) "Guaranteed Obligations" shall mean any obligations arising under the other provisions of this Section 4; (b) "Excess Payment" shall mean the amount paid by any Guarantor in excess of its Pro Rata Share of such Guaranteed Obligations; (c) "Pro Rata Share" shall mean, for any Guarantor in respect of any payment of Guaranteed Obligations, the ratio (expressed as a percentage) as of the date of such payment of Guaranteed Obligations of (i) the amount by which the aggregate present fair salable value of all of its assets and properties exceeds the amount of all debts and liabilities of such Guarantor (including contingent, subordinated, unmatured, and unliquidated liabilities, but excluding the obligations of such Guarantor hereunder) to (ii) the amount by which the aggregate present fair salable value of all assets and other properties of the Borrowers and all of the Guarantors exceeds the amount of all of the debts and liabilities (including contingent, subordinated, unmatured, and unliquidated liabilities, but excluding the obligations of the Borrowers and the Guarantors hereunder) of the Borrowers and all of the Guarantors; provided, however, that, for purposes of calculating the Pro Rata Shares of the Guarantors in respect of any payment of Guaranteed Obligations, any Guarantor that became a Guarantor subsequent to the date of any such payment shall be deemed to have been a Guarantor on the date of such payment and the financial information for such Guarantor as of the date such Guarantor became a Guarantor shall be utilized for such Guarantor in connection with such payment; and (d) "Contribution Share" shall mean, for any Guarantor in respect of any Excess Payment made by any other Guarantor, the ratio (expressed as a percentage) as of the date of such Excess Payment of (i) the amount by which the aggregate present fair salable value of all of its assets and properties exceeds the amount of all debts and liabilities of such Guarantor (including contingent, subordinated, unmatured, and unliquidated liabilities, but excluding the obligations of such Guarantor hereunder) to (ii) the amount by which the aggregate present fair salable value of all assets and other properties of the Borrowers and all of the Guarantors other than the maker of such Excess Payment exceeds the amount of all of the debts and liabilities (including contingent, subordinated, unmatured, and unliquidated liabilities, but excluding the obligations of the Borrowers and the Guarantors hereunder) of the Borrowers and all of the Guarantors other than the maker of such Excess Payment; provided, however, that, for purposes of calculating the Contribution Shares of the Guarantors in respect of any Excess Payment, any Guarantor that became a Guarantor subsequent to the date of any such Excess Payment shall be deemed to have been a Guarantor on the date of such Excess Payment and the financial information for such Guarantor as of the date such Guarantor became a Guarantor shall be utilized for such

Guarantor in connection with such Excess Payment. This Section 4.6 shall not be deemed to affect any right of subrogation, indemnity, reimbursement or contribution that any Guarantor may have under applicable law against any of the Borrowers in respect of any payment of Guaranteed Obligations. Notwithstanding the foregoing, all rights of contribution against any Guarantor shall terminate from and after such time, if ever, that such Guarantor shall be relieved of its obligations pursuant to Section 8.4.

4.7 Continuing Guarantee.

The guarantee in this Section 4 is a continuing guarantee, and shall apply to all Credit Party Obligations whenever arising.

SECTION 5

CONDITIONS

5.1 Closing Conditions.

The obligation of the Lenders to enter into this Credit Agreement and to make the initial Loans or the Issuing Lender to issue the initial Letter of Credit, whichever shall occur first, shall be subject to satisfaction of the following conditions (in form and substance acceptable to the Lenders):

- (a) Executed Credit Documents. Receipt by the Administrative Agent of duly executed copies of: (i) this Credit Agreement; (ii) the Notes; and (iii) all other Credit Documents, each in form and substance acceptable to the Lenders in their sole discretion.
- (b) Corporate Documents. Receipt by the Administrative Agent of the following:
 - (i) Charter Documents. Copies of the articles or certificates of incorporation or other charter documents of each Credit Party certified to be true and complete as of a recent date by the appropriate Governmental Authority of the state or other jurisdiction of its incorporation and certified by a secretary or assistant secretary of such Credit Party to be true and correct as of the Closing Date.
 - (ii) Bylaws. A copy of the bylaws of each Credit Party certified by a secretary or assistant secretary of such Credit Party to be true and correct as of the Closing Date.
 - (iii) Resolutions. Copies of resolutions of the Board of Directors of each Credit Party approving and adopting the Credit Documents to which it is a party, the transactions contemplated therein and authorizing execution and delivery thereof, certified by a secretary or assistant secretary of such Credit Party to be true and correct and in force and effect as of the Closing Date.
 - (iv) Good Standing. Copies of certificates of good standing, existence or its equivalent with respect to each Credit Party certified as of a recent date by the appropriate Governmental Authorities of the state or other jurisdiction of incorporation and each other jurisdiction in which the failure to so qualify and be in good standing could reasonably be expected to have a Material Adverse Effect.
 - (v) Incumbency. An incumbency certificate of each Credit Party certified by a secretary or assistant secretary to be true and correct as of the Closing Date.
- (c) Financial Statements. Receipt by the Administrative Agent and the Lenders of (i) the unaudited consolidated financial statements of the Consolidated Parties, including balance sheets and income and cash flow statements for the fiscal quarter ended September 30, 2000 and (ii) such other information relating to the Consolidated Parties as the Administrative Agent may reasonably require in connection with the structuring and syndication of credit facilities of the type described herein.

(d) Opinions of Counsel. The Administrative Agent shall have received an opinion, or opinions (which shall cover among other things, authority, legality, validity, binding effect and enforceability) reasonably satisfactory to the Administrative Agent addressed to the Administrative Agent and the Lenders, dated as of the Closing Date, from legal counsel to the Credit Parties.

(e) Material Adverse Effect. No material adverse change shall have occurred since September 30, 2000 in the condition (financial or otherwise), business, assets, operations, management or prospects of the Consolidated Parties taken as a whole.

(f) Litigation. There shall not exist any pending or threatened action, suit, investigation or proceeding against a Consolidated Party that could reasonably be expected to have a Material Adverse Effect.

(g) Officer's Certificates. The Administrative Agent shall have received a certificate or certificates executed by an authorized officer of the Principal Borrower as of the Closing Date stating that (A) each Consolidated Party is in compliance with all existing financial obligations, (B) all governmental, shareholder and third party consents and approvals necessary for the Credit Parties to enter into the Credit Documents and fully perform thereunder, if any, have been obtained, (C) no action, suit, investigation or proceeding is pending or threatened in any court or before any arbitrator or governmental instrumentality that purports to affect any Consolidated Party or any transaction contemplated by the Credit Documents, if such action, suit, investigation or proceeding could reasonably be expected to have a Material Adverse Effect, and (D) immediately after giving effect to this Credit Agreement, the other Credit Documents and all the transactions contemplated therein to occur on such date, (1) each of the Credit Parties is Solvent, (2) no Default or Event of Default exists, (3) all representations and warranties contained herein and in the other Credit Documents are true and correct in all material respects, and (4) the Credit Parties are in compliance with each of the financial covenants set forth in Section 7.11.

(h) Fees and Expenses. Payment by the Credit Parties of all fees and expenses owed by them to the Lenders and the Administrative Agent.

(i) Payment of 1998 Credit Facility. Receipt by the Administrative Agent of evidence that the 1998 Credit Facility shall be terminated as of the Closing Date and all obligations under the 1998 Credit Facility have been paid in full.

(j) Insurance Certificates. Receipt by the Administrative Agent of an insurance certificate evidencing the insurance in effect with respect to the Properties as of the Closing Date.

(k) Other. Receipt by the Lenders of such other documents, instruments, agreements or information as reasonably requested by any Lender, including, but not limited to, information regarding litigation, tax, accounting, labor, insurance, pension liabilities (actual or contingent), real estate leases, material contracts, debt agreements, property ownership and contingent liabilities of the Consolidated Parties.

5.2 Conditions to all Extensions of Credit.

The obligations of each Lender to make, convert or extend any Loan and of the Issuing Lender to issue or extend any Letter of Credit (including the initial Loans and the initial Letter of Credit) are subject to satisfaction of the following conditions in addition to satisfaction on the Closing Date of the conditions set forth in Section 5.1:

(a) The Borrowers shall have delivered (i) in the case of any Revolving Loan, an appropriate Notice of Borrowing or Notice of Extension/Conversion or (ii) in the case of any Letter of Credit, the Issuing Lender shall have received an appropriate request for issuance in accordance with the provisions of Section 2.3(b);

(b) The representations and warranties set forth in Section 6 shall be, subject to the limitations set forth therein, true and correct in all material respects as of such date (except for those which expressly relate to an earlier date);

(c) There shall not have been commenced against any Credit Party an involuntary case under any applicable bankruptcy, insolvency or other similar law now or hereafter in effect, or any case, proceeding or other

action for the appointment of a receiver, liquidator, assignee, custodian, trustee, sequestrator (or similar official) of such Person or for any substantial part of its property or for the winding up or liquidation of its affairs, and such involuntary case or other case, proceeding or other action shall remain undismissed, undischarged or unbonded;

(d) No Default or Event of Default shall exist and be continuing either prior to or after giving effect thereto;

(e) Concurrent with the delivery of the appropriate notice required pursuant to Section 5.2(a) above, the Principal Borrower shall have delivered a certificate of the chief financial officer of the Principal Borrower substantially in the form of Exhibit 7.1(c), (i) demonstrating compliance with the financial covenants contained in Section 7.11(a) and Section 7.11(b) by calculation thereof after giving effect to the making of the requested Loan (and the application of the proceeds thereof) or to the issuance of the requested Letter of Credit, as the case may be, and (ii) stating that no Default or Event of Default exists, or if any Default or Event of Default does exist, specifying the nature and extent thereof and what action the Credit Parties propose to take with respect thereto.

(f) No development or event which has had or could reasonably be expected to have a Material Adverse Effect shall have occurred since September 30, 2000; and

(g) Immediately after giving effect to the making of such Loan (and the application of the proceeds thereof) or to the issuance of such Letter of Credit, as the case may be, (i) the sum of the aggregate principal amount of outstanding Revolving Loans plus the aggregate principal amount of outstanding

Competitive Loans plus the aggregate principal amount of outstanding Swingline

Loans plus LOC Obligations outstanding shall not exceed the Revolving Committed

Amount, and (ii) the LOC Obligations shall not exceed the LOC Committed Amount.

The delivery of each Notice of Borrowing, each Notice of Extension/Conversion and each request for a Letter of Credit pursuant to Section 2.3 (b) shall constitute a representation and warranty by the Borrowers of the correctness of the matters specified in subsections (b), (c), (d), (f) and (g) above.

SECTION 6

REPRESENTATIONS AND WARRANTIES

The Credit Parties hereby represent to the Administrative Agent and each Lender that:

6.1 Financial Condition.

The financial statements delivered to the Lenders pursuant to Section 5.1(c) and Section 7.1(a) and (b): (a) have been prepared in accordance with GAAP and (b) present fairly the consolidated financial condition, results of operations and cash flows of the Consolidated Parties as of such date and for such periods. Since September 30, 2000, there has been no sale, transfer or other disposition by any Consolidated Party of any material part of the business or property of any Consolidated Party and no purchase or other acquisition by any of them of any business or property (including any capital stock of any other Person) material in relation to the financial condition of any Consolidated Party in each case, which, is not (i) reflected in the most recent financial statements delivered to the Lenders pursuant to Section 7.1 or in the notes thereto or (ii) otherwise communicated to the Administrative Agent.

6.2 No Change; Dividends.

Since September 30, 2000, (a) there has been no development or event relating to or affecting a Consolidated Party which has had or could reasonably be expected to have a Material Adverse Effect and (b) except as otherwise permitted under this Credit Agreement, no dividends or other distributions have been declared, paid or made upon the Capital Stock in a Consolidated Party nor has any of the Capital Stock in a Consolidated Party been redeemed, retired, purchased or otherwise acquired for value by such Person other than in connection with the redemption of the Capital Stock of Highwoods Realty pursuant to the terms of the Highwoods Realty Limited Partnership Agreement.

6.3 Organization; Existence; Compliance with Law.

Each of the Consolidated Parties (a) is duly organized, validly existing and is in good standing under the laws of the jurisdiction of its incorporation or organization, (b) has the corporate or other necessary power and authority, and the legal right, to own and operate its property, to lease the property it operates as lessee and to conduct the business in which it is currently engaged, and (c) is duly qualified as a foreign entity and in good standing under the laws of each jurisdiction where its ownership, lease or operation of property or the conduct of its business requires such qualification, other than in such jurisdictions where the failure to be so qualified and in good standing could not reasonably be expected to have a Material Adverse Effect.

6.4 Power; Authorization; Enforceable Obligations.

Each of the Credit Parties has the corporate or other necessary power and authority, and the legal right, to make, deliver and perform the Credit Documents to which it is a party, and in the case of the Borrowers, to obtain extensions of credit hereunder, and has taken all necessary corporate action to authorize the borrowings and other extensions of credit on the terms and conditions of this Credit Agreement and to authorize the execution, delivery and performance of the Credit Documents to which it is a party. No consent or authorization of, filing with, notice to or other similar act by or in respect of, any Governmental Authority or any other Person is required to be obtained or made by or on behalf of any Credit Party in connection with the borrowings or other extensions of credit hereunder or with the execution, delivery, performance, validity or enforceability of the Credit Documents to which such Credit Party is a party other than those which have been obtained or made. This Credit Agreement has been, and each other Credit Document to which any Credit Party is a party will be, duly executed and delivered on behalf of the Credit Parties. This Credit Agreement constitutes, and each other Credit Document to which any Credit Party is a party when executed and delivered will constitute, a legal, valid and binding obligation of such Credit Party enforceable against such party in accordance with its terms, except as enforceability may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting the enforcement of creditors' rights generally and by general equitable principles (whether enforcement is sought by proceedings in equity or at law).

6.5 No Conflicts.

Neither the execution and delivery of the Credit Documents, nor the consummation of the transactions contemplated therein, nor the performance of and compliance with the terms and provisions thereof by such Credit Party will (a) violate or conflict with any provision of its articles or certificate of incorporation or bylaws or other organizational or governing documents of such Person, (b) violate, contravene or materially conflict with any Requirement of Law or any other law, regulation (including, without limitation, Regulation U or Regulation X), order, writ, judgment, injunction, decree or permit applicable to it, (c) violate, contravene or conflict with contractual provisions of, or cause an event of default under, any indenture, loan agreement, mortgage, deed of trust, contract or other agreement or instrument to which it is a party or by which it may be bound, the violation of which could reasonably be expected to have a Material Adverse Effect, or (d) result in or require the creation of any Lien (other than those contemplated in or created in connection with the Credit Documents) upon or with respect to its properties.

6.6 No Default.

No Consolidated Party is in default in any respect under any contract, lease, loan agreement, indenture, mortgage, security agreement or other agreement or obligation to which it is a party or by which any of its properties is bound which default could reasonably be expected to have a Material Adverse Effect. No Default or Event of Default has occurred or exists except as previously disclosed in writing to the Lenders.

6.7 Ownership.

Each Consolidated Party is the owner of, and has good and marketable title to, all of its respective assets and none of such assets is subject to any Lien other than Liens permitted hereunder.

6.8 Indebtedness.

Except as otherwise permitted under Section 8.1, the Consolidated Parties have no Indebtedness.

6.9 Litigation.

There are no actions, suits or legal, equitable, arbitration or administrative proceedings, pending or, to the knowledge of any Credit Party, threatened against any Consolidated Party which could reasonably be expected to have a Material Adverse Effect.

6.10 Taxes.

Each Consolidated Party has filed, or caused to be filed, all tax returns (federal, state, local and foreign) required to be filed and paid (a) all amounts of taxes shown thereon to be due (including interest and penalties) and (b) all other taxes, fees, assessments and other governmental charges (including mortgage recording taxes, documentary stamp taxes and intangibles taxes) owing by it, except for such taxes (i) which are not yet delinquent, (ii) the nonpayment of which is not reasonably likely to result in a Material Adverse Effect (provided that failure to pay income or ad valorem real estate taxes shall be deemed, for purposes of this Section 6.10, to be likely to have a Material Adverse Effect) or (iii) that are being contested in good faith and by proper proceedings, and against which adequate reserves are being maintained in accordance with GAAP. No Credit Party is aware as of the Closing Date of any proposed tax assessments against it or any other Consolidated Party.

6.11 Compliance with Laws.

Each Consolidated Party is in compliance with all Requirements of Law and all other laws, rules, regulations, orders and decrees applicable to it, or to its properties, unless such failure to comply could not reasonably be expected to have a Material Adverse Effect and each Consolidated Party is current with all material reports and documents, if any, required to be filed with any state or federal securities commission or similar agency and is in full compliance in all material respects with all applicable rules and regulations of such commissions.

6.12 ERISA.

(a) Except as set forth in Schedule 6.12, during the five-year period prior to the date on which this representation is made or deemed made: (i) no ERISA Event has occurred, and, to the best knowledge of the Credit Parties, no event or condition has occurred or exists as a result of which any ERISA Event could reasonably be expected to occur, with respect to any Plan; (ii) no "accumulated funding deficiency," as such term is defined in Section 302 of ERISA and Section 412 of the Code, whether or not waived, has occurred with respect to any Plan which could individually or in the aggregate have a Material Adverse Effect; (iii) each Plan has been maintained, operated, and funded in material compliance with its own terms and in material compliance with the provisions of ERISA, the Code, and any other applicable federal or state laws; and (iv) no lien in favor of the PBGC or a Plan has arisen or is reasonably likely to arise on account of any Plan.

(b) The actuarial present value of all "benefit liabilities" (as defined in Section 4001(a)(16) of ERISA), whether or not vested, under each Single Employer Plan, as of the last annual valuation date prior to the date on which this representation is made or deemed made (determined, in each case, in accordance with Financial Accounting Standards Board Statement 87, utilizing the actuarial assumptions used in such Plan's most recent actuarial valuation report), did not exceed as of such valuation date the fair market value of the assets of such Plan.

(c) Except as set forth in Schedule 6.12, neither any Consolidated Party nor any ERISA Affiliate would become subject to any withdrawal liability under ERISA (which would have a Material Adverse Effect) if any Consolidated Party or any ERISA Affiliate were to withdraw completely from all Multiemployer Plans and Multiple Employer Plans as of the valuation date most closely preceding the date on which this representation is made or deemed made. Neither any Consolidated Party nor any ERISA Affiliate has received any notification that any Multiemployer Plan is in reorganization (within the meaning of Section 4241 of ERISA), is insolvent (within the meaning of Section 4245 of ERISA), or has been terminated (within the meaning of Title IV of ERISA), and no Multiemployer Plan is, to the best knowledge of the Credit Parties, reasonably expected to be in reorganization, insolvent, or terminated.

(d) No prohibited transaction (within the meaning of Section 406 of ERISA or Section 4975 of the Code) or breach of fiduciary responsibility has occurred with respect to a Plan which has subjected or may subject any Consolidated Party or any ERISA Affiliate to any liability under Sections 406, 409, 502(i), or 502(l) of ERISA or Section 4975 of the Code, or under any agreement or other instrument pursuant to which any Consolidated Party or any ERISA Affiliate has agreed or is required to indemnify any person against any such liability, which could individually or in the aggregate have a Material Adverse Effect.

(e) Except as set forth in Schedule 6.12, neither any Consolidated Party nor any ERISA Affiliates has any material liability with respect to "expected post-retirement benefit obligations" within the meaning of the Financial Accounting Standards Board Statement 106. Each Plan which is a welfare plan (as defined in Section 3(1) of ERISA) to which Sections 601- 609 of ERISA and Section 4980B of the Code apply has been administered in compliance in all material respects of such sections.

6.13 Subsidiaries.

Set forth on Schedule 6.13 is a complete and accurate list of all Subsidiaries of each Consolidated Party. Information on Schedule 6.13 includes

(a) jurisdiction of incorporation or organization and (b) with respect to any Subsidiary that is not a Wholly Owned Subsidiary, the number of shares of each class of Capital Stock outstanding, the number and percentage of outstanding shares of each class owned (directly or indirectly) by such Subsidiary, and the number and effect, if exercised, of all outstanding options, warrants, rights of conversion or purchase and all other similar rights with respect thereto. The outstanding Capital Stock of all such Subsidiaries is validly issued, fully paid and non-assessable and is owned by each such Consolidated Party, directly or indirectly, free and clear of all Liens (other than those arising under or contemplated in connection with the Credit Documents). Other than as set forth in Schedule 6.13, no Subsidiary that is not a Wholly Owned Subsidiary has outstanding any securities convertible into or exchangeable for its Capital Stock nor does any such Person have outstanding any rights to subscribe for or to purchase or any options for the purchase of, or any agreements providing for the issuance (contingent or otherwise) of, or any calls, commitments or claims of any character relating to its Capital Stock. Schedule 6.13 may be updated from time to time by the Borrowers by giving written notice thereof to the Administrative Agent.

6.14 Governmental Regulations, Etc.

(a) No part of the Letters of Credit or proceeds of the Loans will be used, directly or indirectly, for the purpose of purchasing or carrying any "margin stock" within the meaning of Regulation U, or for the purpose of purchasing or carrying or trading in any securities. If requested by any Lender or the Administrative Agent, the Borrowers will furnish to the Administrative Agent and each Lender a statement to the foregoing effect in conformity with the requirements of FR Form U-1 referred to in Regulation

U. No indebtedness being reduced or retired out of the proceeds of the Loans was or will be incurred for the purpose of purchasing or carrying any margin stock within the meaning of Regulation U or any "margin security" within the meaning of Regulation T. "Margin stock" within the meaning of Regulation U does not constitute more than 25% of the value of the consolidated assets of the Consolidated Parties. None of the transactions contemplated by this Credit Agreement (including, without limitation, the direct or indirect use of the proceeds of the Loans) will violate or result in a violation of the Securities Act of 1933, as amended, or the Securities Exchange Act of 1934, as amended, or regulations issued pursuant thereto, or Regulation T, U or X.

(b) No Consolidated Party is subject to regulation under the Public Utility Holding Company Act of 1935, the Federal Power Act or the Investment Company Act of 1940, each as amended. In addition, no Consolidated Party is (i) an "investment company" registered or required to be registered under the Investment Company Act of 1940, as amended, and is not controlled by such a company, or (ii) a "holding company", or a "subsidiary company" of a "holding company", or an "affiliate" of a "holding company" or of a "subsidiary" of a "holding company", within the meaning of the Public Utility Holding Company Act of 1935, as amended.

(c) Except as disclosed to the Administrative Agent in writing, no director, executive officer or principal shareholder of any Consolidated Party is an "insider" as such term is defined in Regulation O such that any Lender would be in violation of Regulation O with respect to any Loan hereunder.

(d) Each Consolidated Party has obtained and holds in full force and effect, all franchises, licenses, permits, certificates, authorizations, qualifications, accreditations, easements, rights of way and other rights, consents and approvals which are necessary for the ownership of its respective property and to the conduct of its respective businesses as presently conducted, other than those which the failure to obtain and hold is not reasonably likely to result in a Material Adverse Effect.

6.15 Purpose of Loans and Letters of Credit.

The proceeds of the Loans hereunder shall be used solely by the Borrowers

(a) to repay amounts owing under the 1998 Credit Facility, (b) to finance the acquisition of (i) for lease office and industrial properties, (ii) subject to

Section 7.11(j), properties other than for lease office and industrial properties, (iii) Persons whose primary business is the ownership, leasing and management of for lease office and industrial properties and (iv) subject to

Section 7.11(j), Persons whose primary business is the ownership, leasing and management of properties other than for lease office and industrial properties,

(c) to finance the development of (i) new office and industrial properties and

(ii) subject to Section 7.11(j), to finance the development of properties other than for lease office and industrial properties, and (d) for working capital and other general corporate purposes. The Letters of Credit shall be used only for or in connection with appeal bonds, reimbursement obligations arising in connection with surety and reclamation bonds, reinsurance, domestic or international trade transactions and obligations not otherwise aforementioned relating to transactions entered into by the applicable account party in the ordinary course of business. In addition, Letters of Credit may be used to provide credit enhancement for any Indebtedness of a Credit Party.

6.16 Environmental Matters.

(a) There is no violation of any Environmental Law with respect to the facilities and properties owned, leased or operated by the Consolidated Parties or the businesses operated by the Consolidated Parties which would, in the aggregate, result in anticipated clean-up costs in excess of \$25 million.

(b) No Consolidated Party has been notified of any material action, suit, proceeding or investigation which calls into question compliance by any Consolidated Party with any Environmental Laws or which seeks to suspend, revoke or terminate any license, permit or approval necessary for the generation, handling, storage, treatment or disposal of any Hazardous Material in any material respect of the Consolidated Parties taken as a whole.

6.17 Intellectual Property.

Each Consolidated Party owns, or has the legal right to use, all trademarks, tradenames, copyrights, technology, know-how and processes (the

"Intellectual Property") necessary for each of them to conduct its business as currently conducted except for those the failure to own or have such legal right to use could not have a Material Adverse Effect.

6.18 Solvency.

Each Credit Party is and, after consummation of the transactions contemplated by this Credit Agreement, will be Solvent.

6.19 Investments.

All Investments of each Consolidated Party are Permitted Investments.

6.20 Disclosure.

Neither this Credit Agreement nor any financial statements delivered to the Lenders nor any other document, certificate or statement furnished to the Lenders by or on behalf of any Consolidated Party in connection with the transactions contemplated hereby contains any untrue statement of a material fact or omits to state a material fact necessary in order to make the statements contained therein or herein not misleading.

6.21 No Burdensome Restrictions.

No Consolidated Party is a party to any agreement or instrument or subject to any other obligation or any charter or corporate restriction or any provision of any applicable law, rule or regulation which, individually or in the aggregate, could reasonably be expected to have a Material Adverse Effect.

6.22 Labor Matters.

There are no collective bargaining agreements or Multiemployer Plans covering the employees of a Consolidated Party as of the Closing Date and none of the Consolidated Parties has suffered any strikes, walkouts, work stoppages or other material labor difficulty within the last five years.

6.23 Intentionally Omitted

6.24 Principal Offices.

Set forth on Schedule 6.24 is the chief executive office and principal place of business of each Credit Party. Schedule 6.24 may be updated from time to time by the Borrowers by giving written notice thereof to the Administrative Agent.

SECTION 7

AFFIRMATIVE COVENANTS

Each Credit Party hereby covenants and agrees that so long as this Credit Agreement is in effect or any amounts payable hereunder or under any other Credit Document shall remain outstanding, and until all of the Commitments hereunder shall have terminated:

7.1 Information Covenants.

The Principal Borrower will furnish, or cause to be furnished, to the Administrative Agent for distribution to the Lenders:

(a) Annual Financial Statements. As soon as available, and in any event within 120 days after the close of each fiscal year of the Consolidated Parties, (i) a consolidated balance sheet and income statement of the Consolidated Parties, as of the end of such fiscal year, together with related consolidated statements of operations and retained earnings and of cash flows for such fiscal year, setting forth in comparative form consolidated figures for the preceding fiscal year, all such financial information described above to be in reasonable form and detail and audited by independent certified public accountants of recognized national standing reasonably acceptable to the Administrative Agent and whose opinion shall be to the effect that such financial statements have been prepared in accordance with GAAP (except for changes with which such accountants concur) and shall not be limited as to the scope of the audit or qualified as to the status of the Consolidated Parties as a going concern, (ii) a schedule of the Properties summarizing total revenues, expenses, net operating income, Adjusted NOI, Annualized Adjusted NOI and occupancy rates as of the last day of the applicable fiscal year and (iii) a projection of Capital Expenditures for the next fiscal year for each Property of a Consolidated Party.

(b) Quarterly Financial Statements. As soon as available, and in any event within 45 days after the close of each fiscal quarter of the Consolidated Parties (other than the fourth fiscal quarter, in which case 120 days after the end thereof) (i) a consolidated balance sheet and income statement of the Consolidated Parties, as of the end of such fiscal quarter, together with related consolidated statements of operations and retained earnings and of cash flows for such fiscal quarter in each case setting forth in comparative form consolidated figures for the corresponding period of the preceding fiscal year, all such financial information described above to be in reasonable form and detail and reasonably acceptable to the Administrative Agent, and accompanied by a certificate of the chief financial officer of the Principal Borrower to the effect that such

quarterly financial statements fairly present in all material respects the financial condition of the Consolidated Parties and have been prepared in accordance with GAAP, subject to changes resulting from audit and normal year-end audit adjustments and the omission of footnotes, (ii) a schedule of the Properties summarizing total revenues, expenses, net operating income, Adjusted NOI, Annualized Adjusted NOI and occupancy rates as of the last day of the applicable quarter, (iii) a listing of all Properties Under Development showing the total capital obligation of the Credit Parties with respect to each such Property Under Development, funds expended to date in connection with each such Property Under Development and indicating whether each such Property Under Development qualifies as a Build To Suit Property, (iv) a projection of Asset Dispositions for the next fiscal quarter for each Consolidated Party, (v) a summary of land purchases by the Credit Parties for the prior quarter and (vi) a summary of all Net Cash Proceeds received by the Credit Parties during such fiscal quarter, together with a verification of the amount of such Net Cash Proceeds satisfactory to the Administrative Agent. The information provided pursuant to this Section 7.1(b) shall be substantially in the form of Exhibit 7.1(b).

(c) Officer's Certificate. At the time of delivery of the financial statements provided for in Sections 7.1(a) and 7.1(b) above, a certificate of the chief financial officer of the Principal Borrower substantially in the form of Exhibit 7.1(c), (i) demonstrating compliance, as of the end of each such fiscal period, with (A) the financial covenants contained in Section 7.11, (B) the limitation on Investments contained in Section 7.11(j),(l) and (m), and (C) the financial covenants contained in each of the indentures or other agreements relating to any publicly issued debt securities of any Consolidated Party, in each case by detailed calculation thereof (which calculation shall be in form satisfactory to the Agent and which shall include, among other things, an explanation of the methodology used in such calculation and a breakdown of the components of such calculation), (ii) stating that the Credit Parties were in compliance with each of the covenants set forth in Sections 7 and 8 of the Credit Agreement at all times during such fiscal period, and (iii) stating that, as of the end of each such fiscal period, no Default or Event of Default exists, or if any Default or Event of Default does exist, specifying the nature and extent thereof and what action the Credit Parties propose to take with respect thereto.

(d) Financial Projections. Commencing with the fiscal quarter ending as of December 31, 2000, as soon as available, and in any event within 45 days after the end of every other fiscal quarter thereafter (or, in the case of a fiscal quarter in which such reporting is required and which coincides with the end of a fiscal year, 120 days), (i) a pro forma balance sheet and income statement of the Consolidated Parties for each of the eight succeeding fiscal quarters, together with related pro forma consolidated statements of operations and retained earnings and of cash flows for each such succeeding fiscal quarter and (ii) a certificate of the chief financial officer of the Principal Borrower demonstrating compliance on a pro forma basis for each of the eight succeeding fiscal quarters with (A) the financial covenants contained in Section 7.11, (B) the limitation on Investments contained in Section 7.11(j), (l) and (m), and (C) the financial covenants contained in each of the indentures or other agreements relating to any publicly issued debt securities of any Consolidated Party, in each case by detailed calculation thereof (which calculations shall be in form satisfactory to the Agent and which shall include, among other things, an explanation of the methodology used in such calculations and a breakdown of the components of such calculations).

(e) Compliance With Certain Provisions of the Credit Agreement.

Within 120 days after the end of each fiscal year of the Principal Borrower, a certificate of the chief financial officer of the Principal Borrower containing information regarding the amount of all Equity Issuances that were made during the prior fiscal year.

(f) Accountant's Certificate. Within the period for delivery of the annual financial statements provided in Section 7.1(a), a certificate of the accountants conducting the annual audit stating that they have reviewed this Credit Agreement and stating further whether, in the course of their audit, they have become aware of any Default or Event of Default and, if any such Default or Event of Default exists, specifying the nature and extent thereof.

(g) Auditor's Reports. Promptly upon receipt thereof, a copy of any other report or "management letter" submitted by independent accountants to any Consolidated Party in connection with any annual, interim or special audit of the books of such Person.

(h) Reports. Promptly, (i)(A) copies of any 10-K, 10-Q and S-4 filed (without exhibits unless such exhibits are requested by the Administrative Agent), (B) all other registration statements and prospectuses sent to, or notices received from, the Securities and Exchange Commission, or any successor agency, as may be requested by the Administrative Agent, (C) all materials sent to or received from S&P, Moodys, any Third Rating Agency or any other nationally recognized rating agency and (D) copies of all proxy statements as any Consolidated Party shall send to its shareholders or partners generally and (ii) upon the request of the Administrative Agent, all reports and written information to and from the United States Environmental Protection Agency, or any state or local agency responsible for environmental matters, the United States Occupational Health and Safety Administration, or any state or local agency responsible for health and safety matters, or any successor agencies or authorities concerning environmental, health or safety matters.

(i) Notices. Upon obtaining knowledge thereof, such Credit Party will give written notice to the Administrative Agent immediately of (i) the occurrence of an event or condition consisting of a Default or Event of Default, specifying the nature and existence thereof and what action the Credit Parties propose to take with respect thereto, and (ii) the occurrence of any of the following with respect to any Consolidated Party (A) the pendency or commencement of any litigation, arbitral or governmental proceeding against such Person which if adversely determined could reasonably be expected to have a Material Adverse Effect, (B) the institution of any proceedings against such Person with respect to, or the receipt of notice by such Person of potential liability or responsibility for violation, or alleged violation of any federal, state or local law, rule or regulation, including but not limited to, Environmental Laws, the violation of which could reasonably be expected to have a Material Adverse Effect, or (C) any notice or determination concerning the imposition of any withdrawal liability by a Multiemployer Plan against such Person or any ERISA Affiliate, the determination that a Multiemployer Plan is, or is expected to be, in reorganization within the meaning of Title IV of ERISA or the termination of any Plan.

(j) ERISA. Upon obtaining knowledge thereof, any Credit Party will give written notice to the Administrative Agent promptly (and in any event within five business days) of: (i) of any event or condition, including, but not limited to, any Reportable Event, that constitutes, or might reasonably lead to, an ERISA Event; (ii) with respect to any Multiemployer Plan, the receipt of notice as prescribed in ERISA or otherwise of any withdrawal liability assessed against the Borrowers or any of their ERISA Affiliates, or of a determination that any Multiemployer Plan is in reorganization or insolvent (both within the meaning of Title IV of ERISA); (iii) the failure to make full payment on or before the due date (including extensions) thereof of all amounts which any Consolidated Party or any ERISA Affiliate is required to contribute to each Plan pursuant to its terms and as required to meet the minimum funding standard set forth in ERISA and the Code with respect thereto; or (iv) any change in the funding status of any Plan, provided that the foregoing events individually or in combination could reasonably be expected to have a Material Adverse Effect, together with a description of any such event or condition or a copy of any such notice and a statement by the chief financial officer of the Principal Borrower briefly setting forth the details regarding such event, condition, or notice, and the action, if any, which has been or is being taken or is proposed to be taken by the Credit Parties with respect thereto. Promptly upon request, the Credit Parties shall furnish the Administrative Agent and the Lenders with such additional information concerning any Plan as may be reasonably requested, including, but not limited to, copies of each annual report/return (Form 5500 series), as well as all schedules and attachments thereto required to be filed with the Department of Labor and/or the Internal Revenue Service pursuant to ERISA and the Code, respectively, for each "plan year" (within the meaning of Section 3(39) of ERISA).

(k) Environmental.

(i) If the Administrative Agent requests in writing and if (A) the Borrower does not have environmental insurance with respect to any property owned, leased or operated by a Credit Party or (B) the Administrative Agent has reason to believe that there exists on any property owned, leased or operated by a Credit Party Hazardous Materials which materially affect the value of such property and with respect to which the Borrower has not furnished a report within the immediately previous twelve (12) month period, the Borrowers will furnish or cause to be furnished to the Administrative Agent, at the Borrowers' expense, a report of an environmental assessment of

reasonable scope, form and depth, including, where appropriate, invasive soil or groundwater sampling, by a consultant reasonably acceptable to the Administrative Agent as to the nature and extent of the presence of any Hazardous Materials on any such property and as to the compliance by the Credit Parties with Environmental Laws; provided that if there exists a continuing default or Event of Default as of the date of the Administrative Agent's written request for an environmental report pursuant to the terms of this Section 7.1(k)(i), the Borrower shall provide such report regardless of whether either of the conditions set forth in subsections (A) and (B) of this Section 7.1(k)(i) has been satisfied. If the Borrowers fail to deliver such an environmental report within seventy-five (75) days after receipt of such written request then the Administrative Agent may arrange for same, and the Credit Parties hereby grant to the Administrative Agent and their representatives access to the Properties and a license of a scope reasonably necessary to undertake such an assessment (including, where appropriate, invasive soil or groundwater sampling).

(ii) Each Credit Party will conduct and complete all investigations, studies, sampling, and testing and all remedial, removal, and other actions necessary to address all Hazardous Materials on, from, or affecting any real property owned or leased by a Credit Party to the extent necessary to be in compliance with all Environmental Laws and all other applicable federal, state, and local laws, regulations, rules and policies and with the orders and directives of all Governmental Authorities exercising jurisdiction over such real property to the extent any failure could reasonably be expected to have a Material Adverse Effect.

(iii) Each Credit Party will promptly provide upon such Credit Party's receipt thereof all insurance certificate(s) evidencing the environmental insurance held by any of the Consolidated Parties with respect to the Properties.

(l) Quarterly Stock Repurchase/Joinder Statements. As soon as available, and in any event, within forty-five (45) days after the end of each fiscal quarter, a Quarterly Stock Repurchase/Joinder Statement. Attached to such Quarterly Stock Repurchase/Joinder Statement shall be (i) a certification from a Responsible Officer confirming that, as of the date of the Quarterly Stock Repurchase/Joinder Statement, there exist no Subsidiaries that should be, but have not yet been, joined as Credit Parties and (ii) copies of all Joinder Agreements executed during the immediately preceding fiscal quarter.

(m) Other Information. With reasonable promptness upon any such request, such other information regarding the business, properties or financial condition of any Consolidated Party as the Administrative Agent or the Required Lenders through the Administrative Agent may reasonably request.

7.2 Preservation of Existence and Franchises.

Except as a result of or in connection with a merger of a Subsidiary permitted by Section 8.4 or as a result of an Asset Disposition permitted by Section 8.17, each Credit Party will, and will cause each of its material Subsidiaries to, do all things necessary to preserve and keep in full force and effect its existence, rights, franchises and authority. Highwoods Properties will maintain its status as a REIT.

7.3 Books and Records.

Each Credit Party will, and will cause each of its Subsidiaries to, keep complete and accurate books and records of its transactions in accordance with good accounting practices on the basis of GAAP (including the establishment and maintenance of appropriate reserves).

7.4 Compliance with Law.

(a) Each Credit Party will, and will cause each of its Subsidiaries to, comply with all Environmental Laws, except to the extent any violations thereof result in aggregate projected clean up costs (to all Credit Parties, collectively) of less than \$25,000,000; provided, however, that to the extent any material violation of any Environmental Law results from an intentional, willful or reckless act of any Credit Party or any of their Subsidiaries and any Environmental Law requires clean up or other remediation

as a consequence of such violation, the Credit Parties or their Subsidiaries shall, upon obtaining knowledge of such condition, diligently pursue such required clean up and/or other remediation.

(n) Each Credit Party will, and will cause each of its Subsidiaries to, comply with all other material laws, rules, regulations and orders, and all applicable material restrictions imposed by all Governmental Authorities, applicable to it and its property.

7.5 Payment of Taxes and Other Indebtedness.

Each Credit Party will, and will cause each of its Subsidiaries to, pay and discharge (a) all taxes, assessments and governmental charges or levies imposed upon it, or upon its income or profits, or upon any of its properties, before they shall become delinquent, (b) all lawful claims (including claims for labor, materials and supplies) which, if unpaid, might give rise to a Lien upon any of its properties, and (c) except as prohibited hereunder, all of its other Indebtedness (to the extent in excess of \$1,000,000) as it shall become due; provided, however, that no Consolidated Party shall be required to pay any such tax, assessment, charge, levy, claim or Indebtedness which is being contested in good faith by appropriate proceedings and as to which adequate reserves therefor have been established in accordance with GAAP, unless the failure to make any such payment could reasonably be expected to have a Material Adverse Effect.

7.6 Insurance.

Each Credit Party will, and will cause each of its Subsidiaries to, at all times maintain in full force and effect insurance (including worker's compensation insurance, liability insurance, environmental insurance, casualty insurance and business interruption insurance) in such amounts, covering such risks and liabilities and with such deductibles or self-insurance retentions as are in accordance with normal industry practice. The present insurance coverage of the Consolidated Parties is outlined as to carrier, policy number, expiration date, type and amount on Schedule 7.6. Each such policy will require and the certificates will state, that no such policy will be terminated without at least thirty (30) days prior written notice having been delivered to the Administrative Agent.

7.7 Maintenance of Property.

Each Credit Party will, and will cause each of its Subsidiaries to, maintain and preserve its properties and equipment in good repair, working order and condition, normal wear and tear and casualty and condemnation excepted, and will make, or cause to be made, in such properties and equipment from time to time all repairs, renewals, replacements, extensions, additions, betterments and improvements thereto as may be needed or proper, to the extent and in the manner customary for companies in similar businesses.

7.8 Performance of Obligations.

Each Credit Party will, and will cause each of its Subsidiaries to, perform in all material respects all of its obligations under the terms of all material agreements, indentures, mortgages, security agreements or other debt instruments to which it is a party or by which it is bound, except to the extent any failure to so perform is not likely to result in a Material Adverse Effect.

7.9 Use of Proceeds.

The Borrowers will use the proceeds of the Loans and will use the Letters of Credit solely for the purposes set forth in Section 6.15.

7.10 Audits/Inspections.

Upon reasonable notice and during normal business hours and in a manner that will not unreasonably interfere with its business operations, each Credit Party will, and will cause each of its Subsidiaries to, permit representatives appointed by the Administrative Agent, including, without limitation, independent accountants, agents, attorneys, and appraisers to visit and inspect its property, including its books and records, its accounts receivable and inventory, its facilities and its other business assets, and to make photocopies or photographs thereof and to write down and record any information such representative obtains and shall permit the Administrative Agent or its representatives to

investigate and verify the accuracy of information provided to the Lenders and to discuss all such matters with the officers, employees and representatives of such Person.

7.11 Financial Covenants.

- (a) Total Liabilities to Total Assets. At all times, the ratio of (i) Total Liabilities to (ii) Total Assets shall be less than or equal to 0.55 to 1.0.
- (b) Unencumbered Assets to Unsecured Debt. At all times, the ratio of (i) Unencumbered Assets to (ii) Unsecured Debt shall be greater than or equal to 2.0 to 1.0.
- (c) Secured Debt to Total Assets. At all times, the ratio of (i) Secured Debt to (ii) Total Assets shall be less than or equal to 0.30 to 1.0.
- (d) Interest Coverage Ratio. At all times, the Interest Coverage Ratio shall be greater than 2.25 to 1.0.
- (e) Fixed Charge Coverage Ratio. At all times the Fixed Charge Coverage Ratio shall be greater than 1.75 to 1.0.
- (f) Unsecured Debt Coverage Ratio. At all times, the ratio of
 - (i) aggregate Adjusted NOI for all Properties contributing to the calculation of Unencumbered Assets for the twelve (12) month period immediately preceding the last day of the calendar month most recently ended, (including, without limitation, (A) for Properties sold prior to the date of calculation, Adjusted NOI for such Properties during the applicable calculation period up to the date of such sale, and (B) for Properties which drop out of the calculation of Unencumbered Assets prior to such date of calculation, Adjusted NOI for such Properties during the applicable calculation period up to the date on which such Property is no longer considered for purposes of calculating Unencumbered Assets; provided, however, that Adjusted NOI for Properties first included in the calculation of Unencumbered Assets during the applicable calculation period shall be included only to the extent received on or after the date on which such Property is included in the calculation of Unencumbered Assets) to (ii) Interest Expense paid on Unsecured Debt for the twelve (12) month period immediately preceding the last day of the calendar month most recently ended, shall be greater than 2.25 to 1.0.
 - (g) Tangible Net Worth. At all times the Tangible Net Worth shall be greater than or equal to the sum of (i) \$1,879,000,000.00, plus (ii) an amount equal to 85% of the Net Cash Proceeds of any
Equity Issuance received by the Consolidated Parties subsequent to the Closing Date calculated on a cumulative basis as of the end of each fiscal quarter of the Consolidated Parties following the Closing Date, less (iii) an amount equal to 85% of the aggregate Dollar amount paid
by the Principal Borrower for the purchase, redemption, retirement or acquisition of Capital Stock of the Principal Borrower following the Closing Date pursuant to Section 7.11(k) hereof as set forth in the Quarterly Compliance Certificates delivered to the Agent pursuant to Section 7.1(l).
- (h) Speculative Land to Total Assets. At all times, the ratio of
 - (i) the value of all Speculative Land (as adjusted to deduct therefrom the pro rata share of Speculative Land allocable to the Outside Interests) to (ii) Total Assets shall be less than or equal to 0.10 to 1.0.
- (i) Budgeted Project Cost Ratios.
 - (i) At all times, the ratio of (A) the Budgeted Project Costs of all Properties Under Development (excluding Build To Suit Properties; and as adjusted to deduct therefrom the pro rata share of Properties Under Development allocable to the Outside Interests) to (B) Total Assets shall be less than or equal to 0.15 to 1.0.

(ii) At all times, the ratio of (A) the Budgeted Project Costs of all Properties Under Development (including Build to Suit Properties; and as adjusted to deduct therefrom the pro rata share of Properties Under Development allocable to the Outside Interests) to (B) Total Assets shall be less than or equal to 0.20 to 1.0.

(iii) At all times, the ratio of (A) the sum of (1) the value of all Speculative Land (as adjusted to deduct therefrom the pro rata share of Properties Under Development allocable to the Outside Interests) plus (2) the Budgeted Project Costs of all

Properties Under Development (including Build to Suit Properties; and as adjusted to deduct therefrom the pro rata share of Properties Under Development allocable to the Outside Interests) to (B) Total Assets shall be less than or equal to 0.25 to 1.0.

(j) Investment in Properties other than For Lease Office and

Industrial Properties. The Credit Parties will not permit any Consolidated Party to, directly or indirectly, acquire, develop or otherwise make an Investment in any properties other than for lease office and industrial properties which in the aggregate shall exceed at any one time an amount greater than 10% of Total Assets.

(k) Restricted Payments. The Credit Parties will not permit any Consolidated Party to, directly or indirectly, declare, order, make or set apart any sum for or pay any Restricted Payment, except that (i) the Credit Parties may, as of any given date, make distributions in an aggregate amount not to exceed one hundred percent (100%) of Cash Available for Distribution, and (ii) the Principal Borrower may purchase, redeem, retire or otherwise acquire for value any shares of any class of Capital Stock of the Principal Borrower, provided, however, that the amount of all such purchases, redemptions, retirements or payments shall not exceed in the aggregate the lesser of:

I. the sum of (x) 75% of Net Asset Sales Proceeds derived from sales of Speculative Land, plus (y) 30% of Net Asset Sales Proceeds derived from sales of Properties of the Consolidated Parties not considered to be Speculative Land, in each case, on and after December 10, 1999, and

II. \$225,000,000, provided, that such amount shall be calculated to include all amounts of purchases, redemptions, retirements or payments occurring on and after December 10, 1999.

Notwithstanding anything herein to the contrary, the cumulative sum of the products resulting from the formulas in (x) and (y) of clause I above shall not exceed the sum of (i) the aggregate amount of Net Asset Sales Proceeds received as a result of Asset Dispositions minus (ii) any proceeds which are used by the applicable Consolidated Parties to retire in whole or in part any Indebtedness encumbering the Properties sold minus (iii) the aggregate principal amount of any Indebtedness encumbering the Properties sold assumed by the purchasers of such Properties.

(l) Investments in Non-Wholly Owned Subsidiaries. The Credit Parties will not permit the Borrowers or any Wholly Owned Subsidiary that is a Credit Party to make any Investment in any Non-Wholly Owned Subsidiary that is a Credit Party except to the extent that the Adjusted Investment Value of such Investments does not exceed, in the aggregate at any time outstanding, an amount equal to 15% of Total Assets less an amount equal to the percentage of Total Assets represented by the Adjusted Investment Value of Investments made pursuant to Section 7.11 (m).

(m) Investments in Non-Consolidated Parties. The Credit Parties will not permit any Investments in any Person that is not a Consolidated Party except to the extent that the aggregate Adjusted Investment Value of all such Investments in all such Persons does not exceed 10% of Total Assets in the aggregate at any one time outstanding.

7.12 Additional Credit Parties.

If any Person becomes a Subsidiary of any Credit Party or upon the formation of any Preferred Stock Subsidiary or if at any time any Non-Guarantor Subsidiary (other than the Nichols Entities) could become a Credit Party without violating the terms of any material contract, agreement or document to which it is a party, the Principal Borrower shall (a) if such Person is a Domestic Subsidiary of a Credit Party or a Preferred Stock Subsidiary, cause such Person to execute a Joinder Agreement in substantially the same form as Exhibit 7.12 on or before the deadline for delivery of the next Quarterly Stock Repurchase/Joinder Statement, (b) provide the Administrative Agent with notice thereof on a quarterly basis by delivering a Quarterly Stock Repurchase/Joinder Statement and other documentation as required in Section 7.1(l), and (c) cause such Person to deliver such other documentation as the Administrative Agent may reasonably request in connection with the foregoing, including, without limitation, certified resolutions and other organizational and authorizing documents of such Person, favorable opinions of counsel to such Person (which shall cover, among other things, the legality, validity, binding effect and enforceability of the documentation referred to above), all in form, content and scope reasonably satisfactory to the Administrative Agent. If a Non-Guarantor Subsidiary executes and delivers a Joinder Agreement it shall no longer be deemed a Non-Guarantor Subsidiary under this Credit Agreement.

7.13 Management.

Each of O. Temple Sloan, Ronald P. Gibson, Carman Liuzzo and Edward J. Fritsch shall remain active in the management of Highwoods Properties; provided that upon the death, disability or retirement of any of the above-referenced individuals, Highwoods Properties shall have six months to provide the Administrative Agent with substitute personnel as replacements; such substitute personnel to be acceptable to the Administrative Agent in its reasonable discretion.

7.14 Upstream of Excess Cash Flow.

Each Credit Party shall cause all "Excess Cash Flow" (as defined below) of a Non-Guarantor Subsidiary (other than the Nichols Entities) to be transferred to a Credit Party as promptly as possible but at least once a month. For the purposes of this Section 7.14, "Excess Cash Flow" means an amount equal to all net operating income of such Non-Guarantor Subsidiary minus all debt service payments of such Non-Guarantor Subsidiary minus all amounts required to fund reserves of such Non-Guarantor Subsidiary.

7.15 Intentionally Omitted

7.16 Environmental Indemnity.

The Credit Parties agree that they will reimburse the Lenders for and hereby hold the Lenders harmless from all fines or penalties made or levied against any of the Lenders by any Governmental Authority as a result of or in connection with (i) the use of Materials of Environmental Concern at the Properties, (ii) the use of Materials of Environmental Concern at the facilities thereon, or (iii) the use, generation, storage, transportation, discharge, release or handling of any Materials of Environmental Concern at the Properties, or as a result of any release of any Materials of Environmental Concern onto the ground or into the water or air from or upon the Properties at any time. The Credit Parties also agree that they will reimburse the Lenders for and indemnify and hold the Lenders harmless from any and all costs, expenses (including reasonably attorneys' fees actually incurred) and for all civil claims, judgments or penalties incurred entered, assessed, or levied against any of the Lenders as a result of any of the Credit Parties' use of Materials of Environmental Concern at the Properties or as a result of any release of any Materials of Environmental Concern on the ground or into the water or air by any of the Credit Parties from or upon the Properties. Such reimbursement or indemnification shall include but not be limited to any and all judgments or penalties to recover the costs of cleanup of any such release by any of the Credit Parties from or upon Properties and all reasonable expenses incurred by the Lenders as a result of such a civil action, including but not limited to reasonable attorneys' fees. The Credit Parties' obligations under this section shall survive the repayment of the Loans.

NEGATIVE COVENANTS

Each Credit Party hereby covenants and agrees that, so long as this Credit Agreement is in effect or any amounts payable hereunder or under any other Credit Document shall remain outstanding, and until all of the Commitments hereunder shall have terminated:

8.1 Indebtedness.

The Credit Parties will not permit any Consolidated Party to contract, create, incur, assume or permit to exist any Indebtedness, except:

- (a) Indebtedness arising under this Credit Agreement and the other Credit Documents;
- (b) Indebtedness set forth in Schedule 8.1 (and renewals, refinancings and extensions thereof (i) on terms and conditions no less favorable to such Person than such existing Indebtedness or (ii) in the case such existing Indebtedness becomes unsecured, on terms and conditions consistent with then prevailing market standards for such unsecured Indebtedness) and in a principal amount not in excess of that outstanding as of the date of such renewal, refinancing or extension;
- (c) Indebtedness arising from obligations of the Credit Parties evidenced by the interest rate protection agreements entered into in order to manage existing or anticipated interest rate or exchange rate risks and not for speculative purposes;
- (d) Other unsecured Indebtedness;
- (e) Other secured Indebtedness that is nonrecourse to any Credit Party (subject to normal and customary recourse carveouts in the ordinary course of business);
- (f) Other secured Indebtedness that is recourse to any Credit Party provided that such secured Indebtedness, in the aggregate, shall not exceed at any one time a principal amount greater than 5% of Total Assets; and
- (g) Indebtedness in respect of letters of credit (other than Letters of Credit issued under and pursuant to this Credit Agreement) issued by financial institutions to secure liability obligations of the Consolidated Parties in an aggregate principal amount up to \$45,000,000 at any one time outstanding.

8.2 Liens.

The Credit Parties will not permit any Consolidated Party to contract, create, incur, assume or permit to exist any Lien with respect to any ownership interest in a Non-Guarantor Subsidiary.

8.3 Nature of Business.

Except as provided in Section 7.11(j), the Credit Parties will not permit the Consolidated Parties as a whole to substantially alter the character or conduct of the business conducted by such Person as of the Closing Date.

8.4 Consolidation, Merger, Dissolution, etc.

The Credit Parties will not permit any Consolidated Party to enter into any transaction of merger or consolidation or liquidate, wind up or dissolve itself (or suffer any liquidation or dissolution); provided that, notwithstanding the foregoing provisions of this Section 8.4, (a) each of the Borrowers may merge or consolidate with any of its Subsidiaries so long as (i) such Borrower shall be the continuing or surviving entity and (ii) after giving effect thereto no Default or Event of Default exists, (b) any Person may be merged or consolidated with or into Highwoods Properties so long as (i) Highwoods Properties is the continuing or surviving corporation and (ii)

after giving effect thereto no Default or Event of Default exists and (c) any Consolidated Party other than Highwoods Properties or a Borrower may merge or consolidate with any Person other than Highwoods Properties or a Borrower so long as the Person surviving such merger or consolidation is or becomes a Credit Party pursuant to Section 7.12 hereof.

8.5 Intentionally Omitted

8.6 Investments.

The Credit Parties will not permit any Consolidated Party to lend money or extend credit or make advances to any Person or purchase or acquire any stock, obligations or securities of, or any other interest in, or make any capital contribution to, or otherwise make an Investment in any Person except for Permitted Investments.

8.7 Intentionally Omitted

8.8 Prepayments of Indebtedness, etc..

The Credit Parties will not permit any Consolidated Party to (a) if any Default or Event of Default has occurred and is continuing or would be directly or indirectly caused as a result thereof, after the issuance thereof, amend or modify (or permit the amendment or modification of) any of the terms of any Indebtedness if such amendment or modification would add or change any terms in a manner adverse to the issuer of such Indebtedness, or shorten the final maturity or average life to maturity or require any payment to be made sooner than originally scheduled or increase the interest rate applicable thereto or change any subordination provision thereof, or (b) if any Default or Event of Default has occurred and is continuing or would be directly or indirectly caused as a result thereof, make (or give any notice with respect thereto) any voluntary or optional payment or prepayment or redemption or acquisition for value of (including without limitation, by way of depositing money or securities with the trustee with respect thereto before due for the purpose of paying when due), refund, refinance or exchange of any other Indebtedness.

8.9 Transactions with Affiliates.

The Credit Parties will not permit any Consolidated Party to enter into or permit to exist any transaction or series of transactions, whether or not in the ordinary course of business, with any officer, director, shareholder, Subsidiary or Affiliate of such Person other than (i) transactions permitted by Section 8.6, (ii) customary fees paid to directors in the ordinary course of business, (iii) the payment of compensation to employees and officers in the ordinary course of business, (iv) the creation of Preferred Stock Subsidiaries and (v) on terms and conditions substantially as favorable to such Person as would be obtainable by it in a comparable arms-length transaction with a Person other than an officer, director, shareholder, Subsidiary or Affiliate.

8.10 Fiscal Year; Organizational Documents.

The Credit Parties will not permit any Consolidated Party to (a) change its fiscal year without the prior written consent of the Required Lenders or (b) amend, modify or change its partnership agreement (other than a change limited solely to add additional limited partners or authorize the issuance of additional units) or articles of incorporation (or corporate charter or other similar organizational document) or bylaws (or other similar document) in any manner that would reasonably be likely to adversely affect the rights of the Lenders in any material respect.

8.11 Limitation on Restricted Actions.

Without providing prior written notice to the Administrative Agent, the Credit Parties will not permit any Consolidated Party to, directly or indirectly, create or otherwise cause or suffer to exist or become effective any encumbrance or restriction on the ability of any such Person to (a) pay dividends or make any other distributions to any Credit Party on its Capital Stock or with respect to any other interest or participation in, or measured by, its profits, (b) pay any Indebtedness or other obligation owed to any Credit Party, (c) make loans or advances to any Credit Party or (d) sell, lease or transfer any of its properties or assets to any Credit Party, except (in respect of any of the matters referred to in clauses (a) through (d) above) for such encumbrances or restrictions existing under or by reason of this Credit Agreement and the other Credit Documents.

8.12 Ownership of Subsidiaries.

Notwithstanding any other provisions of this Credit Agreement to the contrary, Credit Parties will not permit any Consolidated Party other than Highwoods Properties, Highwoods Realty or any Preferred Stock Subsidiary to issue any shares of preferred Capital Stock to any Person other than a Credit Party. Furthermore, Highwoods Realty and Highwoods Properties shall at all times maintain ownership, directly or indirectly, all of the Capital Stock of AP Southeast Portfolio Partners, L.P., a Delaware limited partnership, AP-GP Southeast Portfolio Partners, L.P., a Delaware limited partnership and Highwoods Realty GP Corp., a Delaware corporation.

8.13 Sale Leasebacks.

Except as could not reasonably be expected to have a Material Adverse Effect, the Credit Parties will not permit any Consolidated Party to, directly or indirectly, become or remain liable as lessee or as guarantor or other surety with respect to any lease, whether an Operating Lease or a Capital Lease, of any property (whether real or personal or mixed), whether now owned or hereafter acquired, (a) which such Consolidated Party has sold or transferred or is to sell or transfer to a Person which is not a Consolidated Party or (b) which such Consolidated Party intends to use for substantially the same purpose as any other property which has been sold or is to be sold or transferred by such Consolidated Party to another Person which is not a Consolidated Party in connection with such lease.

8.14 No Further Negative Pledges.

The Credit Parties will not permit any Consolidated Party to enter into, assume or become subject to any agreement prohibiting or otherwise restricting the creation or assumption of any Lien upon its properties or assets, whether now owned or hereafter acquired, or requiring the grant of any security for such obligation if security is given for some other obligation except pursuant to any document or instrument governing Indebtedness incurred pursuant to Section 8.1(b), Section 8.1(e) or Section 8.1(f), provided that any such restriction contained therein relates only to the properties or assets constructed or acquired in connection with such Indebtedness.

8.15 Non-Guarantor Subsidiaries.

Notwithstanding any other provision of this Credit Agreement, the Credit Parties shall prohibit any Non-Guarantor Subsidiary from (a) forming or acquiring any new Subsidiary, (b) incurring any new Indebtedness other than Indebtedness in respect of current accounts payable and accrued expenses incurred in the ordinary course of business, (c) purchasing or acquiring any new assets or (d) incurring any change in its ownership.

8.16 Intentionally Omitted

8.17 Asset Dispositions.

The Credit Parties will not permit any Consolidated Party to make any Asset Disposition in which the value of the assets sold or otherwise disposed pursuant to such Asset Disposition exceeds \$30,000,000 unless the Principal Borrower shall have delivered to the Administrative Agent at least two (2) Business Days prior to such Asset Disposition a Pro Forma Compliance Certificate demonstrating that, upon giving effect to such Asset Disposition, on a pro forma basis the Credit Parties shall be in compliance with all of the covenants contained in Section 7.11.

SECTION 9

EVENTS OF DEFAULT

9.1 Events of Default.

An Event of Default shall exist upon the occurrence of any of the following specified events (each an "Event of Default"):

(a) Payment. Any Credit Party shall

(i) default in the payment when due of any principal of any of the Loans or of any reimbursement obligations arising from drawings under Letters of Credit, or

(ii) default, and such default shall continue for three (3) or more Business Days, in the payment when due of any interest on the Loans or on any reimbursement obligations arising from drawings under Letters of Credit, or of any Fees or other amounts owing hereunder, under any of the other Credit Documents or in connection herewith or therewith; or

(b) Representations. Any representation, warranty or statement made or deemed to be made by any Credit Party herein, in any of the other Credit Documents, or in any statement or certificate delivered or required to be delivered pursuant hereto or thereto shall prove untrue in any material respect on the date as of which it was made or deemed to have been made; or

(c) Covenants. Any Credit Party (or the Credit Parties collectively) shall

(i) default in the due performance or observance of any term, covenant or agreement contained in Sections 7.2, 7.4(a), 7.9, 7.11, 7.12 or 8.1 through 8.16, inclusive; or

(ii) default in the due performance or observance of any term, covenant or agreement contained in Sections 7.1(a), (b) (c) or (d) and such default shall continue unremedied for a period of at least 5 days after the earlier of a Responsible Officer of a Credit Party becoming aware of such default or notice thereof by the Administrative Agent; or

(iii) default in the due performance or observance by it of any term, covenant or agreement (other than those referred to in subsections (a), (b), (c)(i) or (c)(ii) of this Section 9.1) contained in this Credit Agreement and such default shall continue unremedied for a period of at least 30 days after the earlier of a responsible officer of a Credit Party becoming aware of such default or notice thereof by the Administrative Agent; or

(d) Other Credit Documents. (i) Any Credit Party shall default in the due performance or observance of any term, covenant or agreement in any of the other Credit Documents (subject to applicable grace or cure periods, if any), or (ii) any Credit Document shall fail to be in full force and effect or to give the Administrative Agent and/or the Lenders the rights, powers and privileges purported to be created thereby, or any Credit Party shall so state in writing; or

(e) Guaranties. The guaranty given by any Guarantor hereunder (including any Additional Credit Party) or any provision thereof shall cease to be in full force and effect, or any Guarantor (including any Additional Credit Party) hereunder or any Person acting by or on behalf of such Guarantor shall deny or disaffirm such Guarantor's obligations under such guaranty, or any Guarantor shall default in the due performance or observance of any term, covenant or agreement on its part to be performed or observed pursuant to any guaranty; or

(f) Bankruptcy, etc. Any Bankruptcy Event shall occur with respect to

any Consolidated Party; or

(g) Defaults under Other Agreements.

(i) Any Consolidated Party shall default in the performance or observance (beyond the applicable grace period with respect thereto, if any) of any obligation or condition of any contract or lease of such Consolidated Party such that the default would have a Material Adverse Effect; or

(ii) With respect to any Indebtedness (other than Indebtedness outstanding under this Credit Agreement or the Nichols Documents) in excess of \$7,500,000 in the aggregate for the Consolidated Parties taken as a whole, (A) any Consolidated Party shall (1) default in any payment (beyond the applicable grace period with respect thereto, if any) with respect to any such Indebtedness, or (2) the occurrence and continuance of a default in the observance or performance relating to such Indebtedness or contained in any instrument or agreement evidencing, securing or relating thereto, or any other event or condition shall occur or condition exist, the effect of which default or other event or condition is to cause, or permit, the holder or holders of such Indebtedness (or trustee or Administrative Agent on behalf of such holders) to cause (determined without regard to whether any notice or lapse of time is required), any such Indebtedness to become due prior to its stated maturity; or (B) any such Indebtedness shall be declared due and payable, or required to be prepaid other than by a regularly scheduled required prepayment, prior to the stated maturity thereof. The events set forth in this Section 9.1(g)(ii) shall constitute an immediate Event of Default notwithstanding any cure period that would be otherwise applicable with respect to such event pursuant to the terms of this Credit Agreement (including, without limitation, cure periods provided with respect to violations of Section 7.5).

(h) Judgments. One or more judgments or decrees shall be entered against one or more of the Consolidated Parties involving a liability of \$5,000,000 or more in the aggregate (to the extent not paid or fully covered by insurance provided by a carrier who has acknowledged coverage and has the ability to perform) and any such judgments or decrees shall not have been vacated, discharged or stayed or bonded pending appeal within 30 days from the entry thereof; or

(i) ERISA. Any of the following events or conditions, if such event or condition could have a Material Adverse Effect: (i) any "accumulated funding deficiency," as such term is defined in Section 302 of ERISA and Section 412 of the Code, whether or not waived, shall exist with respect to any Plan, or any lien shall arise on the assets of any Consolidated Party or any ERISA Affiliate in favor of the PBGC or a Plan; (ii) an ERISA Event shall occur with respect to a Single Employer Plan, which is, in the reasonable opinion of the Administrative Agent, likely to result in the termination of such Plan for purposes of Title IV of ERISA; (iii) an ERISA Event shall occur with respect to a Multiemployer Plan or Multiple Employer Plan, which is, in the reasonable opinion of the Administrative Agent, likely to result in (A) the termination of such Plan for purposes of Title IV of ERISA, or (B) any Consolidated Party or any ERISA Affiliate incurring any liability in connection with a withdrawal from, reorganization of (within the meaning of Section 4241 of ERISA), or insolvency or (within the meaning of Section 4245 of ERISA) such Plan; or (iv) any prohibited transaction (within the meaning of Section 406 of ERISA or Section 4975 of the Code) or breach of fiduciary responsibility shall occur which may subject any Consolidated Party or any ERISA Affiliate to any liability under Sections 406, 409, 502(i), or 502(l) of ERISA or Section 4975 of the Code, or under any agreement or other instrument pursuant to which any Consolidated Party or any ERISA Affiliate has agreed or is required to indemnify any person against any such liability; or

(j) Ownership. There shall occur a Change of Control; or

(k) Nichols Documents. There shall occur a default or an event of default under the Nichols Documents and such default or event of default shall continue unremedied for a period of at least 90 days after the earlier of a responsible officer of a Credit Party becoming aware of such default or notice thereof by the Administrative Agent.

9.2 Acceleration; Remedies.

Upon the occurrence of an Event of Default, and at any time thereafter unless and until such Event of Default has been waived by the Required Lenders or all of the Lenders, as applicable (pursuant to the voting requirements of Section 11.6) or cured to the satisfaction of the Required Lenders or all of the Lenders, as applicable (pursuant to the voting procedures in Section 11.6), the Administrative Agent shall, upon the request and direction of the Required Lenders, by written notice to the Credit Parties take any of the following actions:

(a) Termination of Commitments. Declare the Commitments terminated whereupon the Commitments shall be immediately terminated.

(b) Acceleration. Declare the unpaid principal of and any accrued interest in respect of all Loans, any reimbursement obligations arising from drawings under Letters of Credit and any and all other indebtedness or obligations of any and every kind owing by the Borrowers to the Administrative Agent and/or any of the Lenders hereunder to be due whereupon the same shall be immediately due and payable without presentment, demand, protest or other notice of any kind, all of which are hereby waived by the Borrowers.

(c) Cash Collateral. Direct the Borrowers to pay (and the Borrowers agree that upon receipt of such notice, or upon the occurrence of an Event of Default under Section 9.1(f), it will immediately pay) to the Administrative Agent additional cash, to be held by the Administrative Agent, for the benefit of the Lenders, in a cash collateral account as additional security for the LOC Obligations in respect of subsequent drawings under all then outstanding Letters of Credit in an amount equal to the maximum aggregate amount which may be drawn under all Letters of Credits then outstanding.

(d) Enforcement of Rights. Enforce any and all rights and interests created and existing under the Credit Documents and all rights of set-off.

Notwithstanding the foregoing, if an Event of Default specified in Section 9.1(f) shall occur, then the Commitments shall automatically terminate and all Loans, all reimbursement obligations arising from drawings under Letters of Credit, all accrued interest in respect thereof, all accrued and unpaid Fees and other indebtedness or obligations owing to the Administrative Agent and/or any of the Lenders hereunder automatically shall immediately become due and payable without the giving of any notice or other action by the Administrative Agent or the Lenders.

SECTION 10

AGENCY PROVISIONS

10.1 Appointment, Powers and Immunities.

Each Lender hereby irrevocably appoints and authorizes the Administrative Agent to act as its Administrative Agent under this Credit Agreement and the other Credit Documents with such powers and discretion as are specifically delegated to the Administrative Agent by the terms of this Credit Agreement and the other Credit Documents, together with such other powers as are reasonably incidental thereto. The Administrative Agent (which term as used in this sentence and in Section 10.5 and the first sentence of Section 10.6 hereof shall include its Affiliates and its own and its Affiliates' officers, directors, employees, and Administrative Agents): (a) shall not have any duties or responsibilities except those expressly set forth in this Credit Agreement and shall not be a trustee or fiduciary for any Lender; (b) shall not be responsible to the Lenders for any recital, statement, representation, or warranty (whether written or oral) made in or in connection with any Credit Document or any certificate or other document referred to or provided for in, or received by any of them under, any Credit Document, or for the value, validity, effectiveness, genuineness, enforceability, or sufficiency of any Credit Document, or any other document referred to or provided for therein or for any failure by any Credit Party or any other Person to perform any of its obligations thereunder; (c) shall not be responsible for or have any duty to ascertain, inquire into, or verify the performance or observance of any covenants or agreements by any Credit Party or the satisfaction of any condition or to inspect the property (including the books and records) of any Credit Party or any of its Subsidiaries or Affiliates; (d) shall not be required to initiate or conduct any litigation or collection proceedings under any Credit Document; and (e) shall not be responsible for any action taken or omitted to be taken by it under or in connection with any Credit Document, except for its own gross negligence or willful misconduct. The Administrative Agent may employ agents and attorneys- in-fact and shall not be responsible for the negligence or misconduct of any such agents or attorneys-in-fact selected by it with reasonable care.

10.2 Reliance by Administrative Agent.

The Administrative Agent shall be entitled to rely upon any certification, notice, instrument, writing, or other communication (including, without limitation, any thereof by telephone or telecopy) believed by it to be genuine and correct and to have been signed, sent or made by or on behalf of the proper Person or Persons, and upon advice and statements of legal counsel (including counsel for any Credit Party), independent accountants, and other experts selected by the Administrative Agent. The Administrative Agent may deem and treat the payee of any Note as the holder thereof for all purposes hereof unless and until the Administrative Agent receives and accepts an Assignment and Acceptance executed in accordance with Section 11.3(b) hereof. As to any matters not expressly provided for by this Credit Agreement, the Administrative Agent shall not be required to exercise any discretion or take any action, but shall be required to act or to refrain from acting (and shall be fully protected in so acting or refraining from acting) upon the instructions of the Required Lenders, and such instructions shall be binding on all of the Lenders; provided, however, that the Administrative Agent shall not be required to take any action that exposes the Administrative Agent to personal liability or that is contrary to any Credit Document or applicable law or unless it shall first be indemnified to its satisfaction by the Lenders against any and all liability and expense which may be incurred by it by reason of taking any such action.

10.3 Defaults.

The Administrative Agent shall not be deemed to have knowledge or notice of the occurrence of a Default or Event of Default unless the Administrative Agent has received written notice from a Lender or one of the Borrowers specifying such Default or Event of Default and stating that such notice is a "Notice of Default". In the event that the Administrative Agent receives such a notice of the occurrence of a Default or Event of Default, the Administrative Agent shall give prompt notice thereof to the Lenders. The Administrative Agent shall (subject to Section 10.2 hereof) take such action with respect to such Default or Event of Default as shall reasonably be directed by the Required Lenders, provided that, unless and until the Administrative Agent shall have received such directions, the Administrative Agent may (but shall not be obligated to) take such action, or refrain from taking such action, with respect to such Default or Event of Default as it shall deem advisable in the best interest of the Lenders.

10.4 Rights as a Lender.

With respect to its Commitment and the Loans made by it, Bank of America (and any successor acting as Administrative Agent) in its capacity as a Lender hereunder shall have the same rights and powers hereunder as any other Lender and may exercise the same as though it were not acting as the Administrative Agent, and the term "Lender" or "Lenders" shall, unless the context otherwise indicates, include the Administrative Agent in its individual capacity. Bank of America (and any successor acting as Administrative Agent) and its Affiliates may (without having to account therefor to any Lender) accept deposits from, lend money to, make investments in, provide services to, and generally engage in any kind of lending, trust, or other business with any Credit Party or any of its Subsidiaries or Affiliates as if it were not acting as Administrative Agent, and Bank of America (and any successor acting as Administrative Agent) and its Affiliates may accept fees and other consideration from any Credit Party or any of its Subsidiaries or Affiliates for services in connection with this Credit Agreement or otherwise without having to account for the same to the Lenders.

10.5 Indemnification.

The Lenders agree to indemnify the Administrative Agent only in its capacity as Administrative Agent (to the extent not reimbursed under Section 11.5 hereof, but without limiting the obligations of the Borrowers under such Section) ratably in accordance with their respective Commitments, for any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses (including attorneys' fees), or disbursements of any kind and nature whatsoever that may be imposed on, incurred by or asserted against the Administrative Agent (including by any Lender) in any way relating to or arising out of any Credit Document or the transactions contemplated thereby or any action taken or omitted by the Administrative Agent under any Credit Document; provided that no Lender shall be liable for any of the foregoing to the extent they arise from the gross negligence or willful misconduct of the Person to be indemnified. Without limitation of the foregoing, each Lender agrees to reimburse the Administrative Agent promptly upon demand for its ratable share of any costs or expenses payable by the Borrowers under Section 11.5, to the extent that the Administrative Agent is not promptly reimbursed for such costs and expenses by the Borrowers. The agreements in this Section 10.5 shall survive the repayment of the Loans,

LOC Obligations and other obligations under the Credit Documents and the termination of the Commitments hereunder.

10.6 Non-Reliance on Administrative Agent and Other Lenders.

Each Lender agrees that it has, independently and without reliance on the Administrative Agent or any other Lender, and based on such documents and information as it has deemed appropriate, made its own credit analysis of the Credit Parties and their Subsidiaries and decision to enter into this Credit Agreement and that it will, independently and without reliance upon the Administrative Agent or any other Lender, and based on such documents and information as it shall deem appropriate at the time, continue to make its own analysis and decisions in taking or not taking action under the Credit Documents. Except for notices, reports, and other documents and information expressly required to be furnished to the Lenders by the Administrative Agent hereunder, the Administrative Agent shall not have any duty or responsibility to provide any Lender with any credit or other information concerning the affairs, financial condition, or business of any Credit Party or any of its Subsidiaries or Affiliates that may come into the possession of the Administrative Agent or any of its Affiliates.

10.7 Successor Administrative Agent.

The Administrative Agent may resign at any time by giving notice thereof to the Lenders and the Principal Borrower. The Administrative Agent may be removed at any time with cause by the Required Lenders, provided that the Principal Borrower and the other Lenders shall be promptly notified thereof. Upon any such resignation or removal, the Required Lenders shall have the right to appoint a successor Administrative Agent with the consent of the Borrower, such consent not to be unreasonably withheld or delayed; provided, however, that the Borrower shall have no right to consent to such appointment to the extent an Event of Default is continuing at the time of such appointment. If no successor Administrative Agent shall have been so appointed by the Required Lenders and shall have accepted such appointment within thirty (30) days after the retiring Administrative Agent's giving of notice of resignation or the Required Lender's removal, then the retiring Administrative Agent may, on behalf of the Lenders, appoint a successor Administrative Agent which shall be a commercial bank organized or licensed under the laws of the United States of America having combined capital and surplus of at least \$100,000,000. Upon the acceptance of any appointment as Administrative Agent hereunder by a successor, such successor shall thereupon succeed to and become vested with all the rights, powers, discretion, privileges, and duties of the retiring Administrative Agent, and the retiring Administrative Agent shall be discharged from its duties and obligations hereunder. After any retiring Administrative Agent's resignation or removal hereunder as Administrative Agent, the provisions of this Section 10 shall continue in effect for its benefit in respect of any actions taken or omitted to be taken by it while it was acting as Administrative Agent.

10.8 Minimum Commitments by Agents.

Subsequent to the Closing Date, each of Bank of America, Well Fargo Bank, National Association and Wachovia Bank, National Association agree to maintain a Revolving Commitment in an amount equal to or greater than \$25,000,000 for so long as (i) no Event of Default has occurred and is continuing and (ii) each of Bank of America, Well Fargo Bank, National Association and Wachovia Bank, National Association remain as Administrative Agent, Syndication Agent and Documentation Agent, respectively; provided that each of Bank of America, Well Fargo Bank, National Association and Wachovia Bank, National Association may participate or assign any of such amount to a Federal Reserve Bank or a majority owned subsidiary of each of Bank of America, Well Fargo Bank, National Association and Wachovia Bank, National Association, respectively.

SECTION 11

MISCELLANEOUS

11.1 Notices.

Except as otherwise expressly provided herein, all requests, notices and other communications shall have been duly given and shall be effective (a) when delivered, (b) when transmitted via telecopy (or other facsimile device) to the

number set out below, (c) the Business Day following the day on which the same has been delivered prepaid to a reputable national overnight air courier service, or (d) the third Business Day following the day on which the same is sent by certified or registered mail, postage prepaid, in each case to the respective parties at the address, in the case of the Borrowers, Guarantors and the Administrative Agent, set forth below, and, in the case of the Lenders, set forth on Schedule 2.1(a), or at such other address as such party may specify by written notice to the other parties hereto:

if to the Borrowers:

Highwoods Properties, Inc.
3100 Smoketree Court, Suite 600 Raleigh, North Carolina 27604
Attn: Carman Liuzzo
Telephone: (919) 875-6605
Telecopy: (919) 876-6929

if to a Guarantor:

[Name of Guarantor]
c/o Highwoods Realty Limited Partnership 3100 Smoketree Court, Suite 600 Raleigh, North Carolina 27604
Attn: Carman Liuzzo
Telephone: (919) 875-6605
Telecopy: (919) 876-6929

if to the Administrative Agent:

Bank of America, N.A.
Real Estate Department
6610 Rockledge Drive; 6/th/ Floor Bethesda, Maryland 20817
Attn: Mary Baxa
MD2-600-06-14
Telephone: (301) 571-9053
Telecopy: (301) 493-2885

with a copy to:

Bank of America, N.A.

Bank of America Corporate Center
100 North Tryon Street, 15th Floor
Charlotte, North Carolina 28255

Attn: Terence Hatton
Telephone: (704)386-8034
Telecopy: (704)388-8841

11.2 Right of Set-Off; Adjustments.

Upon the occurrence and during the continuance of any Event of Default, each Lender (and each of its Affiliates) is hereby authorized at any time and from time to time, to the fullest extent permitted by law, to set off and apply any and all deposits (general or special, time or demand, provisional or final) at any time held and other indebtedness at any time owing by such Lender (or any of its Affiliates) to or for the credit or the account of any Credit Party against any and all of the obligations of such Person now or hereafter existing under this Credit Agreement, under the Notes, under any other Credit Document or otherwise, irrespective of whether such Lender shall have made any demand under hereunder or thereunder and although such obligations may be unmatured. Each Lender agrees promptly to notify any affected Credit Party after any such set- off and application made by such

Lender; provided, however, that the failure to give such notice shall not affect the validity of such set-off and application. The rights of each Lender under this Section 11.2 are in addition to other rights and remedies (including, without limitation, other rights of set-off) that such Lender may have.

11.3 Benefit of Agreement; Assignments.

(a) This Credit Agreement shall be binding upon and inure to the benefit of and be enforceable by the respective successors and assigns of the parties hereto; provided that none of the Credit Parties may assign or transfer any of its interests and obligations without prior written consent of the Lenders; provided further that the rights of each Lender to transfer, assign or grant participations in its rights and/or obligations hereunder shall be limited as set forth in this Section 11.3.

(b) Each Lender may assign to one or more Eligible Assignees all or a portion of its rights and obligations under this Credit Agreement (including, without limitation, all or a portion of its Loans, its Notes, and its Commitment); provided, however, that

(i) each such assignment shall be to an Eligible Assignee;

(ii) except in the case of an assignment to another Lender or an assignment of all of a Lender's rights and obligations under this Credit Agreement, any such partial assignment shall be in an amount at least equal to \$10,000,000 (or, if less, the remaining amount of the Commitment being assigned by such Lender) or an integral multiple of \$1,000,000 in excess thereof (provided that such assigning Lender must, at the time of such partial assignment, retain a Revolving Commitment in an amount at least equal to \$10,000,000);

(iii) each such assignment by a Lender shall be of a constant, and not varying, percentage of all of its rights and obligations under this Credit Agreement and the Notes; and

(iv) the parties to such assignment shall execute and deliver to the Administrative Agent for its acceptance an Assignment and Acceptance in the form of Exhibit 11.3(b) hereto, together with any Note subject to such assignment and a processing fee of \$3,500.

Upon execution, delivery, and acceptance of such Assignment and Acceptance, the assignee thereunder shall be a party hereto and, to the extent of such assignment, have the obligations, rights, and benefits of a Lender hereunder and the assigning Lender shall, to the extent of such assignment, relinquish its rights and be released from its obligations under this Credit Agreement. Upon the consummation of any assignment pursuant to this Section 11.3(b), the assignor, the Administrative Agent and the Borrowers shall make appropriate arrangements so that, if required, new Notes are issued to the assignor and the assignee. If the assignee is not incorporated under the laws of the United States of America or a state thereof, it shall deliver to the Principal Borrower and the Administrative Agent certification as to exemption from deduction or withholding of Taxes in accordance with Section 3.11.

(c) The Administrative Agent shall maintain at its address referred to in Section 11.1 a copy of each Assignment and Acceptance delivered to and accepted by it and a register for the recordation of the names and addresses of the Lenders and the Commitment of, and principal amount of the Loans owing to, each Lender from time to time (the "Register"). The entries in the Register shall be conclusive and binding for all purposes, absent manifest error, and the Borrowers, the Administrative Agent and the Lenders may treat each Person whose name is recorded in the Register as a Lender hereunder for all purposes of this Credit Agreement. The Register shall be available for inspection by the Borrowers or any Lender at any reasonable time and from time to time upon reasonable prior notice.

(d) Upon its receipt of an Assignment and Acceptance executed by the parties thereto, together with any Note subject to such assignment and payment of the processing fee, the Administrative Agent shall, if such Assignment and Acceptance has been completed and is in substantially the form of Exhibit 11.3(b) hereto, (i) accept such Assignment and Acceptance,

(ii) record the information contained therein in the Register and (iii) give prompt notice thereof to the parties thereto.

(e) Each Lender may sell participations to one or more Persons in all or a portion of its rights, obligations or rights and obligations under this Credit Agreement (including all or a portion of its Commitment or its Loans); provided, however, that (i) such Lender's obligations under this Credit Agreement shall remain unchanged, (ii) such Lender shall remain solely responsible to the other parties hereto for the performance of such obligations, (iii) the participant shall be entitled to the benefit of the yield protection provisions contained in Sections 3.7 through 3.12, inclusive, and the right of set-off contained in Section 11.2, and (iv) the Borrowers shall continue to deal solely and directly with such Lender in connection with such Lender's rights and obligations under this Credit Agreement, and such Lender shall retain the sole right to enforce the obligations of the Borrowers relating to its Loans and its Notes and to approve any amendment, modification, or waiver of any provision of this Credit Agreement (other than amendments, modifications, or waivers decreasing the amount of principal of or the rate at which interest is payable on such Loans or Notes, extending any scheduled principal payment date or date fixed for the payment of interest on such Loans or Notes, or extending its Commitment).

(f) Notwithstanding any other provision set forth in this Credit Agreement, any Lender may at any time assign and pledge all or any portion of its Loans and its Notes to any Federal Reserve Bank as collateral security pursuant to Regulation A and any Operating Circular issued by such Federal Reserve Bank. No such assignment shall release the assigning Lender from its obligations hereunder.

(g) Any Lender may furnish any information concerning the Borrowers or any of their Subsidiaries in the possession of such Lender from time to time to assignees and participants (including prospective assignees and participants), subject, however, to the provisions of Section 11.14 hereof.

11.4 No Waiver; Remedies Cumulative.

No failure or delay on the part of the Administrative Agent or any Lender in exercising any right, power or privilege hereunder or under any other Credit Document and no course of dealing between the Administrative Agent or any Lender and any of the Credit Parties shall operate as a waiver thereof; nor shall any single or partial exercise of any right, power or privilege hereunder or under any other Credit Document preclude any other or further exercise thereof or the exercise of any other right, power or privilege hereunder or thereunder. The rights and remedies provided herein are cumulative and not exclusive of any rights or remedies which the Administrative Agent or any Lender would otherwise have. No notice to or demand on any Credit Party in any case shall entitle the Borrowers or any other Credit Party to any other or further notice or demand in similar or other circumstances or constitute a waiver of the rights of the Administrative Agent or the Lenders to any other or further action in any circumstances without notice or demand.

11.5 Expenses; Indemnification.

(a) The Borrowers agree to pay on demand all costs and expenses of the Administrative Agent in connection with the syndication, preparation, execution, delivery, administration, modification, and amendment of this Credit Agreement, the other Credit Documents, and the other documents to be delivered hereunder, including, without limitation, the reasonable fees and expenses of counsel for the Administrative Agent actually incurred with respect thereto and with respect to advising the Administrative Agent as to its rights and responsibilities under the Credit Documents. The Borrowers further agree to pay on demand all costs and expenses of the Administrative Agent and the Lenders, if any (including, without limitation, reasonable attorneys' fees and expenses actually incurred), in connection with the enforcement (whether through negotiations, legal proceedings, or otherwise) of the Credit Documents and the other documents to be delivered hereunder.

(b) The Borrowers agree to indemnify and hold harmless the Administrative Agent and each Lender and each of their Affiliates and their respective officers, directors, employees, agents, and advisors (each, an "Indemnified Party") from and against any and all claims, damages, losses, liabilities, costs, and expenses (including, without limitation, reasonable attorneys' fees) that may be incurred by or asserted or awarded against any Indemnified Party, in each case arising out of or in connection with or by reason of (including, without limitation, in connection with any investigation, litigation, or proceeding or preparation of defense in connection therewith) the Credit Documents, any of the transactions contemplated herein or

the actual or proposed use of the proceeds of the Loans, except to the extent such claim, damage, loss, liability, cost, or expense is found in a final, non-appealable judgment by a court of competent jurisdiction to have resulted from such Indemnified Party's gross negligence or willful misconduct. In the case of an investigation, litigation or other proceeding to which the indemnity in this Section 11.5 applies, such indemnity shall be effective whether or not such investigation, litigation or proceeding is brought by a Borrower, its directors, shareholders or creditors or an Indemnified Party or any other Person or any Indemnified Party is otherwise a party thereto and whether or not the transactions contemplated hereby are consummated. The Borrowers agree not to assert any claim against the Administrative Agent, any Lender, any of their Affiliates, or any of their respective directors, officers, employees, attorneys, agents, and advisers, on any theory of liability, for special, indirect, consequential, or punitive damages arising out of or otherwise relating to the Credit Documents, any of the transactions contemplated herein or the actual or proposed use of the proceeds of the Loans.

(c) Without prejudice to the survival of any other agreement of the Borrowers hereunder, the agreements and obligations of the Borrowers contained in this Section 11.5 shall survive the repayment of the Loans, LOC Obligations and other obligations under the Credit Documents and the termination of the Commitments hereunder.

11.6 Amendments, Waivers and Consents.

Neither this Credit Agreement nor any other Credit Document nor any of the terms hereof or thereof may be amended, changed, waived, discharged or terminated unless such amendment, change, waiver, discharge or termination is in writing entered into by, or approved in writing by, the Required Lenders and the Principal Borrower, provided, however, that:

(a) without the consent of each Lender affected thereby, neither this Credit Agreement nor any of the other Credit Documents may be amended, supplemented or modified to

(i) extend the final maturity of any Loan or the time of payment of any reimbursement obligation, or any portion thereof, arising from drawings under Letters of Credit,

(ii) reduce the rate or extend the time of payment of interest (other than as a result of waiving the applicability of any post- default increase in interest rates) thereon or Fees hereunder,

(iii) reduce or waive the principal amount of any Loan or of any reimbursement obligation, or any portion thereof, arising from drawings under Letters of Credit,

(iv) increase the Commitment of a Lender over the amount thereof in effect (it being understood and agreed that a waiver of any Default or Event of Default or mandatory reduction in the Commitments shall not constitute a change in the terms of any Commitment of any Lender),

(v) release (i) any Borrower, or (ii) except as permitted by Section 8.17, any other Credit Party, from its or their obligations under the Credit Documents,

(vi) amend, modify or waive any provision of this Section 11.6 or 3.13, 3.14, 3.15(b), 9.1(a), 11.2, 11.5 or 11.9,

(vii) reduce any percentage specified in, or otherwise modify, the definition of Required Lenders and Supermajority Lenders, or

(viii) consent to the assignment or transfer by any Borrower (or another Credit Party) of any of its rights and obligations under (or in respect of) the Credit Documents except as permitted thereby;

(b) without the consent of the Supermajority Lenders, no provision of Section 7.11(a) or the definitions utilized therein may be amended, modified, supplemented or deleted;

(c) without the consent of the Administrative Agent, no provision of Section 10 may be amended, modified, supplemented or deleted;

(d) without the consent of the Issuing Lender, no provision of Section 2.3 may be amended modified, supplemented or deleted.

Notwithstanding the fact that the consent of all the Lenders is required in certain circumstances as set forth above, (x) each Lender is entitled to vote as such Lender sees fit on any bankruptcy reorganization plan that affects the Loans, and each Lender acknowledges that the provisions of Section 1126(c) of the Bankruptcy Code supersedes the unanimous consent provisions set forth herein and (y) the Required Lenders may consent to allow a Credit Party to use cash collateral in the context of a bankruptcy or insolvency proceeding.

The Administrative Agent shall have the exclusive authority to release any Guarantor disposed of by a Credit Party pursuant to the terms of Section 8.17.

11.7 Counterparts.

This Credit Agreement may be executed in any number of counterparts, each of which when so executed and delivered shall be an original, but all of which shall constitute one and the same instrument. It shall not be necessary in making proof of this Credit Agreement to produce or account for more than one such counterpart for each of the parties hereto. Delivery by facsimile by any of the parties hereto of an executed counterpart of this Credit Agreement shall be as effective as an original executed counterpart hereof and shall be deemed a representation that an original executed counterpart hereof will be delivered.

11.8 Headings.

The headings of the sections and subsections hereof are provided for convenience only and shall not in any way affect the meaning or construction of any provision of this Credit Agreement.

11.9 Survival.

All indemnities set forth herein, including, without limitation, in Section 2.2(h), 3.11, 3.12, 10.5 or 11.5 shall survive the execution and delivery of this Credit Agreement, the making of the Loans, the issuance of the Letters of Credit, the repayment of the Loans, LOC Obligations and other obligations under the Credit Documents and the termination of the Commitments hereunder, and all representations and warranties made by the Credit Parties herein shall survive delivery of the Notes and the making of the Loans hereunder.

11.10 Governing Law; Submission to Jurisdiction; Venue.

(a) THIS CREDIT AGREEMENT AND THE OTHER CREDIT DOCUMENTS AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES HEREUNDER AND THEREUNDER SHALL BE GOVERNED BY AND CONSTRUED AND INTERPRETED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NORTH CAROLINA. Any legal action or proceeding with respect to this Credit Agreement or any other Credit Document may be brought in the courts of the State of North Carolina in Mecklenburg County, or of the United States for the Western District of North Carolina, and, by execution and delivery of this Credit Agreement, each of the Credit Parties hereby irrevocably accepts for itself and in respect of its property, generally and unconditionally, the nonexclusive jurisdiction of such courts. Each of the Credit Parties further irrevocably consents to the service of process out of any of the aforementioned courts in any such action or proceeding by the mailing of copies thereof by registered or certified mail, postage prepaid, to it at the address set out for notices pursuant to Section 11.1, such service to become effective three (3) days after such mailing. Nothing herein shall affect the right of the Administrative Agent or any Lender to serve process in any other manner permitted by law or to commence legal proceedings or to otherwise proceed against any Credit Party in any other jurisdiction.

(b) Each of the Credit Parties hereby irrevocably waives any objection which it may now or hereafter have to the laying of venue of any of the aforesaid actions or proceedings arising out of or in connection with this Credit Agreement or any other Credit Document brought in the courts referred to in subsection (a) above and hereby further irrevocably waives and agrees not to plead or claim in any such court that any such action or proceeding brought in any such court has been brought in an inconvenient forum.

(c) TO THE EXTENT PERMITTED BY LAW, EACH OF THE ADMINISTRATIVE AGENT, THE LENDERS, THE BORROWERS AND THE CREDIT PARTIES HEREBY IRREVOCABLY WAIVES ALL RIGHT TO TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM ARISING OUT OF OR RELATING TO THIS CREDIT AGREEMENT, ANY OF THE OTHER CREDIT DOCUMENTS OR THE TRANSACTIONS CONTEMPLATED HEREBY.

11.11 Severability.

If any provision of any of the Credit Documents is determined to be illegal, invalid or unenforceable, such provision shall be fully severable and the remaining provisions shall remain in full force and effect and shall be construed without giving effect to the illegal, invalid or unenforceable provisions.

11.12 Entirety.

This Credit Agreement together with the other Credit Documents represent the entire agreement of the parties hereto and thereto, and supersede all prior agreements and understandings, oral or written, if any, including any commitment letters or correspondence relating to the Credit Documents or the transactions contemplated herein and therein.

11.13 Binding Effect; Termination.

(a) This Credit Agreement shall become effective at such time when all of the conditions set forth in Section 5.1 have been satisfied or waived by the Lenders and it shall have been executed by the Borrowers, the Guarantors and the Administrative Agent, and the Administrative Agent shall have received copies hereof (telefaxed or otherwise) which, when taken together, bear the signatures of each Lender, and thereafter this Credit Agreement shall be binding upon and inure to the benefit of the Borrowers, the Guarantors, the Administrative Agent and each Lender and their respective successors and assigns.

(b) The term of this Credit Agreement shall be until no Loans, LOC Obligations or any other amounts payable hereunder or under any of the other Credit Documents shall remain outstanding, no Letters of Credit shall be outstanding, all of the Credit Party Obligations have been irrevocably satisfied in full and all of the Commitments hereunder shall have expired or been terminated.

11.14 Confidentiality.

The Administrative Agent and each Lender (each, a "Lending Party") agrees to keep confidential any information furnished or made available to it by the Borrowers pursuant to this Credit Agreement that is marked confidential; provided that nothing herein shall prevent any Lending Party from disclosing such information (a) to any other Lending Party or any Affiliate of any Lending Party, or any officer, director, employee, agent, or advisor of any Lending Party or Affiliate of any Lending Party, (b) to any other Person if reasonably incidental to the administration of the credit facility provided herein, (c) as required by any law, rule, or regulation, (d) upon the order of any court or administrative agency, (e) upon the request or demand of any regulatory agency or authority, (f) that is or becomes available to the public or that is or becomes available to any Lending Party other than as a result of a disclosure by any Lending Party prohibited by this Credit Agreement, (g) in connection with any litigation to which such Lending Party or any of its Affiliates may be a party as necessary to fully assert its claims or to defend itself with respect to such litigation or as otherwise required in connection with any other litigation to which such Lending Party or any of its Affiliates may be a party, (h) to the extent necessary in connection with the exercise of any remedy under this Credit Agreement or any other Credit Document, and (i) subject to provisions substantially similar to those contained in this Section 11.14, to any actual or proposed participant or assignee.

11.15 Conflict.

To the extent that there is a conflict or inconsistency between any provision hereof, on the one hand, and any provision of any Credit Document, on the other hand, this Credit Agreement shall control.

[Signature Page to Follow]

IN WITNESS WHEREOF, each of the parties hereto has caused a counterpart of this Credit Agreement to be duly executed and delivered as of the date first above written.

BORROWERS:	HIGHWOODS REALTY LIMITED
-----	PARTNERSHIP
	By: HIGHWOODS PROPERTIES, INC.
	HIGHWOODS PROPERTIES, INC.
	HIGHWOODS SERVICES, INC.
	HIGHWOODS FINANCE, LLC
	By: HIGHWOODS PROPERTIES, INC.
	HIGHWOODS/TENNESSEE HOLDINGS,
	L.P.
	By: HIGHWOODS/TENNESSEE PROPERTIES, INC.
	By: /s/ Ronald P. Gibson

	Name: Ronald P. Gibson
	Title: President and Chief Executive Officer
GUARANTORS:	SOUTHEAST REALTY OPTIONS CORP.
-----	HIGHWOODS/FLORIDA GP CORP.
	HIGHWOODS/TENNESSEE PROPERTIES, INC.
	ATRIUM ACQUISITION CORP.
	HIGHWOODS/FLORIDA HOLDINGS, L.P.
	By: HIGHWOODS FLORIDA GP CORP.
	PINELLAS NORTHSIDE PARTNERS, LTD.
	By: HIGHWOODS/FLORIDA HOLDINGS, L.P.
	By: HIGHWOODS/FLORIDA GP CORP.
	PINELLAS BAY VISTA PARTNERS, LTD.
	By: HIGHWOODS/FLORIDA HOLDINGS, L.P.
	By: HIGHWOODS/FLORIDA GP CORP.

(Signatures continued on next page)

DOWNTOWN CLEARWATER TOWER,
LTD.
By:HIGHWOODS/FLORIDA HOLDINGS,
L.P.
By:HIGHWOODS/FLORIDA GP CORP.
SISBROS, LTD.
By:HIGHWOODS/ FLORIDA HOLDINGS, L.P.
By: HIGHWOODS/FLORIDA GP CORP.
SHOCKOE PLAZA INVESTORS, L.C.
By:HIGHWOODS REALTY LIMITED
PARTNERSHIP
By:HIGHWOODS PROPERTIES, INC.
RC ONE LLC
By:HIGHWOODS SERVICES, INC.
HPI TITLE AGENCY, LLC
By:HIGHWOODS REALTY LIMITED
PARTNERSHIP
By:HIGHWOODS PROPERTIES, INC.
ALAMEDA TOWERS DEVELOPMENT
COMPANY
BOARD OF TRADE REDEVELOPMENT
CORPORATION
CHALLENGER, INC.
GUARDIAN MANAGEMENT, INC.
HIGHWOODS/CYPRESS COMMONS LLC
By:HIGHWOODS/FLORIDA HOLDINGS,
L.P.
By:HIGHWOODS/FLORIDA GP
CORP.
HIGHWOODS/INTERLACHEN
HOLDINGS, L.P.
By:HIGHWOODS/ FLORIDA HOLDINGS,
L.P.
By:HIGHWOODS/FLORIDA GP
CORP.
HIGHWOODS CONSTRUCTION
SERVICES, LLC
By:HIGHWOOD SERVICES, INC.

(Signatures continued on next page)

HIGHWOODS DLF, LLC
By:HIGHWOODS REALTY LIMITED
PARTNERSHIP
By:HIGHWOODS PROPERTIES, INC.
HIGHWOODS DLF II, LLC
By:HIGHWOODS REALTY LIMITED
PARTNERSHIP
By:HIGHWOODS PROPERTIES, INC.
HIGHWOODS WELLNESS CENTER, LLC
By:HIGHWOODS SERVICES, INC.
HIGHWOODS 3322, LLC
By HIGHWOODS/FLORIDA HOLDINGS,
L.P.
By:HIGHWOODS/FLORIDA GP CORP.
THE J. C. NICHOLS REALTY COMPANY
KC CONDOR, INC.
MARLEY CONTINENTAL HOMES OF
KANSAS
By:HIGHWOODS PROPERTIES, INC.
NICHOLS PLAZA WEST, INC.
OZARK MOUNTAIN VILLAGE, INC.
PLAZA LAND COMPANY
SHADOW CREEK I, LLC
By:HIGHWOODS REALTY LIMITED
PARTNERSHIP
By:HIGHWOODS PROPERTIES, INC.
SOMEDAY, INC.
4551 COX ROAD LLC
By:HIGHWOODS REALTY LIMITED
PARTNERSHIP
By:HIGHWOODS PROPERTIES, INC.

(Signatures continued on next page)

4600 COX ROAD LLC
By:HIGHWOODS/FLORIDA HOLDINGS,
L.P.
By:HIGHWOODS/FLORIDA GP
CORP.
581 HIGHWOODS, L.P.
By:HIGHWOODS/FLORIDA HOLDINGS,
L.P.
By:HIGHWOODS/FLORIDA GP
CORP.

By: /s/ Ronald P. Gibson

Name: Ronald P. Gibson
Title: President and Chief Executive
Officer

LENDERS:

BANK OF AMERICA, N.A.,

individually in its capacity as a Lender
and in its capacity as Administrative Agent

By: /s/ Terence Hatton

Name: Terence Hatton
Title: Senior Vice President

WELLS FARGO BANK, NATIONAL ASSOCIATION
individually in its capacity as a Lender
and in its capacity as Syndication Agent

By: /s/ Authorized Signatory

Name: _____
Title: _____

WACHOVIA BANK, N.A.
individually in its capacity as a Lender
and in its capacity as Documentation Agent

By: /s/ Authorized Signatory

Name: _____
Title: _____

COMMERZBANK AG,
NEW YORK AND GRAND CAYMAN BRANCHES
individually in its capacity as a Lender
and as Managing Agent

By: /s/ Authorized Signatory

Name: _____
Title: _____

By: /s/ Authorized Signatory

Name: _____
Title: _____

PNC BANK, NATIONAL ASSOCIATION
individually in its capacity as a Lender
and as a Co-Agent

By: /s/ Authorized Signatory

Name: _____
Title: _____

[signature pages continue]

AMSOUTH BANK
individually in its capacity as a Lender
and as a Co-Agent

By: /s/ Authorized Signatory

Name: _____
Title: _____

SOUTHTRUST BANK
individually in its capacity as a Lender
and as a Co-Agent

By: /s/ Authorized Signatory

Name: _____
Title: _____

CENTURA BANK
individually in its capacity as a Lender
and as a Co-Agent

By: /s/ Authorized Signatory

Name: _____
Title: _____

BRANCH BANKING AND TRUST COMPANY
individually in its capacity as a Lender
and as a Co-Agent

By: /s/ Authorized Signatory

Name: _____
Title: _____

ERSTE BANK, NEW YORK BRANCH
individually in its capacity as a Lender

By: /s/ Authorized Signatory

Name: _____
Title: _____

By: /s/ Authorized Signatory

Name: _____
Title: _____

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